AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, January 27, 2026
6:00 PM

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

TELECONFERENCE LOCATION - MARRIOTT MARQUIS WASHINGTON D.C.,
901 MASSACHUSETTS AVENUE NW, WASHINGTON, DC 20001

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 and virtual attendance. Attend this meeting remotely using Zoom. 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: 161 897 6355**. 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.*

Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream. All Council meetings are recorded.

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.*

1. Adjourn in Memory of Barba Lubin, Local Activist

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.

Recess Items

1. Contract: West Coast Drilling, Inc. for 2709 Hilgard Avenue Retaining Wall Stabilization
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to execute a contract with West Coast Drilling, Inc. for design-build services for urgent slope and retaining wall stabilization work at 2709 Hilgard Avenue, in the amount of $585,000 which includes a contingency of $88,631.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

2. Minutes for Approval
From: City Manager
Recommendation: Approve the minutes for the Council meetings of December 2, 2025 (special and regular), and December 8, 2025 (closed).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

Consent Calendar

3. 2025 Annual Commission Attendance and Meeting Frequency Report
From: City Manager
Recommendation: Adopt a Resolution approving a revised commission meeting frequency schedule, accepting the 2025 Annual Commission Attendance and Meeting Frequency Report, and rescinding Resolution No. 71,109-N.S.
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 January 27, 2026
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

5. Contract: Carone and Company, Inc. for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project; and 2. Accepting the bid of the lowest responsive and responsible bidder, Carone and Company, Inc.; and 3. Authorizing the City Manager 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, with Carone and Company, Inc., for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project from Blake to Ward Street, along Acton Street at 0 Parker Street, 0 Carleton Street, 0 Derby Street, 0 Ward Street, in an amount not to exceed $3,396,969 which includes a base contract amount of $2,953,886, and a 15% contingency in the amount of $443,083.
Financial Implications: $3,396,969 - Various Funds
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

6. Option Agreement with TSA Holding Group, LLC for 199 Seawall Drive
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute the Option Agreement and any amendments with TSA Holding Group, LLC for a two-year term with two one-year options to extend.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

7. Contracts: On-Call Equitable Community Engagement Services
From: City Manager
Recommendation: Adopt nine Resolutions authorizing the City Manager to approve contracts in response to the April 24, 2025 Request for Qualifications, Specification No. 25-11721-C, "On-Call Equitable Community Engagement Services with City of Berkeley," with the following firms, in not-to-exceed amounts of $250,000 each, for total contract periods of five years:
1. 360 Total Concept Consulting
2. Be the Change Consulting
3. Community Planning Collaborative
4. D & A Communications, Inc.
5. Denaya Shorter Consulting
6. The Ecology Center
7. Equity First Consulting
8. Moore Iacofano Goltsman, Incorporated (MIG)
9. Plan to Place

Financial Implications: See report
Contact: Alene Pearson, Planning and Development, (510) 981-7400

8. Contract: B Bros Construction, Inc. for Fire Station #6 Remodel
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving plans and specifications for Fire Station #6 Remodel (Project), Specification No. 26-11760-C; and 2. Accepting the bid of B Bros Construction, Inc. 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 $597,913, which includes a contingency of $99,652.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

9. Contract: St. Francis Electric for On-Call Electrical Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with St. Francis Electric to provide on-call electrical services for a three year period from March 1, 2026, to February 28, 2029, in an amount not to exceed $375,000, with an option to extend for two additional one-year terms. The service rates will be adjusted annually in accordance with the pricing outlined in the awarded bid.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

10. Contract: Siemens Industry, Inc. dba SIEMENS for Inspection, Testing, and Monitoring Services for the City's Fire and Life Safety System Equipment
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and subsequent amendments with Siemens Industry, Inc, for Inspection, Testing, Monitoring, and On-Call Maintenance Services for Fire and Life Safety equipment installed in 23 City owned buildings; in an amount not to exceed $350,000 for the initial contract period March 1, 2026, through February 28, 2029, and with the option to extend the contract term for two additional years, for a total contract term of five years.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

11. Contract No. 32100070 Amendment: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station, increasing the contract by $75,000 from $189,848 to $264,848, for a new not to exceed amount of $264,848 and extending the term through June 30, 2027.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

12. Contract No.101280-1 Amendment: On-Call Traffic Engineering Services with AECOM USA, Inc. for Engineering Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 101280-1 and any subsequent amendments with AECOM USA, Inc. (AECOM) for: 1. The Ashby-San Pablo Intersection Improvements Project (Project), Specification No.18-11182-C, to provide engineering support services to guide the Project through the required design review and encroachment permit process by the California Department of Transportation (Caltrans) for construction on State right-of-way, and 2. Other as-needed traffic engineering services, increasing the overall contract capacity for On-Call Traffic Engineering Services by up to $800,000, for a total not-to-exceed amount of $2,000,000.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

13. Contract No. 108037-1 Amendment: MSR Mechanical, LLC for On-Call Heating, Ventilation and Air Conditioning Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with MSR Mechanical, LLC for on-call HVAC maintenance and repair to increase the contract amount by $50,000 for a total contract amount not to exceed $530,000.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

14. Contract No. 32500124 Amendment: Buhler Commercial for FY 2023 Retaining Wall and Storm Drain Improvement Project
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32500124 with Buhler Commercial for work on the FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C, increasing the contract amount by $250,000 for an amended total not to exceed $2,224,009.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

15. goBerkeley Parking Management Program Recommended Adjustments to Address a Forecasted Deficit in the Off-Street and Parking Meter Funds
From: City Manager
Recommendation: Adopt a Resolution concurring with the Public Works Department's proposed strategies to implement near-term adjustments consistent with the goBerkeley Parking Management Program's (Parking Program) goals to improve parking management and lessen traffic congestion and vehicle emissions; and to authorize the City Manager to proceed with public outreach and data collection for long-term strategies to address a declining fund balance in the Off-Street and Parking Meter funds.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Council Consent Items

16. AC Transit Berkeley Emeryville Inter-Agency Liaison Committee Appointments
From: Mayor Ishii (Author)
Recommendation: Adopt a resolution appointing Councilmembers Terry Taplin and Cecilia Lunaparra as the liaisons and Councilmember Mark Humbert as the alternate, to the consolidated AC Transit Berkeley Emeryville Inter-Agency Liaison Committee.
Financial Implications: None
Contact: Adena Ishii, Mayor, (510) 981-7100

Council Consent Items

17. Refer to the City Manager to include in the Community Survey a Poll Question about Increasing Sales Tax in the City of Berkeley
From: Councilmember Kesarwani (Author), Mayor Ishii (Co-Sponsor)
Recommendation: Refer to the City Manager to include in the upcoming community survey for the November 2026 election a question about increasing the sales tax in the City of Berkeley from 10.25 percent to the maximum of 10.75 percent to help address the City's projected budget deficit of $27 million.
Financial Implications: Staff time
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

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.

Action Calendar – Public Hearings

18. Implement Residential Preferential Parking (RPP) Program on the 1700 Block of Cedar Street
From: City Manager
Recommendation: Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25P by adding a subsection to implement Residential Preferential Parking (RPP) on the north side of Cedar Street, between McGee Avenue and Edith Street (1701-1721 Cedar Street) in RPP Area E.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

19. Selected Marina Fee Increases
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Marina fees; and rescinding Resolution No. 71,840-N.S. and all amendatory resolutions.
Financial Implications: $247,500 (Revenue)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

20. Zoning Adjustment Board Appeal: 2109 Virginia, Use Permit #ZP2024-0066
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion adopt a Resolution denying the appeal and affirming the Zoning Adjustment Board (ZAB) decision to approve Use Permit #ZP2024-0066 to demolish a two-story, 4,604-square-foot non-residential building and surface parking lot, and construct an eight-story (89 feet and 4 inches), 112,969 square-foot mixed-use residential building containing 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income Density Bonus qualifying units), 690 square feet of ground-floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces, on a 22,513 square foot lot.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Council Action Items

21. Rescission and replacement of the Police Equipment and Community Safety Ordinance *(Reviewed by the Public Safety Policy Committee)*
From: Councilmember Humbert (Author), Councilmember O'Keefe (Co-Sponsor)
Recommendation: Rescind and replace Ordinance 7760-N.S. the Police Equipment and Community Safety Ordinance (enacted May 11, 2021) because the State-level reporting requirements mandated by Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code (hereafter referred to as Chapter 12.8) already provide a comprehensive and sufficient framework for police equipment oversight.
This item would bring Berkeley's local reporting requirements into alignment with those of Chapter 12.8 and allow for one consolidated report, beginning with the 2025 report. The item would also maintain additional targeted reporting requirements for equipment deployment and ongoing use of force reporting under Policy 300.
Policy Committee Recommendation: To send the item with a qualified positive recommendation to Council, recognizing the intention for one report, with the following matters noted for further consideration: -Clarifying the role of public reporting of data through the Transparency Hub. -Continued consideration of less-lethal deployment policies, including a possible review of Policy 300. -Consideration of reporting on the acquisition and use of controlled equipment, aligning with AB 481 and allowing for review by the Police Accountability Board.
Financial Implications: See report
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

22. Creating Accessible Routes For Riders, Equity, and the Environment (CAR FREE): Budget Referral to Fund Limiting Cars on Telegraph Avenue
From: Councilmember Lunaparra (Author)
Recommendation: Refer $1,325,000 to the Long Range Development Plan and Measure FF funding processes to study limiting car access and develop pedestrian-centered design concepts for Telegraph Avenue between Bancroft Way and Dwight Way.
Financial Implications: See report
Contact: Cecilia Lunaparra, Councilmember, District 7, (510) 981-7170

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: berkeleyca.gov/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: berkeleyca.gov/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.

If you have obtained interpretation services for your use during a City Council meeting and would like to request assistance, please contact the City Clerk Department at (510) 981-6900, clerk@berkeleyca.gov, or in-person during 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 January 15, 2026.



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.

Tear Gas Concern

1. Ruth Shorer
2. Krista Kleczewski
3. George Perezvelez
4. Michael Bauce
5. Dana Prichard

Latino Korean War Memorial

6. Harvey Smith on behalf of the Berkeley Community Latino Exhibit
7. John G. Aronovici
8. Larry Reyna

Complete Streets Project

9. Maxwell Davis

Cedar and Walnut Intersection

10. Susan R Martin

Lane Markings on Shattuck Ave

11. Leonard Pitt

Unhoused Concern

12. Moni T. Law
13. M. Rivka Polatnick
14. Boona Cheema

Street Parking

15. Todd Andrew

Truck on Sidewalk

16. Isaac Nicholson
17. Elaina

Household Hazardous Waste Disposal
18. David Lerman

Celebrity Flag Football
19. Jeffrey Church on behalf of Visit Berkeley

Tobacco Policy Changes
20. Kiara Gonzalez Garcia on behalf of the PETS team

Zoning
21. Carolyn Cox

Persian New Year Festival
22. Jacob Cohen

Employee Benefits
23. Eric Friedman

Structural Deficit
24. Eric Friedman

Public Bus
25. R. Valentine

Response Follow-Up
26. Stephen Alpert (2)

Rent-Pricing Software
27. Ruby Chen

Adeline Area Projects
28. Daveed Mandell

Measure FF
29. Emily Kenyon

Scooter/Bike Concern
30. Melanie Lawrence (2)

Wildlife Habitat Concern
31. Mike Vandeman

Police Radio Channels
32. Grant L Hough

Acton Courtyard
33. Yasmin Jenkins (6)

Newsletters
34. Berkeley Art Center

Forwards
35. Russbumper

Middle East Conflict
36. Russbumper

URLs
37. 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

RECESS ITEM
CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works Department

Subject: Contract: West Coast Drilling, Inc. for 2709 Hilgard Avenue Retaining Wall Stabilization

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager during recess to execute a contract with West Coast Drilling, Inc. for design-build services for urgent slope and retaining wall stabilization work at 2709 Hilgard Avenue, in the amount of $585,000 which includes a contingency of $88,631.

NEGATIVE EFFECT IF ACTION IS DELAYED UNTIL AFTER COUNCIL RECESS

Staff have determined that there is an imminent risk of damage to public and private property due to ongoing retaining wall failure and slope instability at 2709 Hilgard Avenue and that this risk warrants immediate action. Delaying contract award until after Council recess exacerbates this risk to health and property due to potential for increased instability during winter rains.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the Project is available in FY 2026 from the State Transportation Tax (Fund 127), Clean Storm Water Fund (616), and the Sanitary Sewer Operations Fund (611). No other funding is required, and no other projects will be delayed due to this expenditure.

Design-build estimate	$496,369
Contingency	$88,631
Project cost	**$585,000**

FY 2026 Funding:

State Transportation Tax (127-54-623-675-0000-000-431-665110)	$435,000
Clean Storm Water (616-54-623-675-3016-000-473-665110)	$100,000
Sanitary Sewer Operation (611-54-623-676-0000-000-473-665110)	$50,000
Total Project funding	**$585,000**

CURRENT SITUATION AND ITS EFFECTS

The City Manager, under advice of the Public Works Department and City Attorney's Office staff, deemed the work to repair the retaining wall and stabilize the hillside in front of 2709 Hilgard an emergency and of urgent necessity for the preservation of life, health and property. Per City Charter § 67.4(a), this situation meets the conditions for waiving competitive solicitation requirements.

Public Works obtained an estimate from West Coast Drilling, Inc. for the design and construction of improvements to stabilize the slope and retaining wall for an amount of $496,639. Staff recommend awarding a non-competitive design-build services contract to West Coast Drilling, Inc. based on its performance as a subcontractor on competitively bid projects and its experience with slope stabilization work, including performing emergency slope stabilization and retaining wall work for the City along Wildcat Canyon Road.

The scope of the authorized work is anticipated to include:

- Structural engineering;
- Drilled support piers and a structural grade beam to stabilize the hillside and existing retaining structure;
- Shotcrete facing to reinforce and stabilize the wall;
- Retaining wall drainage and surface drainage improvements; and
- Backfilling, compaction, and resurfacing of the area supported by the wall.

BACKGROUND

A retaining wall of unknown origin, located on unimproved right-of-way in front of 2709 Hilgard Avenue failed. Retaining wall fill material has migrated through cracks in the wall, forming a sinkhole that has made a section of Hilgard Road impassable to drivers and others and has caused slope instability that threatens the residence at 2709 Hilgard Road. With the onset of the wet season, increasing soil saturation and elevated groundwater levels may accelerate the migration of backfill through existing cracks, further undermining the roadway supported by the wall. Continued settlement presents a growing risk of structural damage, with a resulting risk of liability to the City. Instability of the wall also threatens the pedestrian pathway and adjacent downslope properties. These risks are exacerbated by the site's proximity to a trace of the Hayward Fault, adding a seismic vulnerability component to the existing slope instability.

In accordance with the California Environmental Quality Act (CEQA) requirements, this project has been determined to be categorically exempt because it pertains to emergency repairs.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage

laws. The Community Workforce Agreement (CWA) does not apply to this contract because the estimated project value does not exceed $500,000.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
The slope stabilization that this project provides would reduce sediment entering the storm drain downstream. Though no creek is downstream of the site, this would provide a water quality benefit. Additionally, safe and usable pathways and roads encourage community members to more regularly walk and cycle, reducing greenhouse gas emissions from cars.

RATIONALE FOR RECOMMENDATION
Awarding the design-build contract to West Cost Drilling, Inc. and expediting emergency repairs abate hazardous conditions to life, health, and property. Performing the work requires contracted services, as the City does not possess the in-house labor, equipment, or expertise necessary to complete the project.

ALTERNATIVE ACTIONS CONSIDERED
No alternative actions were considered for this project. Further deterioration of the retaining wall and expansion of the sinkhole above would place public and private infrastructure at risk.

CONTACT PERSON
Wahid Amiri, Deputy Director, Department of Public Works, (510) 981-6396
Ricardo Salcedo, Acting Supervising Civil Engineer, Public Works, (510) 981-6407

Attachments:
1: Resolution

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

CONTRACT: WEST COAST DRILLING, INC. FOR 2709 HILGARD AVENUE RETAINING WALL STABILIZATION

WHEREAS, a retaining wall of unknown origin, located on unimproved right-of-way in front of 2709 Hilgard Avenue has failed, forming a sinkhole that has made a section of Hilgard Road impassable to drivers and others and has caused slope instability that threatens the residence at 2709 Hilgard Road as well as the pedestrian pathway and residences below; and

WHEREAS, the City Manager deemed the work to repair the retaining wall and stabilize the hillside an emergency and of urgent necessity for the preservation of life, health and property and per City Charter § 67.4(a), this situation meets the conditions for waiving competitive solicitation requirements; and

WHEREAS, the City received an estimate from West Coast Drilling, Inc. for the design and construction of improvements to stabilize the slope and retaining wall for an amount not to exceed $496,639; and

WHEREAS, staff recommend awarding a design-build services contract to West Coast Drilling, Inc. based on its performance as a subcontractor on competitively bid projects and its experience with slope stabilization work, including performing emergency slope stabilization and retaining wall work for the City along Wildcat Canyon Road.; and

WHEREAS, funding for the emergency project is available in FY 2026 from the State Transportation Tax (Fund 127), Clean Storm Water Fund (616), and the Sanitary Sewer Operations Fund (611). No other funding is required, and no other projects will be delayed due to this expenditure.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council ratifies the action taken by the City Manager to execute a contract with West Coast Drilling, Inc. for the design and construction of retaining wall stabilization improvements in an amount not to exceed $585,000, which includes an $88,361 contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments will be on file in the Office of the City Clerk.

02

Office of the City Manager

CONSENT CALENDAR
January 27, 2026

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 December 2, 2025 (special and regular), and December 8, 2025 (closed).

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

Attachments:
1. December 2, 2025 – Special City Council Meeting
2. December 2, 2025 – Regular City Council Meeting
3. December 8, 2025 – Special Closed City Council Meeting

Attachment 1

MINUTES
SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

Tuesday, December 2, 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 and virtual attendance. Attend this meeting remotely using Zoom. 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: 160 966 0575**. 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.*

Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream. All Council meetings are recorded.

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: 4:06 p.m.

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

Absent: Bartlett, Lunaparra

Councilmember Lunaparra present at 4:07 p.m.

Councilmember Bartlett present at 5:06 p.m.

Action Calendar – New Business

1. **Sharing the Final Report of the Mayor's Vision 2050 Task Force, Realize Vision 2050: Update to the Vision 2050 and Recommendations to Address Berkeley's Infrastructure**
   From: Mayor Ishii (Author)
   Recommendation: Invite City Council to review Realize Vision 2050: An Update to Vision 2050 and Recommendations to Address Berkeley's Infrastructure, a report completed by the Mayor's Vision 2050 Task Force in October 2025.
   Financial Implications: None
   Contact: Adena Ishii, Mayor, (510) 981-7100
   Action: 2 speakers. The Mayor recognized the members of the Task Force and provided background on the report.

2. **Discussion Regarding Potential Ballot Measures for the November 3, 2026, General Municipal Election**
   From: City Manager
   Recommendation: Review staff recommendations, provide input and direction on project priorities, and discuss which infrastructure projects should be reflected in a community survey for potential inclusion in a bond measure.
   Financial Implications: See report
   Contact: David White, City Manager's Office, (510) 981-7000, Terrance Davis, Public Works, (510) 981-6300, Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700, Henry Oyekanmi, Finance, (510) 981-7300, David Sprague, Fire, (510) 981-3473

   Action: M/S/C (Taplin/Blackaby) to accept revised materials from the City Manager on Item 2.
   Vote: Ayes – Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett, Lunaparra.

   Action: 5 speakers. The Council discussed the report and presentation and provided direction to the City Manager regarding the community survey.

Adjournment

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

Adjourned at 6:17 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on December 2, 2025.

_____
Mark Numainville, City Clerk

Communications

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

- None

Supplemental Communications and Reports 3

Item #2: Discussion Regarding Potential Ballot Measures for the November 3, 2026, General Municipal Election

1. Supplemental agenda material submitted by the City Manager's Office
2. Presentation submitted by the City Manager's Office

Attachment 2

MINUTES

BERKELEY CITY COUNCIL MEETING

Tuesday, December 2, 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: 6:36 p.m.

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

Absent: Bartlett, Tregub, Lunaparra

Councilmember Lunaparra present at 6:37 p.m.

Councilmember Tregub present at 6:37 p.m.

Councilmember Bartlett present at 6:38 p.m.

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 Evie Wozniak, Community Activist
2. Legislative Update by Senator Jesse Arreguin
3. Adjourn in memory of Berkeley Fire Captain Scott Hall

City Manager Comments: None

Public Comment on Non-Agenda Matters: 9 speakers.

Public Comment by Employee Unions: 0 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 19 speakers.

Action: M/S/C (Taplin/Tregub) to adopt the Consent Calendar in one motion except as indicated including the City Manager's recommendation on Item 26 and Item 27.
Vote: All Ayes.

Consent Calendar

1. Amendments to Ordinance Prohibiting the Sale or Use of Coordinated Pricing Algorithms (BMC 13.63)
From: City Attorney
Recommendation: Adopt second reading of Ordinance No. 7,992-N.S. amending the Ordinance Prohibiting the Sale or Use of Coordinated Pricing Algorithms (BMC 13.63).
First Reading Vote: Ayes - Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.
Financial Implications: See report
Contact: Farimah Brown, City Attorney, (510) 981-6950
Action: Adopted second reading of Ordinance No. 7,992–N.S.

2. Amendment: FY 2026 Annual Appropriations Ordinance
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,993-N.S. amending the FY 2026 Annual Appropriations Ordinance No. 7,977–N.S. for fiscal year 2026 based upon recommended re-appropriation of committed FY 2025 funding and other adjustments authorized since July 1, 2025.
First Reading Vote: Ayes - Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.
Financial Implications: See report
Contact: Maricar Dupaya, Budget Manager, (510) 981-7000
Action: Adopted second reading of Ordinance No. 7,993–N.S.

3. Sanctuary City Contracting Ordinance Updates
From: Councilmember Lunaparra (Author), Mayor Ishii (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Councilmember Blackaby (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,994-N.S. amending the Sanctuary City Contracting Ordinance (BMC 13.105) to mirror key definitions with the language in the new Sanctuary City Ordinance and shorten the Right to Cure time period from 90 days to 30 days.
First Reading Vote: Ayes - Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.
Financial Implications: None
Contact: Cecilia Lunaparra, Councilmember, District 7, (510) 981-7170
Action: Adopted second reading of Ordinance No. 7,994–N.S.

Consent Calendar

4. Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code for Consistency with State Law and Technical Edits (SLTE 2025)
From: City Manager
Recommendation: Adopt the second reading of Ordinance No. 7,995-N.S. amending the following sections of the Berkeley Municipal Code (BMC) to maintain consistency and accuracy:
- 23.202.030 Additional Permit Requirements (Residential)
- 23.202.050 R-1 Single Family Residential District
- 23.202.080 R-2 Restricted Two-Family Residential District
- 23.202.090 R-2A Restricted Multiple-Family Residential District
- 23.202.100 R-3 Multiple-Family Residential District
- 23.206.090 MU-R Mixed Use Residential District
- 23.326.030 Demolition of Residential Units
- 23.326.040 Eliminating Dwelling Units through Combination with Other Units

First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Adopted second reading of Ordinance No. 7,995–N.S.

5. Minutes for Approval
From: City Manager
Recommendation: Approve the minutes for the Council meetings of November 6, 2025 (special), November 10, 2025 (closed), November 10, 2025 (regular), November 18, 2025 (special and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Approved the minutes as submitted.

6. Revised Conflict of Interest Code
From: City Manager
Recommendation: Adopt a Resolution approving a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 71,108–N.S.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 72,049–N.S.

Consent Calendar

7. Acceptance of Grant Funds and Contract: Healthy Black Families – Equity 4 Black Berkeley (E4BB) Transition
From: City Manager
Recommendation: Adopt a Resolution: 1. Accepting $90,000 in grant funds from the San Francisco Foundation to support the Equity 4 Black Berkeley (E4BB) initiative; and 2. Authorizing the City Manager, or designee, to execute a contract and any amendments with Healthy Black Families (HBF) for an amount not to exceed $90,000 to provide technical assistance, fiscal sponsorship, and organizational development services to support the establishment of an independent nonprofit organization to carry forward the work of Equity 4 Black Berkeley.
Financial Implications: See report
Contact: Rex Brown, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 72,050–N.S.

8. Authorizing the City Manager to Sign the Downtown Property-Based Business Improvement District (PBID) Petition and Ballot on Behalf of the City of Berkeley
From: City Manager
Recommendation: Adopt a Resolution: 1. Authorizing the City Manager to approve and sign the "Preliminary Petition to Reestablish the Downtown Berkeley Property-Based Business Improvement District" document on behalf of City-owned properties in the proposed Downtown PBID area; and 2. In the event the petition is successful in generating a ballot process to reestablish a Downtown PBID, authorizing the City Manager to vote YES on any ballots on behalf of City-owned properties in the proposed Downtown PBID area.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
Action: Adopted Resolution No. 72,051–N.S.

9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 2, 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: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.

Consent Calendar

10. Contract: CentralSquare Technologies, LLC for Dispatch Center Software and Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to enter into a contract with Central Square Technologies, LLC for Dispatch Center software and services using Sourcewell Contract No. 030425. The four-year contract base period will begin on December 1, 2025, and end November 30, 2029, and will not exceed $103,635. There will be two optional one-year extensions, from December 1, 2029, to November 30, 2031. The total six-year contract amount will not exceed $212,602 which includes a $20,000 contingency.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473
Action: Adopted Resolution No. 72,052–N.S.

11. Revenue Contract: 2026 Community Services Block Grant
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or designee to: 1. Accept the 2026 Community Services Block Grant (CSBG) contract to provide services for low-income people from January 1, 2026, to April 30, 2027; and, 2. Execute any resultant agreements and amendments including amendments that may decrease or increase the contract amount, add discretionary funding, and change or update the contract terms.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5100
Action: Adopted Resolution No. 72,053–N.S.

12. Contract No. 32000232 Amendment: Worldwide Travel Staffing for Nurse Registry Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or designee to amend Contract No. 32000232 with Worldwide Travel Staffing for nurse registry services for a total contract amount not to exceed $1,772,580 through June 30, 2027. This amendment will add $500,000 in funding and two years to the contract term, through June 30, 2027.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5100
Action: Adopted Resolution No. 72,054–N.S.

Consent Calendar

13. Loan Modifications for Existing Housing Trust Fund Projects: Margaret Breland Homes (2577 San Pablo Avenue) and Mable Howard Apartments (3250 Sacramento Street)
From: City Manager
Recommendation: Adopt a Resolution approving amendments to existing Housing Trust Fund (HTF) loan documents for Margaret Breland Homes and Mable Howard Apartments to: 1. Approve the transfer of ownership of both properties to Berkeley Senior Recap, L.P., a new ownership entity formed to apply for Low-Income Housing Tax Credits (LIHTC), with Resources for Community Development (RCD) as the Managing General Partner; 2. Approve the addition of the future tax credit investor limited partner at the time of the construction loan closing, as required by the LIHTC program; 3. Approve the extension of the City's current loans and regulatory agreements for both properties to new 55-year periods and the reduction of interest rates from 6% simple interest to the Applicable Federal Rate (AFR) in effect at the time of construction loan closing (currently approximately 4.8%); and 4. Authorize the City Manager or their designee to execute all documents required to effectuate these actions, including amendments to existing loan agreements.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5100
Action: Adopted Resolution No. 72,055–N.S.

14. Contract No. 081263-1 Amendment: Uprise Claremont Behavioral Services for Employee Assistance Program Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 081263-1 with Uprise Claremont Behavioral Services (Claremont) in order to provide continued services for the Employee Assistance Program (EAP) by approving the rate increases for January 1, 2026 through January 1, 2029 and extending the contract from December 31, 2025 through January 1, 2029.
Financial Implications: See report
Contact: Janelle Rodrigues, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 72,056–N.S.

Consent Calendar

15. Adoption of Successor Memorandum Agreement: International Brotherhood of Electrical Workers Local 1245
From: City Manager
Recommendation:
1. Adopt a Resolution approving the successor three-year Memorandum Agreement with the International Brotherhood of Electrical Workers Local 1245 with a term of July 1, 2025, through June 30, 2028, authorizing the City Manager to execute and implement the revised terms and conditions of employment set forth in the Memorandum Agreement; and
2. Adopt a new classification and salary resolution for International Brotherhood of Electrical Workers, Local 1245 and rescinding Resolution No. 70,453-N.S.
Financial Implications: See report
Contact: Janelle Rodrigues, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 72,057–N.S. (Memorandum Agreement), Resolution No. 72,058–N.S. (Classification and Salary).

16. Contract: Plante Moran for Professional Services and Licensing of Informatica Integration Platform as a Service (iPaaS)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Plante Moran for professional services and software licensing of the Informatica Integration Platform as a Service (iPaaS) in an amount not to exceed $700,000 from December 3, 2025 through December 31, 2027.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 72,059–N.S.

17. Contract No. 32400019 Amendment: Berkeley Community Media for Public Access Television
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32400019 with Berkeley Community Media (“BCM”) for Public, Educational, and Governmental (“PEG”) access services for an additional $150,000 for a total not to exceed amount of $1,004,130.
Financial Implications: PEG Access Fund - $150,000
Contact: Kevin Fong, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 72,060–N.S.

Consent Calendar

18. Contract No. 32400104 Amendment: SmartWave for City Facility Managed Wi-Fi
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32400104 with Smartwave Technologies LLC, for managed Wi-Fi and related services increasing the amount by $280,000 for a total not-to-exceed amount of $900,000 from July 25, 2023 to June 30, 2027.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 72,061–N.S.

19. Contract No. 31900184 Amendment: Alcor Solutions, Inc. for Professional Services for ServiceNow and Intranet
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to contract No. 31900184 with Alcor Solutions, Inc. for professional services for ServiceNow and the City's Intranet increasing the amount by $155,000 for an amended total not to exceed amount of $990,564 from February 14, 2017 to June 30, 2026.
Financial Implications: IT Cost Allocation Fund - $155,000
Contact: Kevin Fong, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 72,062–N.S.

20. Donation for the Thousand Oaks School Park Improvement Project in Memory of Michael Seltzer
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation of up to $80,000 for the Thousand Oaks School Park Improvement Project in memory of Michael Seltzer.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 72,063–N.S.

Consent Calendar

21. Contract: Bauman Landscape and Construction, Inc. for The Tom Bates Regional Sports Complex Community Facility, Pickleball Courts and U8 Soccer Field Project
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Tom Bates Regional Sports Complex Community Facility, Pickleball Courts and U8 Soccer Field Project (Bid Specification No. 25-11736-C); and 2. Rejecting the bid protest of Azul Works, Inc., the second-lowest bidder; and 3. Accepting the bid of Bauman Landscape and Construction, Inc. as the lowest responsive and responsible bidder on the Project; and 4. Authorizing the City Manager 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, with Bauman Landscape and Construction, Inc., for the Tom Bates Regional Sports Complex Community Facility, Pickleball Courts and U8 Soccer Field Project, in an amount not to exceed $6,515,433, which includes a contract base amount of $5,223,909 and additive bid No. 1 in the amount of $769,134 and an 8.7% contingency in the amount of $522,391 for unforeseen circumstances.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 72,064–N.S.

22. Grant Application: Environmental Enhancement and Mitigation (EEM) Tree Planting Proposal
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an Environmental Enhancement and Mitigation (EEM) grant application to plant urban forest trees in the amount up to $750,000; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: One-Time Grants Fund - $750,000 (revenue)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 72,065–N.S.

23. Grant Application: Ocean Protection Council SB1 funds for the University Ave Sea-Level Rise Adaptation Plan
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or his designee to submit a grant application to the Ocean Protection Council SB1 program for the University Ave Sea-Level Rise Adaptation Plan for up to $500,000; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: $500,000 (revenue)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 72,066–N.S.

Consent Calendar

24. Grant Application: the CA Economic Development Department's Employment Training and Pathways Program Funding for Additional YouthWorks Participants
From: City Manager
Recommendation: Adopt a Resolution designating the City Manager or his designee as the authorized signatory to submit a grant application to the CA Employment Training and Pathways Program for up to $600,000; accept the grant; execute all necessary agreements, contracts, and documents required to secure and administer said funds; and the City Council authorizes the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: $600,000 (revenue)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 72,067–N.S.

25. Contract: Passport Labs Incorporated for Parking Citation and Permit Management System (CPMS)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Passport Labs Inc. for a Parking Citation and Permit Management System for a three-year contract for a total of $1.7 million dollars with an option to extend the contract for two years for a maximum length of five years.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
Action: Adopted Resolution No. 72,068–N.S.

Consent Calendar

26a. Loan Modification Requests for Housing Trust Fund Projects at 1139 Hearst Avenue, 3253 Adeline Street, and 1471 Addison Street and Update Interest Rates and Accrued Interest on Housing Trust Fund Loans
From: Housing Advisory Commission
Recommendation: Adopt a Resolution approving the following actions for Housing Trust Fund (HTF) loans and direct staff to examine the HTF administrative guidelines:
1. Extend Resources for Community Development's existing HTF loan for 1139 Hearst Avenue (Hearst Street Apartments) for five years and reduce the interest rate for the remaining term to 3% simple interest. The principal amount of $916,000 will remain the same.
2. Combine South Berkeley Neighborhood Development Corporation's three HTF loans for 3253 Adeline Street (Lorin Station) into a new loan in the amount of $1,230,117, with 0% interest and a new loan maturity date of May 7, 2079, to align with their 2021 emergency rehab loan. The Regulatory Agreement will have a term of May 7, 2079, to be coterminous with the loan maturity date.
3. Refinance existing HTF loan for 1471 Addison Street (Addison Court Housing Cooperative) into a new loan with a 55-year term and 3% simple interest. The principal amount of $150,000 will remain the same. The Regulatory Agreement will have a term of November 1, 2080, to be coterminous with the loan maturity date.
4. Authorize the City Manager or designee to execute all documents required to effectuate these actions, including amendments to existing loan agreements.
5. Forgive the accrued interest as of the effective date of the new and/or amended loan for each new loan for Hearst Street Apartments, Lorin Station, and Addison Court Housing Cooperative.
6. Direct staff to examine the HTF administrative guidelines to update the standards for interest rates and accrued interest for future HTF loans.
Financial Implications: See report
Contact: Mike Uberti, Commission Secretary, (510) 981-7400
Action: See action for Item 26b.

Consent Calendar

26b. Companion Report: Loan Modification Requests for Housing Trust Fund Projects at 1139 Hearst Avenue, 3253 Adeline Street, and 1471 Addison Street and Update Interest Rates and Accrued Interest on Housing Trust Fund Loans
From: City Manager
Recommendation: Adopt a Resolution approving the following actions to modify three existing Housing Trust Fund (HTF) loans by:
1. Authorizing the City Manager or designee to extend Resources for Community Development's existing HTF loan for 1139 Hearst Avenue (Hearst Street Apartments) for five years and reducing the interest rate for the remaining term to 3% simple interest. The principal amount of $916,000 will remain the same.
2. Authorizing the City Manager or designee to combine South Berkeley Neighborhood Development Corporation's three HTF loans for 3253 Adeline Street (Lorin Station) into a new loan in the amount of $1,230,117, with 0% interest and a new loan maturity date of May 7, 2079, to align with their 2021 emergency rehab loan. The Regulatory Agreement will have a term of May 7, 2079, to be coterminous with the loan maturity date.
3. Authorizing the City Manager or designee to refinance the existing HTF loan for 1471 Addison Street (Addison Court Housing Cooperative) into a new loan with a 55-year term and 3% simple interest. The principal amount of $150,000 will remain the same. The Regulatory Agreement will have a term of November 1, 2080, to be coterminous with the loan maturity date.
4. Authorizing the City Manager or designee to execute all original or amended documents or agreements to effectuate these actions, including amendments to existing loan agreements.
5. Direct staff to examine the HTF administrative guidelines to update the standards for interest rates and accrued interest for future HTF loans.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5100
Action: Adopted Resolution No. 72,069–N.S. as presented in Item 26b.

27a. Affordable Housing for Artists Report
From: Housing Advisory Commission, Civic Arts Commission
Recommendation: Approve the "Keeping Creativity Local: A Strategic Response to Affordable Housing for Artists" report and direct the City Manager to evaluate and implement the report recommendations as appropriate.
Financial Implications: See report
Contact: Snow Zhu, Commission Secretary, (510) 981-5100, Jennifer Lovvorn, Commission Secretary, (510) 981-7530
Action: See action for Item 27b.

Consent Calendar

27b. Companion Report: Affordable Housing for Artists Report
From: City Manager
Recommendation: Receive the Keeping Creativity Local: A Strategic Response to Affordable Housing for Artists report. Should the Council wish to move forward with any of the report's policy recommendations, refer them to the budget process for evaluation of resource needs, feasibility, and prioritization through Reweighted Range Voting (RRV) process.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5100
Action: Approved recommendation in Item 27b. and referred recommendations 1-7 to the City Manager for either incorporation into existing work in progress for analysis and action if feasible, or for council ranking via the RRV process. For recommendation #2 from the commissions, make this a citywide referral to develop an incentive program and refer to the RRV process.

Council Consent Items

28. Annual Berkeley Holiday Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund
From: Mayor Ishii (Author), Councilmember Tregub (Co-Sponsor), Councilmember Blackaby (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $500 per Councilmember including $500 from Mayor Ishii, $500 from Councilmember Blackaby, and $250 from Councilmember Igor Tregub to the Berkeley Holiday Fund with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Ishii and any other Councilmembers who would like to contribute.
Financial Implications: See report
Contact: Adena Ishii, Mayor, (510) 981-7100
Action: Adopted Resolution No. 72,070–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Humbert - $250; Councilmember Bartlett - $250; Councilmember Taplin - $500; Councilmember Blackaby - $500; Councilmember Tregub - $250; Councilmember O'Keefe - $250; Councilmember Kesarwani - $100; Councilmember Lunaparra - $200.

Council Consent Items

29. Urban Compassion Project: Relinquishment of Council Office Budget Funds to General Fund for Grant of Such Funds
From: Councilmember Kesarwani (Author), Mayor Ishii (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor), Councilmember Lunaparra (Co-Sponsor)
Recommendation: Adopt a resolution approving the expenditure of an amount not to exceed $1,000 per Councilmember including a $1,000 donation from Councilmember Kesarwani and $1,000 from Mayor Ishii to the Urban Compassion Project with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budget of Councilmember Kesarwani and Mayor Ishii and any other Councilmembers who would like to contribute.
Financial Implications: See report
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
Action: Adopted Resolution No. 72,071–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Humbert - $250; Councilmember Bartlett - $100; Councilmember Taplin - $250; Councilmember Blackaby - $250; Councilmember Tregub - $250; Councilmember Lunaparra - $800.

30. Resolution for Unionization Efforts by Employees of Ècole Bilingue
From: Councilmember Taplin (Author), Councilmember Tregub (Co-Sponsor), Councilmember Lunaparra (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Ècole Bilingue de Berkeley administrative, support, and enrichment staff unionization effort.
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Councilmember O'Keefe added as a co-sponsor. Adopted Resolution No. 72,072–N.S.

Council Consent Items

31. Creations Berkeley – Black Joy Club Kwanzaa Toy Drive and Celebration on December 11, 2025 – Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Bartlett (Author)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $250 per Councilmember, including $250 from the discretionary Council Office Budget of Councilmember Ben Bartlett, to Creations Berkeley Media & Performing Arts, Inc., to support the Black Joy Club's Kwanzaa Toy Drive and Celebration at Sylvia Mendez Elementary School on Wednesday, December 11, 2025. The funds will be relinquished to the City's General Fund from the Discretionary Council Office Budget of Councilmember Ben Bartlett and the Discretionary Council Office Budgets of any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - $250
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
Action: Adopted Resolution No. 72,073–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Humbert - $250; Councilmember Blackaby - $250; Councilmember Taplin - $250; Councilmember Tregub - $250; Councilmember O'Keefe - $250; Councilmember Kesarwani - $100; Councilmember Lunaparra - $200; Mayor Ishii - $250.

32. Budget Referral: FY26 AAO1 Downtown Berkeley Revitalization Projects
From: Councilmember Tregub (Author)
Recommendation: Refer the (1) Addison Catenary Lighting Project, (2) Oxford for All proposal, and (3) Harold Way Placemaking Project schematic design to the Fiscal Year 2026 (FY26) Annual Appropriations Ordinance #1 (AAO1) budget process to be funded through the Street and Open Space Improvement Plan (SOSIP) and/or Long-Range Development Plan (LRDP) Funds.
These projects are high-impact investments in Downtown Berkeley's ongoing revitalization. By transforming these key downtown spaces into safe, visually captivating, walkable destinations, these projects will encourage more residents, students, and visitors to explore local shops, restaurants, and cultural venues. These projects will highlight Berkeley's creative and transit-oriented character, inviting people to visit, linger, take photos, and share their experiences. As pedestrian and bike traffic increases, existing businesses will be encouraged to extend hours, host outdoor events, and new businesses will be encouraged to occupy vacant storefronts creating a positive cycle of growth and reinvestment that benefits the entire community.
Through public-private collaboration and thoughtful designs, these initiatives will transform Downtown Berkeley with a spirit of creativity, inclusivity, urban vibrancy, and transit safety-- a place where people want to gather, spend time, and contribute to the city's economic life.
Financial Implications: See report
Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140
Action: Approved recommendation as amended to be a referral to AAO#2 and the next biennial budget process.

Council Consent Items

33. Referral to the City Manager and City Attorney: Vibrant Storefront Policy
From: Councilmember Tregub (Author), Mayor Ishii (Co-Sponsor), Councilmember Blackaby (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor)
Recommendation: Referral to the City Manager and City Attorney to develop a vibrant storefront policy that sets performance standards and considers additional strategies to address a growing number of ground-floor storefront vacancies in Berkeley's commercial districts.
Financial Implications: See report
Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140
Action: Mayor Ishii added as a co-sponsor. Approved recommendation.

34. Annual Report on Gifts Received
From: Councilmember O'Keefe (Author)
Recommendation: Accept the Library's annual reporting to the City Council of gifts received in FY 2025 as mandated by CC Resolution No. 65,444-N.S.
Financial Implications: None
Contact: Shoshana O'Keefe, Councilmember, District 5, (510) 981-7150, Henry Bankhead, Library, (510) 981-6100
Action: Adopted Resolution No. 72,074–N.S.

35. Board of Library Trustees Reappointment: Beverly Greene
From: Councilmember O'Keefe (Author)
Recommendation: Adopt a Resolution Approving the Reappointment of Beverly Greene to the Board of Library Trustees ("BOLT") for a second term of four years commencing December 3, 2025.
Financial Implications: None
Contact: Shoshana O'Keefe, Councilmember, District 5, (510) 981-7150, Henry Bankhead, Library, (510) 981-6100
Action: Adopted Resolution No. 72,075–N.S.

36. Notifying Residents of Upcoming Public Works Projects in their Neighborhoods
From: Councilmember Blackaby (Author), Councilmember Tregub (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Referral to the City Manager to develop a proactive communication system to alert the community of upcoming infrastructure projects from Public Works, EBMUD, PG&E, and other large housing or commercial development projects.
Financial Implications: Staff time
Contact: Brent Blackaby, Councilmember, District 6, (510) 981-7160
Action: Approved recommendation.

Council Consent Items

37. Berkeley Symphony Orchestra Winter Promenade: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Lunaparra (Author), Mayor Ishii (Co-Sponsor), Councilmember Tregub (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $500 per Councilmember, including $500 from Councilmember Lunaparra's discretionary fund and funds from any other Councilmembers who would like to contribute to the Berkeley Symphony Orchestra (BSO) for their 2025 Winter Promenade fundraising event with funds relinquished to the City's general fund for this purpose.
Financial Implications: See report
Contact: Cecilia Lunaparra, Councilmember, District 7, (510) 981-7170
Action: Adopted Resolution No. 72,076–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Humbert - $100; Councilmember Bartlett - $250; Councilmember Taplin - $250; Councilmember Blackaby - $250; Councilmember Tregub - $250; Councilmember Kesarwani - $100.

Action Calendar – Public Hearings

38. Renewal of the Elmwood Avenue BID for Calendar Year 2026
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, "the District", "the Elmwood BID" or "the BID") for 2025-26 and, if no majority protest exists, levy annual assessments in the District for calendar year 2026 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

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

Action: M/S/C (Humbert/Tregub) to adopt Resolution No. 72,077–N.S.
Vote: All Ayes.

Action Calendar – Public Hearings

39. Renewal of the Solano Avenue BID for Calendar Year 2026
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, "Solano BID Advisory Board" or "the BID") for 2025-2026 and, if no majority protest exists, levy annual assessments in the District for calendar year 2026 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

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

Action: M/S/C (O'Keefe/Blackaby) to adopt Resolution No. 72,078–N.S.
Vote: All Ayes.

40. Adoption of the 2025 California Fire Code with Local Amendments – Second Reading
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,990-N.S. repealing and reenacting the Berkeley Fire Code, including amendments to the California Fire Code as outlined in the proposed ordinance, plus Appendix Chapters D, E, F, O and P published by the International Code Council not included in the California Building Standards Code, as Berkeley Municipal Code Chapter 19.48.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Public Testimony: The Mayor opened the public hearing. 31 speakers.
M/S/C (Kesarwani/Taplin) to close the public hearing.
Vote: All Ayes.

Action: M/S/C (Ishii/Taplin) to adopt the second reading of Ordinance No. 7,990–N.S. Further, refer Sections 503.2.1, 503.2.2, and 503.4.1 and Appendix D, including section D105.2, to the City Manager and the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee to develop and recommend revisions for Council consideration by April 2026. The Mayor will submit an agenda item for a meeting in January 2026 with a referral for staff to develop Transportation Design Standards.
Vote: Ayes – Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

Action Calendar – Public Hearings

41. Adoption of and Amendments to the California Wildland-Urban Interface (WUI) Code – Second Reading
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,991-N.S. creating a new Berkeley Municipal Code Chapter 19.49 and adopting the 2025 California Wildland-Urban Interface (WUI) Code, Title 24 Part 7, along with local amendments.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Public Testimony: The Mayor opened the public hearing. 4 speakers.
M/S/C (Tregub/Taplin) to close the public hearing.
Vote: Ayes – Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

Action: M/S/C (Blackaby/Humbert) to adopt the second reading of Ordinance No. 7,991–N.S. and approve the recommendations below.

- Thank the members of the WUI Vegetation Code Workgroup for their efforts, including their very detailed and thoughtful recommendations in 2 letters back to Council;

- Refer to the City Manager the items in the Workgroup's letter (including non-combustible trash & recycling bins, wood shake roofs, wire mesh size for Vector Control, and facilitating permitting of metal privacy screens to replace privacy hedges) to then return to Council with specific proposals for consideration; and

- After the State Board of Forestry finalizes its Zone Zero regulations, request that the City Manager reconvene the Workgroup to help provide feedback on the differences between the state and local vegetation management laws (if any), such that the City Manager can then report back to City Council with an update within 90 days of the state's new rules.

Vote: Ayes – Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

Action Calendar – Public Hearings

42. Amendments to Title 23 (Zoning) to Allow the Retail Sale of Alcohol in the Telegraph Avenue Commercial (C-T) Zoning District
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt the first reading of an ordinance amending the BMC Title 23 Section 23.204.020 to allow the retail sale of alcohol in the Telegraph Avenue Commercial (C-T) zoning district.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Testimony: The Mayor opened the public hearing. 1 speaker.
M/S/C (Lunaparra/Humbert) to close the public hearing.
Vote: All Ayes.

Action: M/S/C (Lunaparra/Tregub) to adopt the first reading of Ordinance No. 7,996–N.S. Second reading scheduled for January 20, 2026.
Vote: All Ayes.

43. Amendments to Title 21 (Subdivisions) to Allow Separate Sale of ADUs
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion, adopt the first reading of an Ordinance to amend Berkeley Municipal Code Title 21 (Subdivisions Ordinance) and Chapter 23.306 Accessory Dwelling Units to implement Assembly Bill (AB) 1033 by establishing local regulations for the separate sale of ADUs as condominiums.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action: M/S/C (Ishii/O'Keefe) to schedule Item 43 for the January 20, 2026 regular meeting including revised material from Councilmember Lunaparra.
Vote: Ayes – Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

Information Reports

44. Economic Impact Study: Berkeley's Creative Economy and Assessment of Pandemic Relief Investments
From: City Manager
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
Action: Received and filed.

45. Sanctuary City Contracting Compliance Report for FY 2024 and 2025
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Received and filed.

Information Reports

46. Housing Advisory Commission Fiscal Year 2026 Work Plan
From: Housing Advisory Commission
Contact: Snow Zhu, Commission Secretary, (510) 981-5100
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 1 speaker.

Adjournment

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

Adjourned at 10:56 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on December 2, 2025.

_____
Mark Numainville, City Clerk

Communications

Bell-to-Bell Mobile Device Policy
1. Erica Tsai
2. Amy Hill
3. Claudia Cattoglio and Davide Pietrobon

Flock Concerns
4. Lisa Ferguson
5. Amy Berlin
6. Diana Bohn
7. Summer Brenner
8. Elana Auerbach
9. Sepehr Nadimi
10. Madison Toloui
11. Berkeley Immigration Collaborative
12. Brian Hofer on behalf of Secure Justice

Upzoning
13. Utkarsh Nath (2)
14. Elke Glendenning
15. Baruch Moskovits (2)
16. Vivian Dempsey
17. Jeremy Poindexter (2)

EMBER
18. Margot Murtaugh

Public Safety Hazard Concern
19. Varun Paul

Berkeley Marina Concerns
20. Todd Jersey
21. Elizabeth Kowal and Constantine Philipides

Measure BB
22. Courtney Pal on behalf of non-profit affordable housing providers

Berkeley Police at City Council Meetings
23. Jesse Sheehan

Parking Garage on Milvia
24. Ben Gerhardstein
25. Ben Gerhardstein and Liza Lutzker on behalf of Walk Bike Berkeley

Carleton Street
26. Andrew Browning

2025 Bike Plan
27. Harald Leventhal

Veterans Building
28. Berkeley Community Latino Exhibit

Downtown Concerns
29. Elise Proulx

CAL Green Code Amendments
30. Danielle Amador
31. Zella Carmichael-Price
32. Maragaret Solomon
33. Duke Cruz Dela Rosa
34. Sanjna Shah

College Ave and Garber St. Crossing Concern
35. Anne Whyte

Measure FF
36. Joel Libove

Senior Transportation Waitlist
37. Ariadne Fellows-Mannion

Housing Concern
38. Hector91 Phuentes (3)

Missing Middle
39. Caephren McKenna (2)

2274 Shattuck Ave
40. Caephren McKenna (2)

City Council Concerns
41. Nicholas Lavrov

2136-2154 San Pablo
42. Brandon Yung

Property Taxes
43. Stephani Lesh

City Concern
44. John Vail

Landmarking
45. Harry Delmer
46. S. Entwistle

Holiday Party
47. John Craner

Street Fairs
48. Charles Siegel on behalf of Wike Bike Berkeley
49. Alfred Twu
50. Charles Siegel (2)
51. Barbara Bent

Renovation Schedule
52. Alex Merenkov

Berkeley Recycling Center
53. Lidia Villagomez

Formal Complaint
54. Jon Ruel Holder II

Density Paradox in LA
55. John J. Parman

Protecting Special Events
56. Lisa Bullwinkel

Signatures for Landmark Sites
57. Stephen Alpert (3)
58. Beth Gerstein

Holiday Promotions
59. Beth Roessner

UCB Mater Leasing
60. Barbara Gilbert

Property Damage Concern
61. Beatrice Huff

2298 Durant and 2360 Ellsworth
62. Heidi Webb on behalf of Jolene Kramer and Andrea Matsuoka

Newsletters
63. Downtown Berkeley Association
64. Visit Berkeley

New Multi-Unit Buildings
65. Kelly Hammargren

Elementary Reading Program
66. Marina Ostrowicki

Letter
67. Eids TV

URL's
68. Russbumper (4)

Forwards
69. Russbumper (3)

E-Scooters
70. Robert Borghese (10)
71. Devin Dollinger (4)
72. Carson Lepre (3)
73. Chandana Silarp

74. Sukka Vinay Kumar

Supplemental Communications and Reports 1

Item #40: Adoption of the 2025 California Fire Code with Local Amendments – Second Reading

75. Martin Bourque on behalf of the Ecology Center
76. Ben Gerhardstein on behalf of Walk Bike Berkeley
77. 16 Similarly worded form letters “I am concerned about…”

Supplemental Communications and Reports 2

Item #40: Adoption of the 2025 California Fire Code with Local Amendments – Second Reading

78. Revised agenda material submitted by Councilmember Cecilia Lunaparra and Councilmember Mark Humbert
79. Nancy Rader
80. Marilyn Simons
81. Warren Wells
82. Nancy Bartell
83. Sharon Rollins Singer (2)
84. Jan Murota
85. Scott Wren
86. Dahlia Armon
87. Charles Siegel
88. Bill Hickman and Evelyn Dilworth
89. Nancy Van Zwalenburg
90. Lisa Brenneis
91. Naomi Pearce
92. Constance Rivemale
93. Zachary Lamb
94. T.M. Scruggs
95. Jacqueline Gauthier
96. Dorothea Dorenz
97. William Fernholz
98. Howard Hertz
99. Sheryl Rose
100. Emilio Martinez-Cordero
101. Janet Coleman
102. David Brandon
103. Katie Calvert
104. Jim Williams
105. Melissa Short
106. Anne Boersma
107. Kori Kody
108. Chris Hamilton
109. Donna DeDiemar
110. Tobey M. Wiebe

111. Tom Yamaguchi
112. Meryl Siegal
113. Gary Brawer
114. Cindi Goldberg (2)
115. Howard Goldberg (2)
116. Lynda Caesara
117. Helen Walsh
118. Diane Carlson Estes
119. Krista Denton (2)
120. Mimi Main
121. Quinn Dombrowski
122. Chris Harrelson
123. David Moore
124. Pam Zelnik
125. Bernard Grandjacques
126. Darrell Owens
127. Erik Knaresboro & Guide Vito
128. Brian Gilbane
129. 8 Similarly worded form letters “People walking, biking…”
130. 10 Similarly worded form letters “The city has a long record of…”
131. 11 Similarly worded form letters “I am concerned about…”
132. 13 Similarly worded form letters “I am writing to…”

Item #41: Adoption of and Amendments to the California Wildland-Urban Interface (WUI) Code – Second Reading

133. Supplemental agenda material submitted by the Fire Department

Item #43: Amendments to Title 21 (Subdivisions) to Allow Separate Sale of ADUs

134. Revised agenda material submitted by Councilmember Cecilia Lunaparra and Councilmember Ben Bartlett

Supplemental Communications and Reports 3

Item #8: Authorizing the City Manager to Sign the Downtown Property-Based Business Improvement District (PBID) Petition and Ballot on Behalf of the City of Berkeley

135. Gregory Kalkanis

Item #9: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 2, 2025

136. Carol Denney

Item #27a: Affordable Housing for Artists Report

Item #27b: Companion Report: Affordable Housing for Artists Report

137. Debbie Potter and Leah Simon Weisberg
138. Cameron Woo

Action Calendar

Item #40: Adoption of the 2025 California Fire Code with Local Amendments – Second Reading

139. William Springer
140. Leslie Sakai
141. Brick Conway
142. Thea Davison
143. Bianca Walser
144. Mark Stuhr
145. Diane Garcia
146. Amelia Fernholz
147. Robert Dering
148. Fredda Cassidy
149. Pablo Diaz-Gutierrez
150. Michael Tompkins
151. Thomas J. Ayres
152. Maragret Salmond
153. Bruce H. Feingold
154. Kathleen Krier
155. Marguerite Talley
156. Peter Samis
157. Jeffrey Heller
158. Bob Flasher
159. Todd Andrew
160. David Shere
161. Nancy Gillette
162. Ross Bernet
163. Verna Winters
164. Csilla Kenny
165. Sandy Emerson
166. Zach Franklin and Sofia Zander
167. David Mendelson
168. Scott Selmanoff
169. Blaine Merker
170. Graylon Wright
171. Daniel Swafford and Jacob Cohen
172. Henry Thomson
173. Carla Woodworth
174. Chris Carlisle
175. Paul Spinrad
176. Libby Lee-Egan
177. Leni Siegel
178. Dylan Clark
179. S. Entwistle
180. Carol Henning

181. 15 Similarly worded form letters “I am concerned…”

Item #41: Adoption of and Amendments to the California Wildland-Urban Interface (WUI) Code – Second Reading

182. Fred Bamber
183. Susan McCutchan

Item #43: Amendments to Title 21 (Subdivisions) to Allow Separate Sale of ADUs

184. Sam Greenberg on behalf of the members and supporters of Eat Bay for Everyone
185. Debbie Sanderson and Kathy Crandall
186. Carrie Shores Diller

Attachment 3

BERKELEY CITY COUNCIL
SPECIAL MEETING MINUTES

MONDAY, DECEMBER 8, 2025

1:30 P.M.

2180 MILVIA STREET, BERKELEY, CA 94704 – REDWOOD ROOM

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 and virtual attendance. Attend this meeting remotely using Zoom. 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: 160 237 4866**. 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: 1:38 p.m.

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

Absent: Kesarwani, Bartlett

Public Comment - Limited to items on this agenda only – 1 speaker

CLOSED SESSION:

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

1. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1)/INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(4)**

    a. Yesica Prado et al. v. City of Berkeley, U.S.D.C. N.D. Cal. Case 3:23-cv-04537-EMC

    Action: M/S/C (Humbert/Taplin) to authorize the City Attorney to file cross complaints in Prado v Berkeley U.S.D.C. N.D. Cal. Case 3:23-cv-04537-EMC
    Vote: Ayes – Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Kesarwani, Bartlett.

2. **CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6**

    Negotiators: Laura Izon and Sarah Martoccia, Atkinson, Andelson, Loya, Ruud & Romo, PC
    Employee Organization: Berkeley Police Association

    Action: No reportable action taken.

OPEN SESSION:

The council met in closed session and gave direction to the City Attorney to file cross complaints in Prado v Berkeley U.S.D.C. N.D. Cal. Case 3:23-cv-04537-EMC.

Adjournment

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

Adjourned at 4:02 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on December 8, 2025.

_____
Mark Numainville, City Clerk

03

City Clerk Department

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: 2025 Annual Commission Attendance and Meeting Frequency Report

RECOMMENDATION

Adopt a Resolution approving a revised commission meeting frequency schedule, accepting the 2025 Annual Commission Attendance and Meeting Frequency Report, and rescinding Resolution No. 71,109-N.S.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Each of the City commissions that were active during the reporting period submitted an annual attendance report covering the period of September 1, 2024 through August 31, 2025 (Attachment 2). These reports include the number of meetings, meeting cancellations, commissioners in attendance, length of meetings, number of speakers, and members of the public present. The reports also reflect the number of vacant positions on the commission as of August 31, 2025. Attachment 3 provides a summary of the approved leaves of absence for each commission.

A new resolution is submitted because the City Council has established the Safe Streets Oversight Committee as an additional advisory body subject to the commission meeting-frequency schedule. Consistent with the proposed resolution, commissions are divided into four categories (A, B, C, and D) depending on their meeting the criteria of having time-sensitive, legally mandated business to complete. The meeting activity for the reporting period of September 1, 2024 through August 31, 2025, has been broken down by category below.

Category A – These commissions meet on their own schedule.

Commission	*Meetings Held*	*Meetings Cancelled*	*Vacant Positions*
Board of Library Trustees	11	0	0
Design Review Committee	12	0	0
Fair Campaign Practices Commission	10	0	0
Housing Advisory Commission	10	1	1
Landmarks Preservation Commission	12	0	2
Open Government Commission	10	0	0
Personnel Board	10	3	2
Planning Commission	10	1	0
Police Accountability Board	21	1	1
Zoning Adjustments Board	19	1	0

Category B – These commissions have a maximum of ten meetings per year.

Commission	*Meetings Held*	*Meetings Cancelled*	*Vacant Positions*
Civic Arts Commission	12	0	1
Commission on Aging	10	0	1
Commission on Disability	9	1	1
Commission on Labor	6	0	3
Commission on the Status of Women	9	1	2
Community Health Commission	8	2	5
Disaster and Fire Safety Commission	10	0	0
Environment and Climate Commission	10	0	1
Homeless Services Panel of Experts	10	1	2
Human Welfare and Community Action Commission	11	0	4
Mental Health Commission	9	1	4
Parks, Recreation and Waterfront Commission	10	0	1
Peace and Justice Commission	9	0	0
Safe Streets Citizen Oversight Committee	1	0	0
Sugar-Sweetened Beverage Product Panel of Experts	10	1	0
Transportation and Infrastructure Commission	10	0	1
Youth Commission	10	0	1
Zero Waste Commission	10	0	1

Category C – These commissions meet as necessary to fulfil their legal requirements as determined by the board chair and/or staff.

Commission	*Meetings Held*	*Meetings Cancelled*	*Vacant Positions*
Elmwood Business Improvement District Advisory Board	2	0	4
Loan Administration Board	1	0	6
Solano Avenue Business Improvement District Advisory Board	7	0	5

Category D – These commissions have a maximum of six meetings per year.

No commissions currently in Category D.

BACKGROUND

On June 14, 2005, the City Council discussed the reduction of commission meetings as a cost-savings measure, and adopted a proposal which created three categories of commission meeting schedules, a process for requesting Council approval of any extra meetings, direction to commission secretaries to submit an information report whenever a commission cancels two consecutive meetings for lack of quorum, and an annual attendance report.

On January 15, 2008, Council adopted Resolution No. 63,949–N.S., which updated the commission meeting frequency schedule to include a fourth category of meeting frequency.

On March 17, 2020, the council adopted Resolution No. 69,331–N.S. with the purpose of reducing the number of commission meeting schedules from four categories to two categories. This decision was made in response to the mandatory Shelter-in-Place order imposed as a result of the COVID-19 pandemic.

On November 28, 2023, the council adopted Resolution No. 71,109-N.S. restoring the meeting frequency categories to their previous count of four categories, as initially adopted by the council prior to the pandemic.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The annual commission attendance report informs the Council of commission activity and allows for comparison with the meeting frequency schedule. The annual attendance report documents increased demand on or under-utilization of commissions, and allows Council to make changes to the meeting frequency schedule accordingly.

CONTACT PERSON

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

ATTACHMENTS:

1) Resolution
2) 2025 Annual Commission Attendance Reports
    Attachment 2a – Category A
    Attachment 2b – Category B
    Attachment 2c – Category C
3) 2025 Approved Leaves of Absence Report

RESOLUTION NO. XX,XXX–N.S.

2025 COMMISSION MEETING FREQUENCY SCHEDULE

WHEREAS, on June 13, 2005, the City Council adopted a plan which created three categories of meeting schedules and a process for requesting Council or Agenda Committee approval of any extra meetings; and

WHEREAS, Council also directed commission secretaries to submit an information report whenever a commission cancels two consecutive meetings for lack of quorum and an annual attendance report; and

WHEREAS, on January 15, 2008, the City Council adopted a plan which created a fourth category of meeting frequency; and

WHEREAS, adopting a commission meeting schedule will provide commissions with direction to set their respective regular meeting schedules for subsequent years; and

WHEREAS, on March 17, 2020, during the pandemic, the council adopted a plan which divided the commissions into two categories, due to the Shelter-in-Place order necessitated by the COVID-19 pandemic, most commissions ceased or greatly scaled back their activities in March of 2020; and

WHEREAS, on November 28, 2023, the City Council restored the four-category commission meeting-frequency schedule that existed prior to the pandemic; and

WHEREAS, on April 29, 2025, the City Council established the Safe Streets Citizen Oversight Committee as a new advisory body, requiring its incorporation into the City's commission meeting frequency schedule.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley directs that commission secretaries shall submit an information report to Council whenever a commission cancels two consecutive meetings for lack of quorum.

BE IT FURTHER RESOLVED that commissions may request that the Council approve extra meetings by placing a report on the City Council agenda for consideration.

BE IT FURTHER RESOLVED that commissions will meet according to the following categories:

Category A. These commissions will meet on their own schedule.
Board of Library Trustees
Design Review Committee
Fair Campaign Practices Commission/Open Government Commission
Housing Advisory Commission
Landmarks Preservation Commission
Personnel Board
Planning Commission
Police Accountability Board
Zoning Adjustments Board

Category B. These commissions will have a maximum of ten meetings per year.
Civic Arts Commission
Commission on Aging
Commission on Disability
Commission on Labor
Commission on the Status of Women
Community Environmental Advisory Commission
Community Health Commission
Disaster and Fire Safety Commission
Environment and Climate Commission
Homeless Services Panel of Experts
Human Welfare and Community Action Commission
Mental Health Commission
Parks, Recreation and Waterfront Commission
Peace and Justice Commission
Safe Streets Citizen Oversight Committee
Sugar-Sweetened Beverage Product Panel of Experts
Transportation and Infrastructure Commission
Youth Commission
Zero Waste Commission

Category C. These commissions will meet as necessary to fulfill their legal requirements as determined by the board chair and/or staff.
Elmwood Business Improvement District Advisory Board
Loan Administration Board
Solano Avenue Business Improvement District Advisory Board

Category D. These commissions will have a maximum of six meetings per year.
None

BE IT FURTHER RESOLVED that commission secretaries will submit a commission attendance and meeting frequency report for the period September 1st through August 31st to the City Clerk in September of each year.

BE IT FURTHER RESOLVED that a report presenting commission attendance and meeting frequency will be submitted to the City Council for review in November of each year.

BE IT FURTHER RESOLVED that the meeting frequency schedule contained herein shall remain in effect until superseded by Council Resolution.

BE IT FURTHER RESOLVED that Resolution No. 71,109-N.S. is hereby rescinded.

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Board of Library Trustees*

Commission Secretary: Tess Mayer (9/1/2024-8/16/2025)

Vacant Seats (as of August 31, 2025): 0

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/4/2024 Regular Meeting In Person	*No*	*5 OF 5*	*0*	*0*	*1.0 hrs.*
10/10/24 Regular Meeting In Person	*No*	*5 OF 5*	*2*	*1*	*1.53 hrs.*
11/06/2024 Regular Meeting In Person	*No*	*5 OF 5*	*1*	*1*	*1.5 hrs.*
12/04/2024 Regular Meeting In Person	*No*	*5 OF 5*	*2*	*2*	*2.13 hrs.*
1/8/2025 Regular Meeting In Person	*No*	*4 OF 5*	*3*	*0*	*.95 hrs.*
2/5/2025 Regular Meeting In Person	*No*	*4 OF 5*	*3*	*0*	*1.67 hrs.*
3/5/2025 Regular Meeting	*No*	*4 OF 5*	*4*	*0*	*1.5 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

In Person					
4/2/2025 Regular Meeting In Person	*No*	*4 OF 5*	*2*	*0*	*.92 hrs.*
5/21/2025 Regular Meeting In Person	*No*	*4 OF 5*	*3*	*3*	*.92 hrs.*
6/4/2025 Regular Meeting In Person	*No*	*4 OF 5*	*1*	*1*	*1.13 hrs.*
7/9/2025 Regular Meeting In Person	*No*	*4 OF 5*	*1*	*0*	*1.03 hrs.*
NO MEETING IN AUGUST					

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Design Review Committee*

Commission Secretary: Anne Burns

Vacant Seats (as of August 31, 2025): _____None_____

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/19/24	*No*	*6 of 7*	*3*	*5*	*1.5 hrs.*
10/21/24	*No*	*7 of 7*	*14*	*6*	*3.5 hrs.*
11/21/24	*No*	*7 of 7*	*12*	*10*	*3.5 hrs.*
12/19/24	*No*	*6 of 6*	*8*	*3*	*2.25 hrs.*
1/16/25	*No*	*6 of 7*	*11*	*3*	*2 hrs.*
2/20/25	*No*	*7 of 7*	*18*	*12*	*3.5 hrs.*
3/19/25	*No*	*5 of 6*	*8*	*4*	*1.75 hrs.*
4/17/25	*No*	*7 of 7*	*14*	*6*	*2.5 hrs.*
5/15/25	*No*	*5 of 6*	*10*	*4*	*2.5 hrs.*
6/19/25	*No*	*6 of 6*	*5*	*3*	*2.5 hrs.*
7/17/25	*No*	*7 of 7*	*6*	*2*	*1.25 hrs.*
8/21/25	*No*	*7 of 7*	*10*	*4*	*3.0 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: Fair Campaign Practices Commission

Commission Secretary: Stephen Hylas, Sam Harvey, Lauren Packard

Vacant Seats (as of August 31, 2025): ____0_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/19/2024	*No*	*5 of 6*	*3*	*3*	*2.25 hours*
10/17/2024	*No*	*6 of 7*	*1*	*1*	*1.75 hours*
11/21/2024	*No*	*6 of 8*	*0*	*0*	*2.75 hours*
1/16/2025	*No*	*4 of 5*	*0*	*0*	*2.5 hours*
2/20/2025	*No*	*4 of 5*	*1*	*1*	*2.25 hours*
3/20/2025	*No*	*5 of 6*	*1*	*1*	*2 hours*
4/17/2025	*No*	*6 of 6*	*2*	*2*	*2.25 hours*
5/15/2025	*No*	*6 of 7*	*0*	*0*	*1.75 hours*
6/19/2025	*No*	*6 of 7*	*2*	*2*	*1.75 hours*
7/17/2025	*No*	*5 of 7*	*3*	*3*	*2 hours*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Housing Advisory Commission*

Commission Secretary: Snow Zhu

Vacant Seats (as of August 31, 2025): __1_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/5/2024	*No*	*5 of 6*	*14*	*4*	*2 hrs.*
10/10/2024	*No*	*8 of 9*	*2*	*4*	*2 hrs.*
12/2/2024	*No*	*6 of 9*	*5*	*3*	*3 hrs.*
1/9/2025	*No*	*8 of 9*	*12*	*9*	*2.5 hrs.*
2/6/2025	*No*	*7 of 7*	*2*	*1*	*2 hrs.*
3/6/2025	*No*	*7 of 8*	*3*	*3*	*2 hrs.*
4/3/2025	*No*	*6 of 7*	*9*	*5*	*2 hrs.*
5/1/2025	*No*	*7 of 9*	*17*	*8*	*3 hrs.*
6/5/2025	*No*	*8 of 8*	*2*	*2*	*3.5 hrs.*
7/10/2025	*Yes – Staffing availability, special meeting was held a week later*				
7/17/2025	*No*	*4 of 5*	*2*	*1*	*2 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: Landmarks Preservation Commission

Commission Secretary: Allison Riemer

Vacant Seats (as of August 31, 2025): 2

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/5/2024	*No*	*7 of 8*	*12*	*6*	*2.5*
10/7/2024	*No*	*4 of 8*	*5*	*4*	*1.5*
11/7/2024	*No*	*6 of 8*	*18*	*7*	*3*
12/5/2024	*No*	*7 of 8*	*19*	*8*	*3*
1/6/2025	*No*	*6 of 8*	*15*	*5*	*2*
2/6/2025	*No*	*8 of 8*	*8*	*2*	*3*
3/6/2025	*No*	*8 of 8*	*20*	*14*	*2.5*
4/3/2025	*No*	*7 of 8*	*9*	*4*	*1.5*
5/1/2025	*No*	*5 of 8*	*12*	*8*	*2.5*
6/5/2025	*No*	*7 of 8*	*26*	*13*	*2.5*
7/7/2025	*No*	*7 of 8*	*12*	*0*	*3.5*
8/7/2025	*No*	*6 of 8*	*12*	*1*	*2.5*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: Open Government Commission

Commission Secretary: Stephen Hylas, Sam Harvey, Lauren Packard

Vacant Seats (as of August 31, 2025): ____0_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/19/2024	*No*	*5 of 6*	*3*	*3*	*2.25 hours*
10/17/2024	*No*	*6 of 7*	*1*	*1*	*1.75 hours*
11/21/2024	*No*	*6 of 8*	*0*	*0*	*2.75 hours*
1/16/2025	*No*	*4 of 5*	*0*	*0*	*2.5 hours*
2/20/2025	*No*	*4 of 5*	*1*	*1*	*2.25 hours*
3/20/2025	*No*	*5 of 6*	*1*	*1*	*2 hours*
4/17/2025	*No*	*6 of 6*	*2*	*2*	*2.25 hours*
5/15/2025	*No*	*6 of 7*	*0*	*0*	*1.75 hours*
6/19/2025	*No*	*6 of 7*	*2*	*2*	*1.75 hours*
7/17/2025	*No*	*5 of 7*	*3*	*3*	*2 hours*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Personnel Board*

Commission Secretary: Janelle Rodrigues

Vacant Seats (as of August 31, 2025 2

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2022	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2023	*Yes – no quorum*	*9 of 9*	*3*	*1*	*3 hrs.*

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
September 9, 2024	*No*	*7 of 7*	*1*	*0*	*1 hr. 7 min.*
October 7, 2024	*Yes, no items to present.*				
November 4, 2024	*No*	*6 of 7*	*4*	*0*	*44 min.*
December 2, 2024	*No*	*7 of 7*	*1*	*0*	*1 hr. 56 min.*
January 6, 2025	*No*	*3 of 7*	*2*	*0*	*18 min.*
February 3, 2025	No	6 of 7	1	0	35 min.
March 3, 2025	No	7 of 7	2	0	47 min.
April 7, 2025	No	*7 of 7*	2	0	1 hr 24 min.
May 5, 2025	No	6 of 6	0	0	51 min.
June 2, 2025	No	5 of 6	0	0	48 min.
July 7, 2025	Yes, no items to present.				
August 4,2025	Yes, summer recess.				
September 8, 2025	No	7 of 7	1	1	1 hr. 4 min.

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Planning Commission*

Commission Secretary: Justin Horner, Alisa Shen

Vacant Seats (as of August 31, 2025): 0

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
1/15/2025	*Yes. No agenda items.*	*n/a*	*n/a*	*n/a*	*n/a*
2/5/2025	*No*	*6 of 8*	*3*	*1*	*1 hr 2 mins*
3/5/2025	*No*	*6 of 8*	*7*	*6*	*2 hrs 54 mins*
4/16/2025	*No*	*7 of 8*	*0*	*0*	*22 mins*
5/7/2025	*No*	*7 of 8*	*8*	*5*	*1 hr 48 mins*
6/4/2025	*No*	*8 of 8*	*77*	*42*	*3 hrs 13 mins*
7/16/2025	*No*	*7 of 8*	*0*	*0*	*1 hr 40 mins*
9/17/2025	*No*	*6 of 9*	*66*	*45*	*3 hrs 57 mins*
10/8/2025	*No*	*9 of 9*	*6*	*4*	*1 hr 29 mins*
11/5/2025	*No*	*8 of 9*	*14*	*14*	*2 hrs 59 mins*
12/3/2025	*No*	*7 of 9*	*1*	*1*	*1 hr*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: **Police Accountability Board**

Commission Secretary: Hansel A. Aguilar, Director of Police Accountability

Vacant Seats (as of August 31, 2025): 1

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/11/2024	*No*	*8 of 8*	*6*	*0*	*2.75 hrs*
9/25/2024	*No*	*6 of 8*	*3*	*0*	*2.85 hrs*
10/09/2024	*No*	*8 of 8*	*10*	*0*	*3.33 hrs*
10/30/2024	*No*	*8 of 8*	*11*	*2*	*2.35 hrs*
11/13/2024	*No*	*8 of 8*	*13*	*1*	*3.47 hrs*
12/11/2024	*No*	*5 of 7*	*6*	*0*	*2.43 hrs*
01/08/2025	*No*	*6 of 7*	*5*	*1*	*3.15 hrs*
01/22/2025	*No*	*6 of 7*	*3*	*0*	*1.73 hrs*
02/01/2025	*No*	*4 of 7*	*0*	*0*	*3.13 hrs*
02/05/2025	*No*	*5 of 7*	*8*	*0*	*2.28 hrs*
02/19/2025	*No*	*4 of 7*	*4*	*6*	*3.13 hrs*
03/05/2025	*No*	*5 of 7*	*4*	*4*	*2.5 hrs*
03/19/2025	*No*	*5 of 6*	*9*	*1*	*2.95 hrs*
04/09/2025	*No*	*5 of 6*	*7*	*1*	*2.5 hrs*
04/23/2025	*No*	*6 of 7*	*10*	*3*	*1.48 hrs*
05/7/2025	*No*	*4 of 7*	*3*	*1*	*1.47 hrs*
05/21/2025	*No*	*5 of 7*	*5*	*0*	*2.45 hrs*
06/11/2025	*No*	*5 of 8*	*56*	*34*	*3.47 hrs*
06/25/2025	*No*	*8 of 8*	*15*	*5*	*3.55 hrs*
07/9/2025	*No*	*7 of 8*	*14*	*9*	*4.45 hrs*
07/23/2025	*Yes – PAB rescheduled via motion to later date*				
08/7/2025	*No*	*6 of 8*	*3*	*1*	*2.33 hrs*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Zoning Adjustments Board*

Commission Secretary: Sharon Gong/Sarah Price

Vacant Seats (as of August 31, 2025): 1

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/12/2024	*No*	*5 of 9*	*33*	*12*	*3.0 hrs*
09/26/2024	*No*	*6 of 9*	*44*	*15*	*1.0 hr*
10/10/2024	*No*	*7 of 9*	*7*	*2*	*0.5 hr*
11/14/2024	*No*	*6 of 9*	*24*	*9*	*1.25 hrs*
12/12/2024	*No*	*8 of 9*	*52*	*32*	*4 hrs*
1/9/2025	*No*	*9 of 9*	*35*	*15*	*1.75 hrs*
1/23/2025	*No*	*6 of 9*	*5*	*0*	*0.5 hr*
02/13/2025	*No*	*6 of 9*	*10*	*0*	*0.5 hrs*
02/27/2025	*No*	*7 of 9*	*19*	*4*	*2.5 hrs*
03/13/2025	*No*	*8 of 9*	*30*	*14*	*2.5 hrs*
03/27/2025	*No*	*7 of 9*	*11*	*0*	*1.0 hr*
04/10/2025	*No*	*6 of 9*	*4*	*1*	*0.75 hr*
04/24/2025	*No*	*7 of 9*	*7*	*1*	*0.5 hr*
05/8/2025	*No*	*9 of 9*	*12*	*2*	*1.5 hr*
05/22/2025	*No*	*7 of 9*	*5*	*0*	*0.5 hr*
06/12/2025	*No*	*9 of 9*	*17*	*3*	*1.0 hr*
06/26/2025	*Yes – Conflict with CC*				
07/10/2025	*No*	*8 of 9*	*3*	*0*	*1.0 hr*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

07/24/2025	*No*	*8 of 9*	*18*	*2*	*0.5 hr*
08/14/2025	*No*	*6 of 9*	*9*	*5*	*1.0 hr*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Civic Arts Commission*

Commission Secretary: Jennifer Lovvorn

Vacant Seats (as of August 31, 2025): __1_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/15/24	*No*	*9 of 9*	*0*	*0*	*4.78 hrs*
9/25/24	*No*	*8 of 9*	*0*	*0*	*2 hrs*
10/30/24	*No*	*8 of 9*	*6*	*0*	*1.75 hrs*
12/4/24	*No*	*8 of 8*	*0*	*0*	*1.87 hrs*
1/22/25	*No*	*6 of 7*	*2*	*2*	*1.93 hrs*
2/26/25	*No*	*7 of 7*	*1*	*1*	*1.85 hrs*
3/26/25	*No*	*6 of 7*	*1*	*1*	*1.35 hrs*
4/23/25	*No*	*7 of 7*	*0*	*0*	*1.48 hrs*
5/28/25	*No*	*6 of 6*	*0*	*0*	*1.9 hrs*
6/25/25	*No*	*5 of 7*	*3*	*0*	*1.9 hrs*
7/23/25	*No*	*6 of 7*	*7*	*6*	*2.31 hrs*
8/13/25	*No*	*7 of 8*	*4*	*3*	*1.93 hrs*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Commission on Aging*

Commission Secretary: Darlene Bronson

Vacant Seats (as of August 31, 2025): 1

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/18/2024	*No*	*9 of 9*	*1*	*0*	*2 hrs.*
10/16/2024	*No*	*8 of 9*	*3*	*1*	*2 hrs.*
11/20/2024	*No*	*7 of 9*	*0*	*0*	*1.75 hrs.*
1/15/2025	*No*	*7 of 9*	*0*	*0*	*1.5 hrs.*
2/19/2025	*No*	*6 of 9*	*8*	*1*	*2 hrs.*
3/19/2025	*No*	*6 of 9*	*8*	*1*	*2 hrs.*
4/16/2025	*No*	*7 of 9*	*3*	*0*	*2 hrs.*
5/21/2025	*No*	*6 of 9*	*0*	*0*	*1.75 hrs.*
6/18/2025	*No*	*4 of 9*	*1*	*0*	*1.5 hrs.*
7/16/2025	*No*	*7 of 9*	*3*	*1*	*1.5*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Commission on Disability*

Commission Secretary: Thomas Gregory

Vacant Seats (as of August 31, 2025): 1

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/11/2024	*no*	*7 of 7*	*2*	*1*	*2 hours, 39 minutes*
10/9/2024	*Yes, due to lack of quorum*				
11/13/2024	*no*	*5 of 7*	*3*	*1*	*2 hours, 2 minutes*
1/8/2025	*no*	*5 of 7*	*3*	*0*	*2 hours, 27 minutes*
2/19/2025	*no*	*7 of 8*	*14*	*3*	*2 hours, 42 minutes*
3/12/2025	*no*	*7 of 8*	*1*	*1*	*1 hour, 43 minutes*
4/9/2025	*no*	*7 of 8*	*0*	*0*	*1 hour, 56 minutes*
5/14/2025	*no*	*7 of 9*	*0*	*0*	*2 hours, 9 minutes*
6/11/2025	*no*	*9 of 9*	*4*	*0*	*2 hours, 25 minutes*
7/9/2025	*no*	*7 of 8*	*5*	*4*	*2 hours, 35 minutes*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Commission on Labor*

Commission Secretary: Emily Rose

Vacant Seats (as of August 31, 2025): 3

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/18/2024	*No*	*3 of 5*	*1*	*1*	*2.5 hrs.*
11/20/2024	*No*	*5 of 6*	*0*	*0*	*1.25 hrs.*
01/15/2025	*No*	*5 of 5*	*3*	*2*	*1.5 hrs.*
03/19/2025	*No*	*5 of 6*	*0*	*0*	*2.25 hrs.*
05/21/2025	*No*	*5 of 5*	*3*	*3*	*2 hrs.*
07/16/2025	*No*	*5 of 5*	*2*	*2*	*2.25 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Commission on the Status of Women*

Commission Secretary: Okeya Vance-Dozier

Vacant Seats (as of August 31, 2025): 2

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/18/2024	*No*	*4 of 7*	*1*	*0*	*1hr 50mins*
10/16/2024	*Yes- no quorum*				
11/20/2024	*No*	*3 of 5*	*0*	*0*	*2hrs*
01/15/2025	*No*	*4 of 5*	*3*	*1*	*2hrs*
02/19/2025	*No*	*7 of 7*	*0*	*0*	*2hrs*
03/19/2025	*No*	*6 of 7*	*4*	*2*	*2hrs 15 mins*
04/16/2025	*No*	*5 of 6*	*4*	*2*	*2hrs*
05/21/2025	*No*	*6 of 6*	*3*	*0*	*2hrs 3mins*
06/18/2025	*No*	*6 of 6*	*5*	*4*	*2hrs 5mins*
07/16/2025	*No*	*5 of 6*	*0*	*0*	*1hrs 57mins*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Community Health*

Commission Secretary: Kellie Knox, HHCS

Vacant Seats (as of August 31, 2025): _____FIVE_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/26/2024		*4 of 5*	*1*	*1*	*2.25 minutes*
10/17/2024		*4 of 5*	*0*	*0*	*45 minutes*
11/21/2024		*4 of 5*	*0*	*0*	*1.5 hours*
1/23/2025	*Yes, Secretary Emergency Absence*				
2/27/2025		*3 of 5*	*0*	*0*	*1.5 hours*
3/27/2025		*2 of 2*	*0*	*0*	*1 hour*
4/24/2025	*Yes, due to motion by CHC due to only two commissioners appointed.*				
5/22/2025		*2 of 4*	*0*	*0*	*40 minutes*
6/26/2025		*3 of 4*	*4*	*2*	*2 hours*
7/24/2025		*4 of 4*	*2*	*0*	*2.5 hours*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Disaster and Fire Safety Commission*

Commission Secretary: Keith May

Vacant Seats (as of August 31, 2025): 0

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/25/2024	*No*	*6/9*	*2*	*2*	*1.0*
10/23/2024	*No*	*6/9*	*2*	*1*	*1.75*
12/4/2024	*No*	*8/8 (1 vacant)*	*3*	*1*	*1.25*
1/22/2025	*No*	*6/8 (1 vacant)*	*4*	*3*	*2.5*
2/26/2025	*No*	*9/9*	*2*	*1*	*2.25*
3/26/2025	*No*	*8/9*	*4*	*1*	*2.0*
4/23/2025	*No*	*6/9*	*5*	*5*	*1.75*
5/28/2025	*No*	*9/9*	*2*	*0*	*1.75*
6/25/2025	*No*	*8/9*	*1*	*1*	*0.45*
8/20/2025	*No*	*8/9*	*8*	*0*	*1.5*

2025 Annual Commission Attendance Report

Reporting Period: September 1, 2024 through August 31, 2025

Commission: Environment and Climate Commission

Commission Secretary: Sarah Moore

Vacant seats: 1
(as of August 31, 2025)

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2022	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2023	*Yes – no quorum*	*9 of 9*	*3*	*1*	*3 hrs.*

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/25/2024		8 of 10	5	2	2 hrs
10/30/2024		10 of 10	2	1	1.75 hrs
12/04/2024		8 of 10	7	2	1.25 hrs
1/22/2025		8 of 9	2	3	1.75 hrs
2/26/2025		8 of 9	1	0	0.75 hrs
3/26/2025		9 of 9	2	1	2 hrs
4/23/2025		7 of 10	1	1	2 hrs
5/28/2025		6 of 10	1	0	1.75 hrs
6/25/2025		8 of 10	3	1	2 hrs
7/23/2025		8 of 10	5	1	1.75 hrs

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Homeless Services Panel of Experts*

Commission Secretary: Josh Jacobs

Vacant Seats (as of August 31, 2025): District 1 and District 5

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
September 4, 2024	*No*	*6 of 6*	*2*	*0*	*2.25 hrs*
October 9, 2024	*No*	*6 of 7*	*8*	*2*	*2 hrs*
November 6, 2024	*No*	*6 of 7*	*3*	*2*	*2 hrs*
January 8, 2025	*No*	*7 of 7*	*3*	*2*	*2 hrs*
February 5, 2025	*No*	*7 of 7*	*1*	*0*	*2 hrs*
March 5, 2025	*No*	*4 of 7*	*2*	*0*	*2 hrs*
April 2, 2025	*Yes, postponed to May*	*0*	*0*	*0*	*0*
May 7, 2025	*No*	*5 of 6*	*3*	*0*	*2 hrs*
May 21, 2025	*No*	*4 of 7*	*2*	*1*	*2 hrs*
June 4, 2025	*No*	*5 of 7*	*1*	*0*	*2 hrs*
July 2, 2025	*No*	*6 of 7*	*1*	*0*	*2 hrs*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: Human Welfare and Community Action Commission

Commission Secretary: Mary-Claire Katz

Vacant Seats (as of August 31, 2025): Four

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
1/29/25	*No*	*5 of 7*	*1*	*0*	*1.5 hrs.*
2/19/25	*No*	*6 of 8*	*0*	*0*	*2 hrs.*
3/19/25	*No*	*6 of 6*	*0*	*0*	*2 hrs.*
4/16/25	*No*	*6 of 6*	*0*	*0*	*2 hrs.*
5/21/25	*No*	*4 of 6*	*2*	*0*	*2 hrs.*
6/4/25	*No*	*5 of 6*	*0*	*0*	*1.25 hrs.*
6/18/25	*No*	*5 of 6*	*2*	*0*	*2 hrs.*
7/16/25	*No*	*5 of 6*	*1*	*0*	*2 hrs.*
9/18/24	*No*	*7 of 7*	*0*	*0*	*1.75 hrs.*
10/16/24	*No*	*7 of 7*	*1*	*0*	*2 hrs.*
11/20/24	*No*	*5 of 7*	*1*	*0*	*2 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Mental Health Commission*

Commission Secretary: Jamie Works-Wright

Vacant Seats (as of August 31, 2025): 4

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/26/24	*No*	*5/6*	*6*	*1*	*2:07*
10/24/24	*No*	*6/6*	*5*	*1*	*1:54*
11/21/24	*No*	*4/7*	*4*	*1*	*1:48*
1/23/25	*No*	*8/9*	*4*	*2*	*2:03*
2/27/25	*No*	*8/9*	*7*	*1*	*2:10*
3/27/25	*No*	*8/9*	*3*	*2*	*1:57*
4/24/25	*No*	*5/9*	*4*	*1*	*1:32*
5/22/25	*No*	*7/9*	*4*	*2*	*1:50*
6/26/25	*No*	*6/9*	*2*	*2*	*1:59*
7/24/25	*Yes- no staff to cover*				

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: Parks, Recreation, and Waterfront

Commission Secretary: Roger Miller

Vacant Seats (as of August 31, 2025): 1

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/11/2024	*no*	*5 of 7*	*11*	*9*	*1.5 hrs*
10/16/2024	*no*	*6 of 7*	*11*	*5*	*2.0 hrs*
11/13/2024	*no*	*6 of 7*	*19*	*16*	*2.5 hrs*
01/08/2025	*no*	*4 of 6*	*8*	*5*	*1.5 hrs*
02/13/2025	*no*	*6 of 6*	*6*	*10*	*2.5 hrs*
03/12/2025	*no*	*6 of 7*	*35*	*31*	*4.0 hrs*
04/09/2025	*no*	*7 of 7*	*21*	*12*	*2.5 hrs*
05/14/2025	*no*	*4 of 7*	*11*	*9*	*2.5 hrs*
06/11/2025	*no*	*5 of 5*	*12*	*17*	*2.0 hrs*
07/09/2025	*no*	*5 of 5*	*2*	*2*	*2.5 hrs*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Peace and Justice*

Commission Secretary: Tasha Tervalon

Vacant Seats (as of August 31, 2025): 0

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/30/2024	*No*	*15 of 15*	*300+*	*54*	*4 hrs*
11/18/2024	*No*	*12 of 12*	*50*	*50*	*3 hrs*
1/13/2025	*No*	*12 of 13*	*6*	*2*	*3 hrs*
2/3/2025	*No*	*14 of 15*	*2*	*1*	*3 hrs*
3/3/2025	*No*	*15 of 15*	*Unknown*	*Unknown*	*3 hrs*
4/7/2025	*No*	*14 of 14*	*Unknown*	*Unknown*	*3.75 hrs*
5/5/2025	*No*	*14 of 15*	*Unknown*	*Unknown*	*3 hrs*
6/9/2025	*No*	*12 of 12*	*Unknown*	*Unknown*	*3 hrs*
8/18/2025	*No*	*14 of 14*	*0*	*0*	*3 hrs*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Safe Streets Citizen Oversight Committee (SSCOC)*

Commission Secretary: **Amanda Montez**

Vacant Seats (as of August 31, 2025): _____None_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
7/2/2025	*No*	*7*	*5*	*5*	*2.5 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: **Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission**

Commission Secretary: Roberto Terrones

Vacant Seats (as of August 31, 2025): 0

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/19/2024	*No*	*7 of 9*	*1*	*0*	*1.56 hrs.*
10/17/2024	*No*	*6 of 9*	*1*	*0*	*1.95 hrs.*
11/21/2024	*No*	*8 of 9*	*0*	*0*	*1.93 hrs.*
1/16/2025	*No*	*6 of 9*	*1*	*0*	*1.47 hrs.*
2/20/2025	*No*	*9 of 9*	*1*	*0*	*1.33 hrs.*
3/20/2025	*No*	*7 of 9*	*0*	*0*	*1.55 hrs.*
4/17/2025	*No*	*9 of 9*	*0*	*0*	*1.65 hrs.*
5/15/2025	*No*	*8 of 9*	*0*	*0*	*1.73 hrs.*
6/19/2025	*Yes – no quorum*				
6/26/2025	*No*	*6 of 9*	*0*	*0*	*1.43 hrs.*
7/17/2025	*No*	*8 of 9*	*0*	*0*	*2.0 hrs.*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Transportation and Infrastructure*

Commission Secretary: Mark Helmbrecht

Vacant Seats (as of August 31, 2025): 1

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/19/2024	*No*	*7 of 9*	*6*	*5*	*2.5 hours*
10/10/2024	*No*	*7 of 9*	*4*	*4*	*2.75 hours*
11/21/2024	*No*	*7 of 7 (2 seats were vacant)*	*14*	*11*	*2.75 hours*
1/16/2025	*No*	*6 of 7 (2 seats were vacant)*	*7*	*4*	*2.25 hours*
2/20/2025	*No*	*8 of 8 (1 seat was vacant)*	*15*	*4*	*2.75 hours*
3/27/2025	*No*	*7 of 8 (1 seat was vacant)*	*6*	*3*	*2 hours*
4/17/2025	*No*	*6 of 8 (1 seat was vacant)*	*6*	*2*	*2.25 hours*
5/15/2025	*No*	*5 of 7 (2 seats were vacant)*	*7*	*7*	*1.75 hours*
6/12/2025	*No*	*6 of 8 (1 seat was vacant)*	*5*	*3*	*2.25 hours*
8/21/2025	*No*	*8 of 8 (1 seat was vacant)*	*16*	*15*	*3.25 hours*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Youth Commission*

Commission Secretary: Ginsi Bryant and Jasmine Gunn-Vaca

Vacant Seats (as of August 31, 2025): 8

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled?** **If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/9/2024	*No*	*7 Of 13*	*0*	*0*	*53 minutes*
10/15/24	*No*	*7 Of 12*	*0*	*0*	*42 minutes*
11/12/24	*No*	*7 Of 10*	*0*	*0*	*49 minutes*
12/9/24	*No*	*7 Of 9*	*0*	*0*	*30 minutes*
1/13/25	*No*	*6 Of 11*	*0*	*0*	*29 minutes*
2/10/25	*No*	*10 Of 11*	*0*	*0*	*40 minutes*
3/10/25	*Yes-no quorum*				
4/14/25	*No*	*4 Of 6*	*0*	*0*	*20 minutes*
5/15/25	*No*	*5 Of 7*	*0*	*1*	*28 minutes*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Zero Waste Commission*

Commission Secretary: Julia Heath

Vacant Seats (as of August 31, 2025): ___1_____

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
9/19/2024	*No*	*5 of 7*	*2*	*2*	*2 hrs*
10/17/2024	*No*	*5 of 7*	*4*	*2*	*1 hr 30 mins*
11/21/2024	*No*	*7 of 8*	*4*	*2*	*2 hrs*
1/16/2025	*No*	*7 of 7*	*3*	*2*	*2 hrs*
2/20/2025	*No*	*8 of 8*	*1*	*1*	*2 hrs*
3/20/2025	*No*	*8 of 8*	*2*	*2*	*2 hrs*
4/17/2025	*No*	*5 of 8*	*5*	*3*	*2 hrs*
5/15/2025	*No*	*6 of 8*	*0*	*0*	*2 hrs 20 mins*
6/19/2025	*No*	*7 of 8*	*2*	*3*	*2 hrs*
7/17/2025	*No*	*7 of 8*	*1*	*0*	*2 hrs*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Elmwood Business Improvement District Advisory Board*

Commission Secretary: Vincent McCoy

Vacant Seats (as of August 31, 2025): 4

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/20/2024	*No*	*3 of 4*	*0*	*0*	*42 minutes*
02/28/2025	*No*	*4 of 4*	*1*	*0*	*50 minutes*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Loan Administration Board*

Commission Secretary: Vincent McCoy

Vacant Seats (as of August 31, 2025): 6

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
10/01/2024		*3 of 4*	*None*	*None*	*40 minutes*

2025 Annual Commission Attendance Form

Reporting Period: September 1, 2024 through August 31, 2025

Commission: *Solano Avenue Business Improvement District Advisory Board*

Commission Secretary: Vincent McCoy

Vacant Seats (as of August 31, 2025): 5

Example:

Scheduled Meeting Date	Cancelled? If Yes, Provide Reason	Commissioners Present	Public Present	Public Speakers	Meeting Length
10/10/2024	*No*	*8 of 9*	*5*	*3*	*2.5 hrs.*
1/19/2025	*Yes – no quorum*				

Scheduled Meeting Date *(include both regular and special meetings)*	**Cancelled? If Yes, Provide Reason**	**Commissioners Present** (include temporary appointees; names are not required)	**Public Present** (names are not required)	**Public Speakers** (names are not required)	**Meeting Length**
09/24/2024	*No*	*4*	*2*	*1*	*95 minutes*
10/08/2024	*No*	*4*	*2*	*2*	*90 minutes*
11/12/2024	*No*	*3*	*2*	*1*	*90 minutes*
1/21/2025	*No*	*4*	*0*	*0*	*94 minutes*
03/18/2025	*No*	*2*	*0*	*0*	*91 minutes*
05/20/2025	*No*	*3*	*1*	*1*	*79 minutes*
07/22/2025	*No*	*2*	*1*	*1*	*80 minutes*

Approved Leaves of Absence Granted During the Period September 1, 2024 - August 31, 2025	
Commission	**# Leaves granted**
Board of Library Trustees	1
Civic Arts Commission	5
Commission on Aging	8
Commission on Disability	8
Commission on Labor	3
Commission on the Status of Women	9
Community Health Commission	5
Design Review Committee	7
Disaster and Fire Safety Commission	2
Elmwood Business Improvement District Advisory Board	0
Environment and Climate Commission	16
Fair Campaign Practices Commission	5
Homeless Services Panel of Experts	6
Housing Advisory Commission	11
Human Welfare and Community Action Commission	2
Landmarks Preservation Commission	18
Loan Administration Board	0
Mental Health Commission	0
Open Government Commission	5
Parks, Recreation and Waterfront Commission	5
Peace and Justice Commission	12
Personnel Board	5
Planning Commission	11
Police Accountability Board	12
Safe Streets Citizen Oversight Committee	1
Solano Avenue Business Improvement District Advisory Board	0
Sugar-Sweetened Beverage Product Panel of Experts	9
Transportation and Infrastructure Commission	13
Youth Commission	0
Zero Waste Commission	8
Zoning Adjustments Board	21

04

Office of the City Manager

CONSENT CALENDAR
January 27, 2026

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 January 27, 2026

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 **$1,500,000**

Project	Fund	Source	Amount
Police Vehicle Part, Equipment and Installation Services	672	Equipment MTC.	$1,500,000
Total:			**$1,500,000**

CURRENT SITUATION AND ITS EFFECTS

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

BACKGROUND

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

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

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

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Henry Oyekanmi, Director of Finance, 510-981-7329

Attachments:
1. Police Vehicle Parts, Equipment and Installation Services

Note: Originals of these attachments, with the live signatures of authorizing personnel, are 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
26-11779-C	Invitation for Bids (IFB): Vehicle Parts and Related Equipment – OEM, OES, and Aftermarket Pricing	1/28/26	2/27/2026	Police Vehicle Parts, Equipment and Installation Services	$1,500,000/ Three-year period.	FY26 671-54-626-723-0000-000-473-651990- $5000,000 FY27 671-54-626-723-0000-000-473-651990- $500,000 FY28 671-54-626-723-0000-000-473-6519900 - $500,000	Public Works/Equipment Maintenance	Sarita Rubio 831-981-5372
Dept Total					**$1,500,000**			
TOTAL					**$1,500,000**			

05

Office of the City Manager

CONSENT CALENDAR
JANUARY 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Contract: Carone and Company, Inc. for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project; and
2. Accepting the bid of the lowest responsive and responsible bidder, Carone and Company, Inc.; and
3. Authorizing the City Manager to execute the contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Carone and Company, Inc., for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project from Blake to Ward Street, along Acton Street at 0 Parker Street, 0 Carleton Street, 0 Derby Street, 0 Ward Street, in an amount not to exceed $3,396,969 which includes a base contract amount of $2,953,886, and a 15% contingency in the amount of $443,083.

FINANCIAL IMPLICATIONS

Funding for this contract is available in the FY 2026 budget in the One-Time Grant Fund (Fund 336), the Measure T1 Fund (Fund 511), and the Parks Tax Fund (Fund 138). No other funding is required, and no other projects will be delayed due to this expenditure.

Construction Contract

Carone and Company, Inc. (lowest bid)	$2,953,886
15% Contingency	$443,083
Total Construction Cost	$3,396,969

Funding

One-Time Grant Fund (Fund 336)	$3,257,469
Measure T1 Fund (Fund 511)	$109,500
Parks Tax (Fund 138)	$30,000
Total Funding	$3,396,969

CURRENT SITUATION AND ITS EFFECTS

In 2021, the City received a $5 million grant from the California Proposition 68 Statewide Parks Program (SPP) to convert four of the undeveloped parcels that historically served as the Atchison, Topeka and Santa Fe Railroad in South Berkeley into a new public park.

The Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing project is the first phase in transforming the undeveloped parcels into a new public park. The project will remediate contaminated soils and install new perimeter fencing along the property lines, thereby preparing the site for construction of the new public park.

The project is funded by grant funds from the California Proposition 68 Statewide Parks Program (SPP) and Measure T1, the 2016 Berkeley voter-approved bond program to pay for improvements to City infrastructure and facilities, and Parks Tax.

BACKGROUND

The project was advertised for bids on Thursday, November 20, 2025, and bids were opened on Thursday, December 18, 2025. The City received 11 bids, from a low base bid of $2,953,886 to a high base bid of $4,699,667. With the exception of the lowest bid, all bids were above the amount budgeted for this project. The determination of the lowest responsive and responsible bidder was based on the price for base bid work, as indicated in the bid documents. Carone and Company, Inc. was the lowest responsive and responsible bidder. Staff conducted reference checks and received satisfactory feedback. Staff recommends that a contract for this project be awarded to Carone and Company, Inc.

The Living Wage Ordinance does not apply to this project since construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor will need to submit a certification of Compliance with Equal Benefits Ordinance. The contract will be subject to the Community Workforce Agreement.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project will remediate contaminated soils at the site and the contract includes requirements to comply with the City’s Environmentally Preferable Purchasing Policy.

RATIONALE FOR RECOMMENDATION

The Santa Fe Trackbed to Park Conversion Remediation, Demolition, and Perimeter Fencing Project is needed to advance construction of the new four-block park funded by

a California Proposition 68 Statewide Parks Program (SPP) grant awarded to the City. The City does not have in-house labor or equipment resources to complete this remediation project.

ALTERNATIVE ACTIONS CONSIDERED
None

CONTACT PERSON
Scott Ferris, Director, Parks Recreation & Waterfront, 510-981-6700
Evelyn Chan, Supervising Civil Engineer, Parks Recreation & Waterfront, 510-981-6430

Attachments:
1: Resolution
2: Bid Results

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

CONTRACT: CARONE AND COMPANY, INC. FOR SANTA FE TRACKBED TO PARK CONVERSION REMEDIATION, DEMOLITION AND PERIMETER FENCING PROJECT

WHEREAS, the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project is a One-Time Grant and Measure T1 bond project; and

WHEREAS, the City has neither the in-house labor nor the equipment necessary to undertake this project; and

WHEREAS, invitation for bids was duly advertised on November 20, 2025, bids were opened on December 18, 2025, and the City received 11 bids; and

WHEREAS, Carone and Company, Inc. was determined to be the lowest responsive and responsible bidder, and references for Carone and Company, Inc. were provided and were satisfactory; and

WHEREAS, funding is available in the FY 2026 budget in the One-Time Grant Fund (Fund 336), the Measure T1 Fund (Fund 511), and the Parks Tax Fund (Fund 138).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the Plans and Specifications for Specification No. 26-11756-C for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project; and

BE IT FURTHER RESOLVED that the construction contract is awarded to Carone and Company, Inc. as the lowest responsive and responsible bidder; and

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Carone and Company, Inc. for the Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing Project in an amount not to exceed $3,396,969, which includes a contract amount of $2,953,886 and a 15% contingency in the amount of $443,083 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

Attachment 2 – Bid Results

Docusign Envelope ID: FBA03A25-DACB-482F-B814-C0DBEDF19F1A

City of Berkeley
Abstract of Bid Worksheet

Finance Department

General Services Division

FOR: Santa Fe Trackbed to Park Conversion Remediation, Demolition and Perimeter Fencing

Spec. # 26-11756-C Bid Date: 12/18/2025

			required w/ bid						
	Bidders	**Base Bid**	**Bid Bond**	**Addenda (1-3)**	**RF**	**SC**	**NC**	**BC**	**SQ**
1	Azul Works, Inc	$3,897,472.00	X	X	X	X	X	X	X
2	Goodfellow Bros	$3,374,374.00	X	X	X	X	X	X	X
3	Interstate Grading and Paving	$3,722,620.00	X	X	X	X	X	X	X
4	Bay Construction	$3,102,365.00	X	X	X	X	X	X	X
5	American Integrated Services	$4,373,547.40	X	X	X	X	X	X	X
6	Brannon Corp.	$3,695,400.00	X	X	X	X	Env. B	Env. B	X
7	Galeb Paving Inc	$3,567,365.00	X	X	X	X	X	X	X
8	Innovative Construction Solutions	$3,326,441.80	X	X	X	X	X	X	X
9	Pacific States	$4,699,667.00	X	X	X	X	X	X	X
10	Carone and Company Inc	$2,953,886.00	X	X	X	X	X	X	X
11	Penkor Wrecking	$3,500,000.00	X	X	X	X	X	X	X
12									

Bid Recorder: Sandra Blain Signed by: Sandra Blain Date 12/18/2025

Bid Opener: Tanisha Gainer Tanisha Gainer Date 12/18/2025

Project Manager: Stacey Rutherford Stacey Rutherford Date 12/18/2025

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390
E-mail: finance@ci.berkeley.ca.us

06

Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Option Agreement with TSA Holding Group, LLC for 199 Seawall Drive

RECOMMENDATION
Adopt a Resolution authorizing the City Manager to execute the Option Agreement and any amendments with TSA Holding Group, LLC for a two-year term with two one-year options to extend.

SUMMARY
The City and TSA executed an Exclusive Negotiating Agreement (ENA) on February 6, 2025, for the property at 199 Seawall Drive in order to negotiate lease terms. As part of leasing the property, TSA is proposing extensive renovations and improvements to the property. Before TSA and the City can execute a lease agreement authorizing those improvements, the review of any potential environmental impacts per the California Environmental Quality Act (CEQA) is required.

The Option Agreement allows TSA to complete the necessary environmental review and enumerates the conditions that must be met in order for TSA to exercise the option of executing the Ground Lease Agreement. The Option Agreement has a term of up to two years, with two one-year extensions. TSA can only exercise the option after the City conducts CEQA review including consideration of alternatives and mitigation measures. The option agreement does not limit the City's ability to approve, deny, or impose mitigation measures on the project.

If TSA meets the conditions and exercises the Option, staff would submit the Ground Lease Agreement – materially similar to the Lease attached as Exhibit B to this Option Agreement – for Council approval of the lease ordinance. The Ground Lease would have a duration of 45 years with two options to extend for an additional 10 years each; it would authorize on-site and off-site improvements; and would generate revenue for the Marina Fund including base rent of $200,000 in Year 5, $350,000 in Year 6, escalating by 3% per year thereafter; and starting in Year 10, percentage rent of 6% of annual gross receipts, less base rent.

FISCAL IMPACTS OF RECOMMENDATION
There would be minimal fiscal impact on the City during the Option period because the Agreement does not transfer possession or responsibility for the operational costs of 199 Seawall Drive, which cost the City approximately $200,000 per year. However, the Agreement would allow TSA, at their own cost, to perform City-approved repairs to the

existing building to prevent irreparable damage. The Agreement would also require TSA to reimburse the City for staff time, consultant costs, and review expenses related to design and environmental review of the proposed 199 Seawall Drive renovation.

If TSA exercises the option to enter into the Ground Lease Agreement, there will be more significant fiscal impact, as the tenant will assume full financial responsibility for the property, resulting in savings of $200,000 per year to the City. The City will additionally receive $200,000 in base rent in Year 5, $350,000 in Year 6, and an additional 3% per year thereafter; and 6% of gross receipts (less base rent) starting in Year 10. These savings and new revenue will accrue to the Marina Fund.

In addition to renovation of the leased premises, the Ground Lease requires TSA to complete a value of $17 million in off-site improvements, which includes improvements and maintenance of the entire Seawall Parking Lot, portions of the Bay Trail and Seawall Drive, or other Waterfront areas. In exchange for the off-site improvements, TSA is granted 150 exclusive-use parking stalls at the Seawall Lot for 45 years, the initial lease term. With improvements as required by this lease agreement, the 199 Seawall Lot is anticipated to have between 430-450 total parking spaces, pending final design.

CURRENT SITUATION AND ITS EFFECTS

The City entered into an Exclusive Negotiating Agreement (ENA) with TSA on February 6, 2025 for the lease of the City's property on 199 Seawall Drive, the former Hs Lordships restaurant. TSA has proposed to conduct a comprehensive renovation of the existing building. Due to the extent of the proposed improvements, the review of any potential environmental impacts per the California Environmental Quality Act (CEQA) is required prior to entering into a long-term lease and starting construction on the improvements.

The Option Agreement provides TSA entry to the property to allow for the completion of environmental review, design and engineering studies, permitting, and City-approved building repairs. While the City will serve as the lead agency in the environmental review, TSA will cover the cost for the environmental review and reimburse the City for staff time and consultant fees. The City will continue to be responsible for the property's operational costs during the term of the Option Agreement.

In order for TSA to exercise the option to enter into a Ground Lease agreement, TSA must meet the following conditions:

a) Conduct investigations, tests, and studies to determine if all the needed entitlements (permits, regulatory approvals, etc.) can be obtained in an acceptable form to develop and construct the proposed improvements. Exhibits C and D of the Option Agreement provide performance milestones and administrative guidelines.

b) Provide documentation that the proposed construction of off-site improvements will comply with the requirements for judicial streamlining of legal challenges brought under CEQA.

c) Obtain all necessary studies for the proposed improvements to ensure CEQA compliance.

Once these conditions are met, TSA must provide written notice to the City of their intent to exercise the option to enter into a Ground Lease Agreement, provide evidence of financial ability to carry out the project, and sign a Ground Lease agreement materially consistent with the terms found in Exhibit B of the Option Agreement.

The Ground Lease is for a term of 45 years, with two options to extend for an additional 10 years each. If executed, the tenant will begin paying base rent in Year 5 for $200,000, which will increase to $350,000 in Year 6, and an additional 3% per year thereafter; and 6% of annual gross receipts (less base rent) starting in Year 10. This revenue will accrue to the Marina Fund. Executing the Ground Lease would transfer all possessory interest and operational responsibilities to the tenant.

Additionally, the Ground Lease requires the tenant to complete off-site improvements with a value of $17 million, which includes improvements and maintenance of the entire Seawall Lot, portions of the Bay Trail and Seawall Drive, or other Waterfront areas. In exchange for the off-site improvements, TSA is granted 150 exclusive-use parking stalls at the Seawall Lot.

BACKGROUND

In 1967, the City and Specialty Restaurant Corporation entered into a 50-year ground lease to develop a restaurant and event space that opened in 1969 as “Hs Lordships.” While the lease was set to expire in August 2019, Specialty Restaurant Corporation closed Hs Lordships on July 1, 2018, and terminated their lease 13 months early.

The City has attempted to lease the property for the past seven years. In 2018, the City entered into an agreement with Colliers Parish International to help the City find entities to lease the space (Contract Number 10960). Five proposals were received between 2018 and 2021. None of these prospective tenants were able to reach a lease agreement with the City. Issues cited included: structural uncertainty about the building, uncertainty over permitting, the high investment required, COVID-19, and the economy.

In 2022, the City entered into a 6-month ENA with Innovation Properties Group (IPG), which was extended later that year by an additional 15 months, (Council Resolutions 70,043-N.S. and 70,481-N.S.). IPG created renderings of the property’s development potential and toured numerous prospective tenants through the building. They direct-marketed the project to restauranteurs nationwide who they deemed to be a good fit for the property. IPG brought forward two proposals. Neither resulted in a lease agreement, for reasons cited above, as well as uncertainty over the remote location, rising interest rates, and challenges with large, indoor restaurants in the post-COVID economy.

In 2024, the City directly received three proposals, all requesting exclusivity to complete due diligence and negotiate a lease. On November 19, 2024, Council adopted Resolution No. 71,571-N.S. authorizing the City Manager to enter into an ENA with TSA Holding Group, LLC. City staff has since been working with TSA to negotiate lease terms. Council reviewed the proposed lease terms in closed session meetings on May 13, 2025 and October 27, 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

If TSA exercises the option to enter into a Ground Lease agreement, following CEQA review and approval by the City, improvements would comply with current City and state regulations bird safe glass, energy efficiency and environmental sustainability. Revenue from the lease agreement would be deposited in the Marina Fund, which funds maintenance and improvements of the Waterfront for continued public access and engagement with the environment, as well as the City's environmental education programs at the Shorebird Park Nature Center.

RATIONALE FOR RECOMMENDATION

The Option Agreement allows for TSA to cover the costs of environmental review, which is needed before a lease for 199 Seawall Drive may be authorized. If the lease is executed, there will be $200,000 in annual savings to the Marina Fund as operational costs for 199 Seawall will transfer to TSA; and there will be increased annual rent revenue, phased in over a period of 10 years. This will provide a path to long-term annual revenue for the Marina Fund, which has been in a deficit position for many years. The proposed improvements on and around the property could attract additional investment in the Waterfront, which would in turn generate more revenue for the Marina Fund.

ALTERNATIVE ACTIONS CONSIDERED

Council could decline to approve the Option Agreement, which would result in the continued vacancy of the property and require the City to continue funding the property's basic operational costs. This would leave the City without a clear path to the property's rehabilitation or revenue generation.

Council could also direct staff to re-market the site or initiate a new solicitation. However, the City has undertaken multiple marketing and negotiation efforts over the past seven years during which several potential tenants did not move forward with leasing due to the substantial structural upgrades required and the level of private investment needed.

Finally, the City could choose to directly fund repairs or redevelopment of the property. This alternative would require significant capital investment and ongoing operational resources that are not currently available.

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700

Attachments:

1: Resolution

Exhibit A: Option Agreement

Exhibit B: Ground Lease Agreement

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

OPTION AGREEMENT WITH TSA HOLDING GROUP, LLC FOR 199 SEAWALL DRIVE

WHEREAS, the property at 199 Seawall Drive has been unleased and vacant since 2018; and

WHEREAS, Council adopted Resolution No. 71,571-N.S. authorizing the City Manager to enter into an Exclusive Negotiating Agreement with TSA Holding Group, LLC on November 19, 2024; and

WHEREAS, TSA Holding Group's proposed property improvements must undergo environmental impact review per the California Environmental Quality Act (CEQA), and the City cannot enter into a lease agreement which authorizes such improvements until all the necessary review has been completed; and

WHEREAS, the Option Agreement (Exhibit A) provides TSA access to 199 Seawall Drive to conduct necessary studies and investigations for CEQA review and future permit applications, and to make City-approved building repairs during the two-year term of the agreement; and

WHEREAS, upon meeting the conditions of the Option Agreement, TSA Holding Group has the option to enter into a 45-year Ground Lease Agreement with two 10-year extensions for the property, materially similar to the Ground Lease Agreement attached to the Option Agreement.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute the Option Agreement and any amendments with TSA Holding Group, LLC for a two-year term with two one-year options to extend. Such Option Agreement shall be on substantially the same terms set forth in Exhibit A.

Exhibits:
A: Option Agreement
B: Ground Lease Agreement

GROUND LEASE OPTION AGREEMENT

199 Seawall Dr. Berkeley, CA 94710

This Ground Lease Option Agreement ("Agreement") is entered into this 1st day of February, 2026 ("Effective Date") by and between the City of Berkeley ("City") and TSA Holding Group, LLC ("Optionee"). City and Optionee may sometimes hereinafter be referred to as "Party" or jointly as "Parties".

RECITALS

WHEREAS, City is the owner, through a public trust grant of tidelands from the State, of the real property and improvements located at 199 Seawall Dr. in the City of Berkeley, more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by this reference (the "Option Property").

WHEREAS, City and Optionee desire to enter into a forty-five (45) year ground lease with two options to extend the term for an additional ten (10) years each for the renovation of the property and improvements to the Seawall Lot and portions of Seawall Drive and the Bay Trail Extension (the "Proposed Project") and for operation of a restaurant and event space.

WHEREAS, City and Optionee shall complete certain due diligence and comply with all applicable state and local law and regulations applicable to the Proposed Project, including the California Environmental Quality Act ("CEQA") before entering a ground lease of the Option Property.

WHEREAS, repairs to the Option Property may be required during the Option period to prevent irreparable damage to the existing structure, and the City does not have resources to make such repairs.

WHEREAS, this Agreement is not a lease and grants Optionee no real property interest in or right to use or otherwise occupy the Option Property, except as provided herein.

WHEREAS, a ground lease or any other real property interest agreement that binds City to grant a leasehold interest to Optionee shall not be entered into or otherwise executed, if at all, unless and until (i) Optionee properly exercises the option granted herein, and (ii) all conditions and obligations contained herein have been fully satisfied and/or waived in writing by the Party benefitted thereby.

WHEREAS, in order for Optionee to conduct initial investigations to determine the development potential of the Option Property before entering into a ground lease, if at all, Optionee desires to obtain an option to ground lease the Option Property from City and City is willing to grant an option to Optionee to ground lease the Option Property pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, all of which are incorporated into this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are hereby incorporated into this Agreement as though fully set forth herein.

2. Grant of Option. City hereby grants Optionee the option to ground lease the Option Property from City upon the terms and conditions set forth in this Agreement (the "Option") during the Option Term (as defined in Section 4, below).

3. Option Term. The "Option Term" shall commence upon the Effective Date and shall expire two (2) years from the Effective Date provided however that City in its reasonable discretion reserves the right to extend the Expiration Date for up to two (2) additional one-year periods. This Agreement shall terminate at the earliest to occur of: (a) the effective date of a Ground Lease between City and Optionee; (b) expiration of the Option Term; or (c) termination of the Agreement by City or Optionee as provided in this Agreement.

4. Proposed Project Changes. The Proposed Project and proposed use of the Option Property includes the key terms identified in Table A below ("Key Terms"). Optionee must provide notice to City of any proposed change and the unforeseen circumstance that requires the change at the earliest reasonable time, but in any event no later than 30 days after Optionee becomes aware of the proposed change. All proposed changes of Key Terms are subject to review and approval by City. Should City not consent to a proposed change, the Parties mutually agree to work in good faith to come to a resolution acceptable to both Parties. Should the Parties not be able to agree following good faith negotiations regarding a resolution of the proposed change, City shall have the right to terminate this agreement and seek an alternative tenant for the Option Property.

Table A – Key Terms of the Proposed Project and Use of the Option Property

Key term	**Description**
Term	Forty-five (45) years, with two options to extend for an additional ten (10) years each.
Permitted Use	To maintain and operate the Premises as a full service restaurant and event space.
Annual Rent	A. Base Rent of $200,000/year starting in the 5th Lease Year; increasing to $350,000/year starting in the 6th

	Lease Year; and increasing by 3% annually starting in the 7th Lease Year. B. Percentage Rent starting in the 10th Lease Year, equal to 6% of Gross Receipts of the preceding Lease Year minus the Base Rent, due annually on the last day of the first month of the Lease Year.
Parking	Tenant is granted exclusive use of 150 parking stalls in the Seawall Lot adjacent to the Premises, as depicted in Exhibit A of the Ground Lease, in exchange for improvements and maintenance of Off-Site Improvements including but not limited to the entire Seawall Lot and portions of the Bay Trail and Seawall Drive, as described in Exhibit C of the Ground Lease.
Improvements to the Leased Premises	Tenant shall construct or cause to be constructed the improvements described in Exhibit B of the Ground Lease. Tenant shall maintain insurance coverage for removal and disposal of any exoskeleton and related architectural elements. If Tenant terminates the lease prior to the end of the lease term, City shall, in its sole discretion, determine whether removal and disposal is required.
Off-Site Improvements	Tenant shall construct or cause to be constructed the improvements and maintenance of those improvements up to $17M over the Initial Lease Term, as described in Exhibit C of the Ground Lease.
Labor Peace Ordinance	Tenant shall comply with the provisions of the Labor Peace Policy Ordinance, B.M.C. Chapter 2.102.
Employment Opportunities for Former Staff	Employees of the former Hs. Lordships restaurant will be offered an opportunity to apply for positions in new business operations conducted on the property.

5. Conditions to Exercise Option. To exercise the Option, prior to the expiration of the Option Term, Optionee shall deliver to City (1) written notice of Optionee's intent to exercise the Option; (2) evidence to City of financial ability to carry out the project; and (3) the Optionee-signed Ground Lease, consistent with the Key Terms in Table A and otherwise materially consistent with the form of Exhibit B attached hereto. The Option may not be exercised until all the conditions set forth below are satisfied.

    a. Optionee shall conduct investigations, tests and studies (including, without limitation, such inspections required by building codes and other governmental regulations, architectural inspections, engineering tests, economic feasibility studies,

environmental testing and investigations) to determine, among other things, if all needed entitlements can be procured in an acceptable form to develop and construct the Project. (See Exhibits C and D for a list of required regulatory approvals). In accordance with Section 15, Optionee has permission from City to conduct due diligence.

b. Judicial Streamlining Requirements. Optionee shall provide documentation, as reasonably requested by the City, that proposed construction of offsite improvements will comply with the requirements for judicial streamlining of legal challenges brought under CEQA.

c. Environmental Requirements. Optionee shall be responsible for obtaining all studies necessary for compliance with CEQA. The Parties agree and acknowledge that City retains full discretion to approve, disapprove or condition the final Project to be developed and constructed at the Option Property, including, but not limited to, requiring additional mitigation measures or alternatives necessary to avoid or substantially lessen the environmental impacts of the Project. Any approval of the Project is expressly conditioned on Optionee's compliance with any applicable CEQA requirements. The Option may not be exercised until CEQA review is complete and City certifies or adopts any environmental review documents produced, including any required mitigation measures or alternatives to the project. (See Exhibit D.) Optionee shall be responsible for obtaining all other necessary entitlements for the Project, but only after CEQA compliance is completed.

6. Ground Lease of the Option Property. If all necessary conditions and obligations contained in this Agreement are satisfied and if Optionee elects to exercise the Option and ground lease the Option Property from City, City and Optionee shall execute a ground lease substantially in the form of Exhibit B attached hereto, with any necessary mitigation measures resulting from CEQA review. If a ground lease cannot be agreed upon by the Parties, this Agreement will terminate upon written notice to the non-terminating Party with no fault attributed to either Party.

7. No Construction. Optionee shall not, directly or through any of its consultants, employees, or agents, commence any construction on the Option Property until it has received environmental clearance on the Project and entered into the Ground Lease.

8. Building Repairs. Optionee may, with City's written approval in advance, complete repairs to the Option Property to prevent irreparable damage to the existing structure. Optionee must coordinate with the City to secure all required environmental clearance, building, and regulatory permits before work may begin. All repair costs, including but not limited to

design, permitting, City staff review, and repair work, shall be paid by Optionee.

9. Assignment. The qualifications and identity of Optionee are of particular concern to City. It is because of those unique qualifications and identity that City has entered into this Agreement. Accordingly, Optionee's rights and obligations under this Agreement are not assignable or transferable, and any purported voluntary or involuntary assignment or transfer of Optionee's rights or obligations hereunder shall be null and void. Notwithstanding the foregoing, Optionee may assign this Agreement with the prior written consent of City, to an entity which controls, is controlled by, or is under common control with Optionee. If City consents to the aforesaid assignment and assumption, Optionee is neither released nor discharged from any of its obligations under the Option Agreement, arising from and after the Effective Date.

10. Costs of the Parties; Cooperation of the Parties. Each Party shall be responsible for its own costs to comply with this Option Agreement, and, if Optionee exercises its Option, complete the Ground Lease. Optionee shall be responsible for the costs to conduct CEQA review, complete due diligence, and comply with all applicable state and local law and regulation related to its proposed use of the Option Property. Notwithstanding the foregoing, (a) City shall cooperate with Optionee in Optionee's efforts to complete due diligence and comply with all applicable state and local law and regulation related to Optionee's proposed use of the Option Property, so long as such cooperation does not result in material cost to City; and (b) City shall initiate and lead any required permitting processes as described in Exhibit D, Table 1: Permitting Requirements. The Parties agree that no applications for permits, entitlements, or approvals will be submitted, to the City or any other agency, prior to completion of CEQA review, including certification or adoption by City Council of the EIR or other CEQA document, as applicable.

11. Reimbursement and Payment. Optionee and City agree to the following reimbursement and payment plan for City costs that are Optionee's responsibility as noted in Sections 8 and 10.

    a. Payment for City consultants. City shall provide Optionee with consultant cost estimate in advance. Optionee shall submit a lump sum to City equal to the cost estimate within 90 days. Consultant work shall not begin until Optionee submits lump sum payment. When the work is completed, any excess funds will be refunded by City to Optionee within 30 days. City shall periodically bill Optionee in amounts equal to any change orders or added costs as needed, and Optionee shall promptly submit payment within 30 days.
    Payment for City staff and/or related resources: Optionee agrees to provide progress payments to cover the costs of any City staff, City Attorney, or use of City resources. The City shall provide periodic statements listing the City's expenditures relating to

City staff, City Attorney or resources used for the Project. Optionee agrees to remit payment within 30 days of receipt of such a statement.

12. Exclusivity. During the Option Period, the City shall not market the Option Property, or entertain any offer or negotiate with any party other than Optionee to develop, lease, or otherwise transfer the Option Property or any portion thereof, to any party other than Optionee.

13. Termination of the Option Agreement. If Optionee determines during the Option Term that the costs to develop and operate the Proposed Project are unreasonable, uneconomic, or otherwise unfavorable to Optionee for any reason, Optionee may terminate this Option Agreement by written notice to City. City shall have the right, though not the obligation, to terminate this Agreement should Optionee fail to perform any of its obligations in accordance with the Performance Milestones established in Exhibit C. Optionee shall furnish City with all investigations, tests, studies, plans, drawings, as-builts, evaluations and reports to the City in their complete or most complete state.

14. Hold Harmless. The Optionee agrees 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 Agreement, any actions taken by the City related to this Agreement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., with respect to this Agreement, the Ground Lease, and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the Optionee, arising out of or in connection with the approval of this Agreement, 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 Optionee's duty to defend the City shall not apply in those instances when the Optionee has asserted the Claims, although the Optionee shall still have a duty to indemnify, protect and hold harmless the City.

15. Right to Enter City Property.

    a. Commencing with the execution of this Option Agreement, Optionee (and/or its contractors and consultants), after providing written notification to City with respect to each entry, shall be allowed access to the Option Property prior to the exercise of the Option, at all reasonable times for the purposes of conducting investigations,

obtaining data, and making inquiries, inspections, tests, audits, studies, and analyses, that Optionee deems necessary or desirable in connection with completing due diligence and complying with all applicable state and local law and regulation related to the Project.

b. Optionee shall cause any contractor or consultant entering the Option Property for the purpose of conducting invasive environmental, soils, or geological tests or building repairs pursuant to this Agreement to procure and maintain: (a) workers' compensation insurance required by the laws of the State of California; and (b) commercial general liability insurance in the amount of at least Two Million Dollars and No/100 ($2,000,000) combined single limiting, naming City as an additional insured and containing a cross-liability endorsement or severability of interest clause. Optionee shall furnish certificates of such insurance coverage to City upon reasonable request. Such certificates shall contain a clause providing for thirty (30) days' advance written notice of cancellation or material change in coverage.

c. Optionee shall indemnify and hold harmless City of and from any and all mechanic's liens, claims, actions, liabilities, costs, expenses, including attorneys' fees, and damages of any type or nature arising out of or in any way related to access to the Option Property by Optionee (and/or its contractors and consultants) during the Option Term pursuant to this Section 14, excluding (a) any losses or damages, including but not limited to a reduction in the value of the Option Property, resulting from any finding or results of any investigations, data, inquiries, inspections, tests, audits, studies, or analyses, whether or not negligent; and (b) any losses or damages resulting from the gross negligence or willful misconduct of City.

16. Miscellaneous Provisions.

a. Notices. A written notice shall be deemed served upon mailing said notice to the other party and depositing the same with the U.S. Post Office, first class mail, with postage paid. For purposes of this Agreement, all notices to the City shall be addressed to:

City of Berkeley
Parks, Recreation & Waterfront Department
2180 Milvia Street, 3rd Floor
Berkeley, California 94704
PRW@berkeleyca.gov

For purposes of this Agreement, all notices to Optionee shall be addressed to the address below. Optionee shall promptly notify City of any change of address within two weeks of any such change.

Name
Address
Email

The Parties also shall endeavor to provide a courtesy copy of any notice via electronic mail.

b. Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors, personal representatives, and assigns.

c. Superiority. To the extent of any inconsistencies between the Ground Lease and the Agreement from and after the effective date of the Ground Lease, the Ground Lease shall prevail.

d. Further Acts. The Parties agree to perform such further acts as may be reasonably necessary to carry out the provisions of this Agreement.

e. Authority to Enter and Bind. City and Optionee represent that each, respectively, and the individuals signing on behalf of each Party, has the full right, power, and authority to execute this Agreement and bind the Party.

f. Section Headings and References. Section headings of this Option Agreement are solely for convenience of reference and shall not govern the interpretation of any of the provisions of this Option Agreement.

g. Governing Law; Venue. California law shall govern this Agreement. Any action to enforce or interpret this Option Agreement shall be brought in a court of competent jurisdiction in Alameda County, California.

h. Partial Invalidity; Severability. If any term of this Agreement is found to be void or unenforceable, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

i. Counterparts; Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Unless otherwise prohibited by law or policy, the Parties agree that an electronic signature to this Agreement and an electronic copy of this Agreement have the same force and legal effect as an original

ink signature transmitted in hard copy (e.g., transmission via email of a .pdf file containing a scanned or digitally applied signature).

j. Memorandum of Option. Concurrently with the execution of this Agreement, the Parties shall execute and acknowledge a Memorandum of Option which Optionee, at its sole expense, shall be entitled to record.

k. Submission of Option Agreement. The submission of this Option Agreement to City or its agents or attorneys for review will not be deemed an offer to lease the Option Property by Optionee, and no agreement with respect to the Option will exist unless and until this Agreement is executed and delivered by both City and Optionee.

IN WITNESS WHEREOF, this Agreement was executed by the Parties as of the Effective Date.

OPTIONEE:	**CITY**:
TSA Holding Group, LLC	City of Berkeley
By:_____	By:_____ City Manager
Date:_____	Date:_____

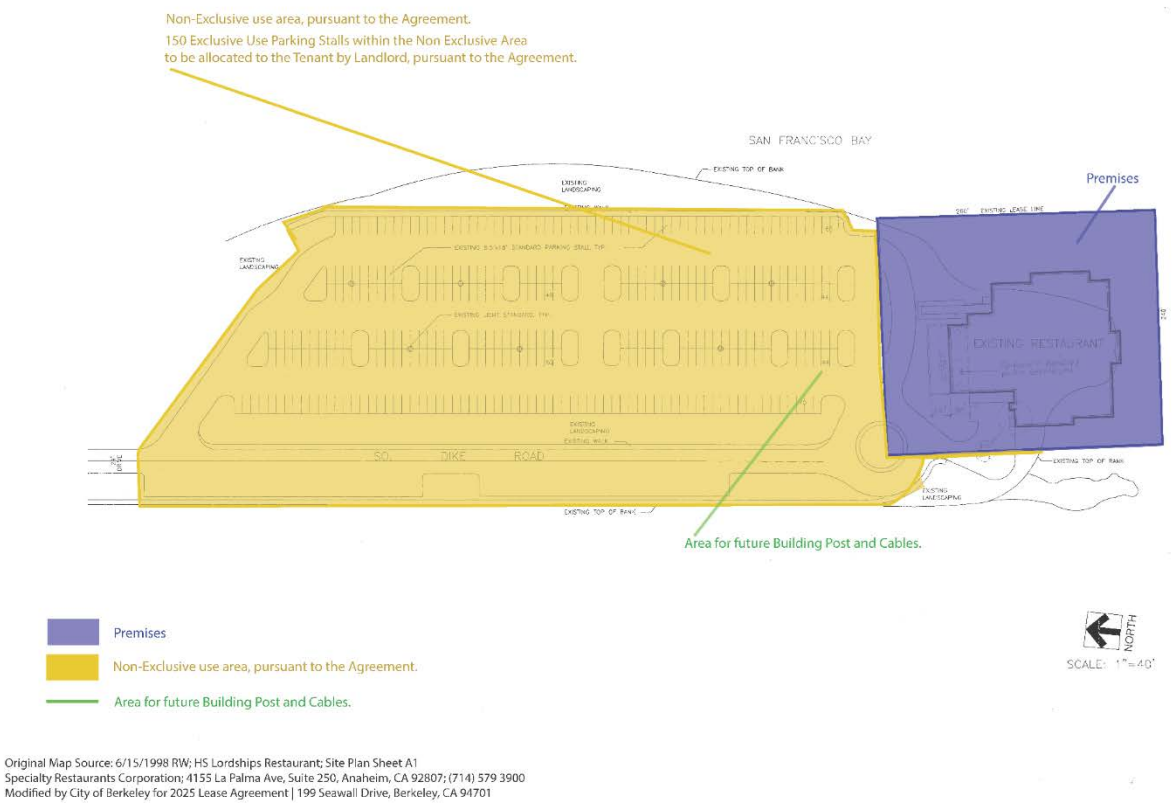
EXHIBIT A

Site Map and Premises Description

"Premises" of Option Property includes the approximately 1.543 acre parcel commonly known and referred to as 199 Seawall Drive on the Berkeley Marina, Berkeley, California (being a portion of APN 60-2545-1), shown below. Premises include the approximately 25,000 square feet free-standing building, as well as support pilings, rip-rap, landscaping and pathways and all other improvements of any type.

Non-exclusive use areas outside the Option Property include the Seawall Parking Lot, Bay Trail, and Seawall Drive section shown above. The potential Ground Lease would grant Tenant exclusive use of 150 parking spaces in the Seawall Lot in exchange for construction of improvements and maintenance of the non-exclusive use areas shown here. Specific location of exclusive use parking spaces may be adjusted throughout the Lease term with mutual agreement of Tenant and Landlord.

Tenant may place a post and cables for potential exoskeleton structure in the parking lot (non-exclusive area), with Landlord approval of location and design. Tenant agrees to give Landlord access to the leased portion of the Premises for City work and public access to the shoreline, trails and turnaround areas, as noted in Section 5.7 and 5.8 of the attached Lease.



Original Map Source: 6/15/1998 RW; HS Lordships Restaurant; Site Plan Sheet A1
Specialty Restaurants Corporation; 4155 La Palma Ave, Suite 250, Anaheim, CA 92807; (714) 579 3900
Modified by City of Berkeley for 2025 Lease Agreement | 199 Seawall Drive, Berkeley, CA 94701

EXHIBIT B

Form of the Ground Lease

EXHIBIT C

Performance Milestones

Obligations (Deliverables to the City)	**Timelines**
Designation of a qualified Project Manager	30 Days after execution of Option Agreement
A list of qualified prime consultant & subconsultants	30 Days after execution of Option Agreement
Kickoff Meeting	60 Days after execution of Option Agreement
Overall Project Schedule	14 days after Kickoff Meeting
Conceptual Design	30 Days after Kickoff Meeting
Consultation with Permitting Agencies	30 Days after Conceptual Design
Revised Conceptual Design	60 days after Consultation with Permitting Agencies
30% Design	60 days after Revised Conceptual Design
Administrative Draft CEQA Document	90 days after 30% Design
60% Design	60 days after Draft CEQA Document
90% Design	60 days after 60% Design
Draft Submittal of Permits for City Review	90 days after 90% Design
Revised Administrative Draft CEQA Document	60 days after receipt of initial City comments on Administrative Draft CEQA Document (preliminary feedback)
Final CEQA Document	60 days after receipt of City comments on revised

Administrative CEQA Document

Definitions:

Qualified Project Manager: 5 years of experience in coordinating and facilitating decision making process who had led projects with similar complexity and scope

Qualified Prime Consultant: Either as a licensed architect, civil engineer, or landscape architect to lead the design team on CEQA and permitting who had led projects with similar complexity and scope

Qualified Subconsultants: Any specialized planners, environmentalists, geotechnical engineers, structural engineers, etc. to support the prime consultant on specialized design elements, CEQA and permitting, with experience of similar complexity and scope.

EXHIBIT D

Administrative Guidelines

During this Option period, the Optionee will fund all analyses and review required to evaluate potential environmental impacts of potential improvements to the Premises envisioned in the draft Ground Lease, and to comply with other permitting requirements as summarized in Table 1.[1] The Optionee shall adhere to the following administrative guidelines:

1. General

Design of potential Improvements is subject to Landlord review and approval, California Environmental Quality Act (CEQA) review and certification, and regulatory approvals; see Table 1 for permitting requirements. Tenant may modify design in response to feedback through this permitting phase, and provide updated plans for Landlord review and approval.

2. Environmental Review

Environmental review must be complete prior to exercising the Ground Lease option. Optionee shall conduct any required environmental studies in accordance with CEQA, and City shall review, evaluate, and, if necessary, certify the CEQA document. As required by CEQA, the project will implement all feasible mitigation measures to reduce any significant environmental impacts of the project. If City Council declines to certify the CEQA document because significant environmental impacts remain, the Option Agreement will terminate, subject to Section 13.

Optionee shall pay all costs for CEQA analysis and determination, including reimbursing City for cost of CEQA consultant to evaluate project CEQA requirements and to complete CEQA documentation and reimbursing the City for the cost of City Attorney's Office staff time to review CEQA documentation.

3. Design Phase Approval Process

Optionee shall provide stamped submittals of the 199 Seawall Project at the 30%, 65%, and 90% design level to the City's Director of Parks, Recreation, and Waterfront Department ("the Director") as shown in Exhibit C, for review and approval. Optionee shall conduct project progress meetings with the Director after each submittal upon the Director's request.

At any stage of design, if City determines that additional environmental review is required due to a change in information or project conditions, Optionee will fund and conduct such analyses and submit for City review and evaluation.

[1] Note that permitting requirements must be complete before construction, but not necessarily during the option period. Also note that Table 1 includes a list of permits typically required, but other permits may be required depending on the specific project elements.

4. Design Standards

Final Design shall meet all applicable and latest building codes, stormwater quality requirements, regulatory agency requirements, City polices and standards, and any other applicable standards.

5. Regulatory Permits

The Optionee shall complete all regulatory permit applications and supporting documents (see Table 1) and submit the draft documents to the City for review prior to submitting to regulatory agencies. The Optionee is responsible for permit fees. Any meetings with regulatory agencies shall be jointly conducted with the City. Comments from regulatory agencies that would affect CEQA determination shall be incorporated into the administrative draft CEQA document.

Restricted

Table 1: Permitting Requirements

Regulatory Approval	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approving Body	Approval Needed Prior to Construction	Cost
Design & Engineering	To Perform	To Review and Approve	PRW	PRW	Borne by the Tenant
Alameda Countywide Clean Water Program	To Complete Technical Checklist and all needed info	To Review and facilitate permit submittal process	Building Permit/Public Works	C3 Checklist	Borne by the Tenant
Construction Erosion Control Plan	To Perform	To Review and facilitate permit submittal process	PRW/Building Permit/Public Works	Building Permit	Borne by the Tenant
Pedestrian and Vehicular Traffic Handling Plan	To Perform	To Review and Approve	PRW	PRW	Borne by the Tenant
Construction Staging Area Plan with BMPs	To Perform	To Review and Approve	PRW	PRW	Borne by the Tenant
Tree Pruning or Removal Permit (https://berkeleyca.gov/sites/default/files/documents/Tree-Pruning-Removal-Permit_1.pdf)	To Complete Tree Removal Form	To Review and Approve	PRW	Tree Removal Permit	Borne by the Tenant

Restricted

Regulatory Approval	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approving Body	Approval Needed Prior to Construction	Cost
CEQA	To Complete Analysis and Documentation	To Review, Approve, and otherwise conduct CEQA process as lead agency	City	City Council, if Initial Study/Mitigated Declaration or Environmental Impact Report	Borne by the Tenant
BCDC Permit	To Complete Permit Application and provide all needed information	To Review, and facilitate permit submittal process	BCDC	Major, administrative, regionwide, or abbreviated regionwide permit	Borne by the Tenant
Army Corps of Engineers Permit	To Complete Permit Application and provide all needed information	To Review, and facilitate permit submittal process	Army Corps of Engineers	Nationwide Permit, or others	Borne by the Tenant
Regional Water Quality Board	To Complete Permit Application and provide all needed information	To Review, and facilitate permit submittal process	Regional Water Quality Board	401 Water Quality Certification or others	Borne by the Tenant
CA Fish and Wildlife Permit	To Complete Permit Application and	To Review and facilitate	CA Fish and Wildlife	TBD	Borne by the Tenant

Restricted

Regulatory Approval	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approving Body	Approval Needed Prior to Construction	Cost
	provide all needed information	permit submittal process			
City of Berkeley Zoning and Design Review	To Complete Permit Application and provide all needed information	To Review and facilitate permit submittal process	Planning Commission, Zoning Adjustments Board, Design Review Committee	Use Permit amendment	Borne by the Tenant
City of Berkeley Building Permit	To Complete Permit Application and provide all needed information	To Review and facilitate permit submittal process	Planning & Development Department	Building Permit	Borne by the Tenant

GROUND LEASE

by and between

CITY OF BERKELEY
("**Landlord**")

and

TSA HOLDING GROUP, LLC
("**Tenant**")

Dated _____, _____

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LIST OF EXHIBITS

Exhibit A	Site Map and Premises Description
Exhibit B	Improvements to the Leased Premises
Exhibit C	Off-Site Improvements Exhibit C.1: 30% Design Plan for Off-Site Improvements
Exhibit D	Memorandum of Ground Lease

BASIC LEASE INFORMATION
(Ground Lease)

1. **"Landlord"**	CITY OF BERKELEY, a public body corporate and politic Notice Address: City of Berkeley 2180 Milvia Street Berkeley, California 94704 Attention: City Manager Telephone: (510) 981-7000 Facsimile: (510) 981-7099 With a copy to: City of Berkeley 2180 Milvia Street Berkeley, California 94704 Attention: City Attorney Telephone: (510) 981-6991 Facsimile: (510) 981-6960
2. **"Tenant"**	TSA HOLDING GROUP, LLC, a California limited liability company Notice Address: TSA Holding Group, LLC 2345 Balboa Street San Francisco, California 94121 Attention: Telephone: Email: With a copy to:
3. **"Effective Date"**	The later of (i) the date of last execution and (ii) the date that is 30 days after the Landlord's City Council's adoption of the Ordinance by which this Ground Lease is approved.
4. **"Premises" and "Facility"**	The **"Premises"** are the approximately 1.543 acre parcel of land commonly known and referred to as 199 Seawall Drive on the Berkeley Marina, Berkeley, California (being a portion of APN 60-2545-1), shown on the map attached hereto as Exhibit A (**"Site Map"**). The Premises includes the **"Facility",** which includes without limitation the approximately 25,000 rentable square feet free standing restaurant building located on the Premises as generally depicted in Exhibit A attached hereto, and all other

BASIC LEASE INFORMATION
(Ground Lease)

	improvements of any type constructed in accordance with the terms of this Ground Lease.
5. **"Exclusive Use" and "Non-Exclusive Use"**	Tenant is granted **"Exclusive Use"** during the Initial Term of 150 parking stalls in the Seawall Lot adjacent to the Premises, in exchange for up to $16M for improvements and maintenance in the entire Seawall Lot and portions of the Bay Trail and Seawall Drive or other Waterfront areas, ("**Non-Exclusive Use**" areas, as described in Exhibits A and C). If Options to Extend are exercised, Tenant may continue to have Exclusive Use of 150 parking spaces in exchange for rent or maintenance, see 2.3 and Exhibit C. Tenant may utilize the Exclusive Use parking spaces and any connected architecture to generate income for purpose of covering the maintenance costs, see 5.14.E.
6. **"Permitted Use"**	To maintain and operate the Premises as a full service restaurant and event space for the convenience and promotion of commerce, navigation, and fishery in the Berkeley Marina and for no other purpose.
7. **"Commencement Date**"	The Effective Date.
8. **"Term"**	Forty-five (45) years commencing on the Commencement Date, plus the first partial month if the Commencement Date is other than the first day of the month (**"Initial Term"**). Tenant has two options to extend the Initial Term for an additional ten (10) years each (each, an **"Extension Term"**), subject to Section 2.3 ("Options to Extend"). **"Lease Year**" shall be the twelve (12)-month period commencing with the Commencement Date and each anniversary thereof. The **"Expiration Date"** is the date the Term expires.
9. **"Early Termination"**	As provided in Section 2.2, either Tenant or Landlord may initiate the process of dissolving the Ground Lease if Tenant is not granted regulatory or Landlord approval for designs of the Improvements on the Premises (as defined in Section 7.1) and Landlord determines that no feasible alternative exists. This provision may only be exercised within the first lease year.
10. **"Annual Rent"**	A. Generally. Payable as provided in Section 3 below, both: B. "**Base Rent"** commencing in the fifth Lease Year at the amount of Two-Hundred Thousand Dollars ($200,000) per year; and Three-Hundred Fifty Thousand Dollars ($350,000) per year commencing in the sixth Lease Year; and C. "**Percentage Rent**". Commencing in the tenth Lease Year, Percentage Rent is equal to six percent (6%) of the sum of Gross Receipts of the preceding Lease Year minus the Base Rent;

BASIC LEASE INFORMATION
(Ground Lease)

Percentage Rent is due in the first month of the Lease Year.

D. "**Base Rent Adjustment"**. Base rent will increase by three percent (3%) annually commencing in the seventh Lease Year, as provided in Section 3.3 below.

11.	**"Gross Receipts"**	See Section 3.5.
12.	**"Improvements to the Leased Premises"**	See Section 7.1 and Exhibit B.
13.	**"Capital Contribution"**	Tenant shall provide the equivalent of $1M in off-site improvements as a capital contribution.
14.	**"Off-Site Improvements"**	Tenant shall complete $17M in off-site improvements during the Initial Term ($16M for exclusive use parking plus $1M as capital contribution) including initial construction of off-site improvements as described in Exhibit C, maintenance of those or other Waterfront improvements. See Section 7.2 and Exhibit C.
15.	**"Labor Peace Ordinance"**	See Section 16.39.
16.	**"Employment Opportunities for Former Staff"**	Employees of the former Hs. Lordships restaurant will be offered an opportunity to apply for positions in new business operations conducted on the property.

The Basic Lease Information set forth above and the Exhibits attached hereto are incorporated into and made a part of the following Ground Lease. In the event of any conflict between the Basic Lease Information and terms of the Ground Lease, the terms of the Ground Lease shall control.

LANDLORD'S INITIALS_____ **TENANT'S INITIALS**_____

GROUND LEASE

THIS GROUND LEASE ("**Ground Lease**") is made and entered into this ___ day of _____,_____ , to be effective on the **"Effective Date"** (as defined in the Basic Lease Information), by and between the Landlord and Tenant identified in the Basic Lease Information, who agree as follows:

ARTICLE 1.
PROPERTY AND BACKGROUND

1.1 Overview.

A. Premises. Landlord owns the Premises (as defined in the Basic Lease Information). The Facility is included in the Premises.

B. Improvements. Landlord owns the Facility that exists at the commencement of the lease (as described in the Basic Lease Information). "Improvements" as used in this Lease is defined as the improvements constructed by Tenant pursuant to Section 7.1 and Exhibit B.

C. Occupancy. Tenant currently leases and occupies the entire Premises and Facility under the Ground Lease. No subtenancies are permitted without express written consent of Landlord.

1.2 Ground Lease. For and in consideration of the payment of Rent and the performance of all the covenants and conditions of this Ground Lease, Landlord hereby leases and demises to Tenant, and Tenant hereby leases and hires from Landlord, the Premises, for the Term (as defined below) and upon the covenants and conditions set forth herein.

ARTICLE 2.
TERM

2.1 Term. The "Initial Term" of this Ground Lease shall be as set forth in the Basic Lease Information and shall commence as of the Commencement Date as set forth in the Basic Lease Information. The Initial Term together with any Extension Term(s), if any, are collectively referred to herein as the "Term."

2.2 Early Termination

. Either Tenant or Landlord may initiate the process of dissolving the Ground Lease if Tenant is not granted regulatory or Landlord approval for the design of the Improvements on the Premises as described in Exhibit B, and Landlord determines that no feasible alternative exists. This provision may only be exercised within the first lease year.

2.3 Options to Extend. Provided that Tenant is not in default under the terms of this Lease beyond any applicable notice and cure period, Tenant shall have two (2) consecutive options to extend the Term of this Lease for an additional ten (10) years each (each, a "Renewal Option"). To exercise a Renewal Option, Tenant must deliver written notice to Landlord no later than six (6) months before the then-scheduled expiration of the Term. Base Rent to be paid by Tenant during each Renewal Option Term shall be determined on the first day of such Renewal Option Term, and be adjusted annually based on the "Base Rent Adjustment"

methodology described in 3.4 below. Exclusive use parking may continue in the option periods, provided that Tenant pays rent for those spaces or provides maintenance in lieu of rent, as described in Exhibit C.

ARTICLE 3.
RENT AND SECURITY

3.1 **Rent**. Rent shall be paid as set forth in this Article 3. This Ground Lease is a net lease, and Base Rent, Percentage Rent and Annual Rent (as provided in Basic Lease Information or in Section 2.3), and other payments due and payable hereunder to or on behalf of Landlord (collectively, "Rent") shall be paid without notice or demand, and, except as specifically provided for in this Ground Lease, without offset, deduction or credit. Any monthly payment of Annual Rent for any period during the Term which is for less than one month shall be a pro rata portion of the then-monthly portion of Annual Rent, based upon the actual number of days in the month.

3.2 **Annual Rent**. During the Initial Term and any Renewal Terms, and commencing on the Effective Date (as defined in the Basic Lease Information), Tenant shall pay to Landlord Annual Rent.

3.3 **Payment of Annual Rent.**

A. Tenant shall pay Base Rent commencing with the fifth Lease Year in the amount of $16,666.67 per month ($200,000 per year) to Landlord in monthly installments in advance on or before the first day of each month. Commencing with the sixth Lease Year, Tenant shall pay Base Rent in the amount of $29,166.67 per month ($350,000 per year) to Landlord in monthly installments in advance on or before the first day of each month.

B. Commencing with the tenth Lease Year, Tenant shall pay Percentage Rent equal to 6% of the sum of Gross Receipts of the preceding Lease Year minus the annual Base Rent. Percentage Rent is due in the first month of the Lease Year. For example, at the beginning of the tenth Lease Year, Percentage Rent for the Gross Receipts of the ninth Lease Year will be due. Except as otherwise expressly provided in this Ground Lease, Percentage Rent shall be calculated (and paid) on an annual basis by the first month of the Lease Year.

3.4 **Base Rent Adjustments**

. Beginning on the first day of the seventh Lease Year ("Adjustment Date"), and every one year thereafter, the Base Rent shall increase by an annual amount determined by multiplying the annual base rent for the immediately preceding Lease Year by a factor equal to 3%.

3.5 **Gross Receipts**.

A. Definition. **"Gross Receipts"** includes the gross selling price of all food, alcohol, merchandise, goods and services sold, leased or rented in or from the Premises or exclusive-use parking area outside leased premises by Tenant and (if any) its subtenants, licensees and concessionaires; whether for cash or on credit; whether the order is received directly by on-site personnel, or is received by telephone, facsimile, email or other electronic or other ordering system at the Premises or at another location, as long as the order is either received at or filled at or from the Premises (orders delivered from the Premises, whether by Tenant employee, independent contractors or third parties, are deemed filled at the Premises);

includes the gross sale prices from approved vending and other machines on or at the Premises; and regardless of whether bookkeeping, payment or collection of any account may take place away from the Premises. Any installment or credit sale shall be treated as a sale for the full cash price at time of sale.

B. Exclusions from Gross Receipts. Gross Receipts excludes the following:

1. The amount of deposits or prepayments until applied, and the selling price of gift certificates or vouchers until redeemed;

2. Interest, service or sales carrying charges or other charges, however denominated, paid by customers for extension of credit on sales where not included in the original sales price, but not charges or expenses in connection with credit cards or bank cards (or other similar devices or systems now or hereafter developed), whether paid by the customer or by Tenant;

3. The selling price of all items returned by customers and accepted for full credit and refunds to customers, or the amount of discounts and allowances made thereon, but only if the selling price of such items were previously included in Gross Receipts, and further provided that all such credits, discounts and allowances shall again be included in Gross Receipts when used or redeemed for merchandise or other items;

4. Tenant's service of food or liquor for promotion purposes or to employees for which Tenant makes no charge, but which is shown on Tenant's books of account as sales;

5. State, county or city sales, use, excise, gross receipts or similar taxes (including any such future taxes), but only if separately denominated from the selling price and collected from customers;

6. Sums and credits received in settling claims for loss of or damage to inventory, merchandise, fixtures, equipment or furniture located within the Premises;

7. Sales of fixtures, equipment or property which is not inventory or stock in trade;

8. Amounts uncollected due to bad checks or uncollectible credit accounts;

9. Tips and gratuities received by Tenant's employees;

10. Proceeds received from insurance policies, condemnation awards and the like;

11. The amount of sales for merchandise, beverages (alcoholic or non-alcoholic) and food where no money is collected for such sales (commonly known in the industry as "comps" or "complimentaries") (with sales for such purposes not to exceed four percent (4%) of Gross Receipts per Lease Year);

12. The amount of sales for merchandise, beverages (alcoholic and non-alcoholic) and food where no money is collected for such sales due to damage, spoilage, plunder or breakage (commonly known as "spills");

13. Fees and charges paid to credit card, bank processing and check verification companies (including without limitation, Visa, MasterCard, American Express and Telecheck);

14. Proceeds from the sale of Tenant's business in whole;

15. The amount of any discounts or credits on sales provided to customers pursuant to any promotion, loyalty or rewards programs offered by Tenant or its affiliates from time to time;

16. Revenue from the sale of memberships in any loyalty or rewards programs offered by Tenant or its affiliates or similar memberships;

17. Sales where and solely to the extent that, the proceeds are donated to charitable or non-profit organizations provided that such amounts do not exceed three percent (3%) of Gross Receipts in any Lease Year; and

18. A surcharge customarily charged to customers in Berkeley, CA by restaurant operators used to reimburse operators for costs and other employee expenses including healthcare.

C. At Landlord's request, Tenant shall, within fifteen (15) days of request, furnish Landlord with an unaudited statement of Gross Receipts for the requested timeframe. Such statements shall not be used to compute Percentage Rent under this Ground Lease.

D. Tenant shall, not later than the date set forth in Section 2.3.B above, deliver to Landlord a detailed and accurate accounting in accordance with generally accepted accounting principles (**"GAAP"**) consistently applied, certified as correct under penalty of perjury by an officer of Tenant, showing the basis of computation of Gross Receipts and Percentage Rent for the applicable Lease Year. The accounting shall be accompanied by copies of all Tenant monthly state sales tax returns for the applicable Lease Year.

E. Tenant, on behalf of itself and its affiliated entities, shall maintain complete electronic books and records of its operations at its corporate office headquarters in San Francisco, California. Tenant shall keep all electronic books and records containing any or all of the foregoing information, for not less than five years from the end of the Lease Year to which they pertain. Landlord and its agents and employees shall have the right at any time during regular business hours to examine and inspect all Tenant books and accounts relating to Gross Receipts, including without limitation sales tax reports, tax returns, and other reports to any governmental agency, for the purpose of verifying the accuracy of any statement of Gross Receipts provided under this Ground Lease. If requested in writing by Landlord, within ten (10) business days of such request, Tenant shall deliver (at Tenant's sole cost and expense) all electronically maintained books and records (i) in the form of fully readable (i.e., without requiring conversion to another type of file) electronic data files, or (ii) in the form of hard-copy (paper) printouts of the same.

F. Audit Rights and Obligations.

1. For purposes of verifying Percentage Rent payments due Landlord, Landlord shall have the right (not more than once in any five-Lease Year period) to require Tenant to submit full financial statements, prepared by a third-party certified public accountant, supporting Tenant's computations of Gross Receipts and Percentage Rent for the applicable Lease Year. Landlord shall notify Tenant at least 30 days prior to expiration of the applicable Lease Year of the requirement to submit full financial statements for such Lease Year. Tenant shall submit such full financial statements to Landlord within 45 days following the end of the applicable Lease Year.

2. Additionally, Landlord's representatives shall have the right (not more than once in any three-Lease Year period, unless a prior audit within that period revealed a discrepancy greater than the amount set forth below) to inspect Tenant's books, leases, subleases, contracts, and all other pertinent records, and independently audit the results of Tenant's operations, during reasonable business hours, on 10 business days' written notice to Tenant. Tenant shall make all such records available to Landlord's representatives for such audit. If as a result of an audit by an independent certified public accountant hired by Landlord, additional Percentage Rent is due Landlord for any Lease Year which exceeds by 4% the Percentage Rent actually paid for such Lease Year, the reasonable cost of such audit shall be paid by Tenant, and the additional amount of Percentage Rent owed Landlord shall bear interest from the date it should have been paid until paid at the lesser of 10% per annum compounded annually or the maximum rate permitted by Law ("**Interest Rate"**). If the discrepancy is less than 4%, Tenant need not pay any interest on the delinquent Percentage Rent as long as Tenant pays it within 30-days of issuance of the audit; otherwise, it will bear interest at the Interest Rate from the date it should have been paid until paid.

3.6 **Late Charge**. The late payment of any Base Rent will cause Landlord to incur additional costs, including administration and collection costs and processing and accounting expenses and increased debt service ("Delinquency Costs"). If Landlord has not received any installment of Base Rent within five days after its due date, Tenant shall pay a late charge of five percent of the delinquent amount immediately. The parties agree that this five percent late charge represents a reasonable estimate of the Delinquency Costs incurred by Landlord in the event of a late Base Rent payment. Landlord's acceptance of late Base Rent, partial Base Rent and late charges does not equate with a waiver of Tenant's default with respect to the overdue amount, or prevent Landlord from exercising any rights and remedies available under this Ground Lease and/or by operation of Law.

3.7 **Application of Payments**. All payments received by Landlord from Tenant shall be applied to the oldest obligation owed by Tenant to Landlord. No designation by Tenant, either in a separate writing, on a check or money order, or otherwise shall modify this Section or have any force or effect.

ARTICLE 4.
TAXES AND ASSESSMENTS

4.1 **Personal Property Taxes**. Tenant shall pay before delinquency all taxes, assessments, license fees and other charges ("Taxes") levied and assessed against Tenant's personal property installed or located in or on the Facility or the Premises which become payable during the Term. On demand by Landlord, Tenant shall furnish Landlord with satisfactory evidence of these payments. Notwithstanding the foregoing, Tenant shall have the

right to contest the imposition or collection of any such Taxes which Tenant reasonably believes was improperly assessed or calculated.

4.2 **Statement Regarding Possessory Interest Tax**. This Ground Lease creates a possessory property interest in Tenant. Tenant acknowledges and agrees that Tenant's leasehold and/or other real property interests may be subject to property taxation, and Tenant or the party in whom the possessory property interest is vested may be subject to the payment of property taxes levied on the interest. Such taxes are referred to herein as "Possessory Interest Taxes," and shall be paid by Tenant as part of Real Property Taxes as provided in Section 4.3 below.

~~4.3~~ **Real Property Taxes**. Tenant shall pay all real property taxes and general and special taxes including Possessory Interest Taxes (collectively, "Real Property Taxes"), levied and assessed against the Premises or Facility or any portion thereof. Tenant shall, semiannually, pay the Real Property Taxes not later than the Taxing Authority's (as defined below) delinquency date. If, at any time during the Term, any authority having the power to tax, including any federal, state or county government or any political subdivision thereof (collectively, "Taxing Authority"), shall alter the methods and/or standards of taxation and assessment against the legal or equitable interests of Landlord in the Premises or Facility or any other improvements located or constructed thereon, in whole or in part, so as to impose a monetary obligation on Landlord in lieu of or in addition to the taxes and assessments in existence as of the date of this Ground Lease, such taxes or assessments based thereon, including: (a) any tax, assessment, excise, surcharge, fee, levy, penalty, bond or similar imposition (collectively, "Impositions"), on Landlord's right to rental or other income from the Premises or Facility or as against Landlord's leasing of the Premises, (b) any Impositions in substitution or in lieu, partially or totally, of any Impositions assessed upon real property prior to any such alteration, (c) any Impositions allocable to or measured by the area of the Facility and/or Premises or the rental payable hereunder, including any Impositions levied by any Taxing Authority with respect to the receipt of such rental or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant or any subtenant of the Premises or Facility or any portion thereof, (d) any Impositions upon this lease transaction or any document to which Tenant is a party which creates or transfers any interest or estate in or to the Facility and/or Premises or any portion thereof, or (e) any special, unforeseen or extraordinary Impositions which, although not specifically described above, can fairly be characterized as a real property tax or a substitute for real property tax, shall be considered as Real Property Taxes for the purposes of this Ground Lease. Real Property Taxes shall exclude, however, all general income taxes, gift taxes, inheritance taxes and estate taxes, if any, owed by Landlord.

4.4 **Assessments**. Tenant also shall be responsible for and shall pay prior to delinquency all assessments imposed against the Premises or Facility by Landlord. Tenant acknowledges that Landlord has established certain assessment districts within the City of Berkeley and that all properties within the assessment districts are subject to annual assessments. Landlord reserves the right to create additional districts and to terminate any such district(s). Landlord shall provide Tenant with written notice of each such assessment not later than sixty (60) days before such assessment is due and payable.

4.5 **Tenant's Tax Liability Prorated**. Tenant's liability to pay Real Property Taxes and assessments shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the Term at its inception and expiration or earlier termination in accordance with this Ground Lease.

4.6 **Real Property Tax Contest**. Without Landlord's prior written consent, Tenant shall not seek a reduction in the assessed valuation of the Premises or Facility, or contest any Real Property Taxes that are to be paid by Tenant. Landlord's consent may be given or withheld in Landlord's sole discretion. If Landlord consents and Tenant seeks a reduction or contests the Real Property Taxes, Tenant shall remain obligated to pay all Real Property Taxes prior to delinquency, and shall at all times protect Landlord from foreclosure of any lien. Landlord shall not be required to join in any proceeding or contest brought by Tenant.

ARTICLE 5.
USE, CHARACTER, OPERATION AND MAINTENANCE COVENANTS

5.1 **General**. Tenant covenants and agrees on behalf of itself and its successors and assigns that Tenant shall continuously use and operate the Premises and Facility for the Permitted Use and for no other purpose.

5.2 **Use Obligations**. Tenant shall, during such hours and on all such days as comparable restaurants are customarily open for business, continuously use and operate the Facility and Premises as a first class restaurant and event space, and at all times will carry a full and complete stock of food and beverages offered for sale at competitive prices and maintain adequate personnel for the efficient service of customers, and for no other purpose. In connection with Tenant's use and operation of the Facility, Tenant shall comply with all of the following:

A. Tenant shall employ its best judgment, efforts and abilities to operate the business in a manner calculated to produce the maximum profitable volume of sales, rents and transactions obtainable and to enhance the reputation and attractiveness of the Berkeley Marina.

B. Except for emergencies or holidays on which most comparable restaurants the City of Berkeley are also closed, Tenant shall be open for full business not fewer than six days per week, not fewer than 10 hours per day. Tenant may close on nationally recognized holidays in its sole discretion.

C. Tenant shall not do or permit to be done anything which in any way unreasonably interferes with the normal operation and use of any portion of the Berkeley Waterfront (as defined in Section 5.10) or the means of ingress and egress thereto (**"Substantial Interference"**). Tenant shall use every effort to eliminate Substantial Interference, including taking prompt legal action if appropriate. If Tenant fails to bring an immediate halt to any Substantial Interference, Landlord shall have the right (i) to designate the required action for Tenant to take, or (ii) to commence itself any legal action to eliminate the Substantial Interference, in either case at Tenant's sole cost and expense. Any agreement entered into by Tenant with regard to use of the Premises or Facility shall contain a provision reserving to Tenant all of the necessary rights and remedies to permit Tenant to comply with its obligations under this subsection and authorizing Landlord to enforce it if Tenant fails to do so.

5.3 **General Use Prohibitions**. Tenant covenants and agrees that in connection with the use and operation of the Premises and Facility, and any portion thereof (including without limitation parking areas and pedestrian and bicycle paths), Tenant will not:

A. Use or permit the use of any reasonably objectionable advertising medium including any loudspeakers, phonographs, public address systems, sound amplifiers, radio or

broadcast within the Facility in such manner that any sounds reproduced, transmitted or produced shall be directed primarily beyond the interior of the Facility (provided, however, that nothing herein shall be deemed to prohibit the installation and use of a public address system for security purposes, or for the use of a reasonable level of music for outdoor dining areas or plaza areas), and will keep all mechanical apparatus free of unreasonable vibration and noise which may be transmitted beyond the interior of the Facility;

B. Permit undue accumulations of garbage, trash, rubbish or any other refuse;

C. Create, cause, maintain or permit any nuisance (as the same may be defined by applicable Law) in, on or about the Premises or Facility;

D. Commit or suffer to be committed any waste in, on or about the Premises or Facility;

E. Use or allow the Premises or Facility to be used for any unlawful purpose, or for any purpose which violates the terms of any recorded instrument affecting the Premises;

F. Cause or permit any insurance coverage on the Premises or Facility to become void or voidable or make it impossible to obtain any required insurance at commercially reasonable rates;

G. Intentionally cause or knowingly permit any material structural damage to or deterioration of the Premises or Facility or to any adjacent public or private property or improvements;

H. Permit any auction, fire, bankruptcy, distress, clearance, or going-out-of-business sale to be conducted thereon, or the posting of any sign or advertisement regarding any such activity; or

I. Violate any Law, ordinance or regulation applicable to the Premises or Facility.

5.4 **Non-Discrimination**. Tenant covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry in the sublease, transfer, use, occupancy, tenure or enjoyment of the Premises, the Facility or any portion thereof, nor shall Tenant, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, vendees, users or customers in the Premises, the Facility, or any portion thereof. Tenant shall refrain from restricting the use, occupancy, rental or sublease of the Premises, the Facility, or any portion thereof on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry of any person. All subleases and contracts made relative to the Premises, the Facility, or any portion thereof, shall contain or be subject to substantially the following nondiscrimination clause:

A. **In subleases:** “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through

him or her, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased, nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises, the Facility thereon, or any part thereof, herein leased."

B. **In contracts:** "There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Premises, the Facility or any portion thereof, nor shall the transferee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises, the Facility thereon, or any part thereof."

5.5 **General Standards of Maintenance**. Tenant covenants and agrees that it shall maintain, or cause to be maintained, the Premises, Facility, On-Site Improvements, and Off-Site Improvements as depicted in Exhibits A, B and C. This includes the building, support pilings, rip-rap, landscaping and pathways on the leased premises; as well as maintenance responsibility for off-site improvements as described in Exhibit C. All portions of the Premises, the Facility, and Non-Exclusive Use Areas shall be maintained in first-class condition and repair, subject only to normal wear and tear. To accomplish such maintenance, Tenant shall either staff or contract with and hire licensed and qualified personnel to perform such maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Section 5.5. All maintenance work shall conform to all applicable Federal and State Occupation Safety and Health Act standards and regulations for the performance of maintenance. All Maintenance work on Off-Site Improvements shall be reviewed and approved in writing by the Landlord in advance. When parking lot or street closures are necessary, notice shall be given 7 days in advance. Landlord shall review and authorize work, if appropriate, 72-hours in advance of work commencement.

5.6 **Governmental Requirements**. Tenant, at Tenant's expense, shall comply with all applicable Hazardous Materials Laws (as defined in Section 6.2 below), statutes, laws, codes, rules, orders, zoning, ordinances, directions, regulations, permits, or other requirements of federal, state, county, municipal, or other governmental authorities having jurisdiction, now in force or which may hereafter be in force, and with all requirements of any board or fire insurance underwriters or other similar bodies, now or hereafter adopted, enacted or made applicable, (individually "Law" and collectively "Laws"), which shall impose any duty upon Landlord or Tenant with respect to the use, occupancy, or alteration of the Premises or Improvements or any portion thereof, including those requiring alterations or additions to be made to, or safety appliances or devices to be maintained or installed in, on or about the Premises or Improvements or any portion thereof, and payment of any fees, charges or assessments arising out of or in any way related to the Premises or Improvements or any portion thereof as a source of adverse environmental impacts or effects.

5.7 **Landlord Access Rights**. During the Term of this Ground Lease, Landlord and its designated representatives shall have the right, but not the obligation, to enter

the Premises and Facility for the purpose of constructing, maintaining, replacing or adding underground utility facilities, including but not limited to water mains, sanitary sewer mains, storm drain mains, gas mains, telephone and electrical distribution facilities and fire alarm circuits; or for City work around the shoreline, trails, and turnaround areas. Landlord shall replace at its cost such surface improvements constructed by Tenant if and to the extent they may be disturbed by such construction, maintenance, replacement or addition to the condition of such improvements as of the time such disturbance occurred. If as a result of the foregoing work by Landlord or its designated representatives, Tenant is unable to operate its business in the Premises and Facility or any portion thereof as a result of being denied access to the Premises or Facility or any stoppage or interruption in any of the basic services to be provided by Landlord hereunder, Tenant is entitled to a pro rata abatement of Base Rent to the extent to such denial of access or stoppage or interruption interferes with the normal conduct of Tenant's business.

5.8 **Access to Public Amenities.** Tenant shall maintain public access to the shoreline, trails, and other public amenities located on the Premises.

5.9 **Landlord Use of Event Facilities**. Landlord shall have the right to use the "Event Facilities" (as defined below) for purposes of hosting Landlord's in-house training programs, and/or accommodating other community events, as follows and in a manner consistent with the State Tidelands Grant, public trust uses, and applicable Laws:

A. Event Days. Tenant shall accommodate up to two event days per Lease Year, upon reasonable prior written notice by Landlord as set forth below.

B. Event Facilities. Any room or space on the Premises that can be reserved for events.

C. Facility Reservation. Landlord shall provide Tenant with a written request to use Event Facilities. The request shall identify the component(s) of the Event Facilities needed and dates desired (**"Reservation Request"**). Landlord shall provide all Reservation Requests not more than 45-days in advance of the requested date(s). Subject to availability, Tenant shall make the Event Facilities available to Landlord as specified in the applicable Reservation Request. If the specified Event Facilities are not available on the requested date(s), Tenant shall notify Landlord in writing within five business days of the Reservation Request as well as propose and reserve for Landlord at least two alternative dates as close as possible to the requested date(s) (**"Response"**). Tenant may determine whether to honor any Reservation Request received more than 45-days in advance in its reasonable discretion.

D. No Cost to Landlord. Landlord shall accept or reject the proposed alternative date(s) within five (5) business days of Tenant's Response. Landlord's failure to respond within such 5-business day period shall be deemed rejection of Tenant's Response. Landlord's use of the Event Facilities shall be at no cost or expense (including set up fees) to Landlord; provided, however, that Landlord will pay for any food and beverage service requested by Landlord. Tenant shall not be entitled to any abatement or reduction of Rent related to Landlord's use of the Event Facilities.

5.10 **Use of Berkeley Waterfront Property; Public Trust.**

For purposes of this Ground Lease, **“Berkeley Marina”** means the Premises and all other lands subject to the State Tidelands Grant (also referred to as **“State Grant Lands**”). "Berkeley Marina," includes the areas bound by the following:

- On the south by a westerly extension of Channing Way
- On the north by the north edge of Cesar Chavez Park, and a westerly extension thereof
- On the west by a north-south line through the end of the Municipal Fishing Pier
- On the east by the east edge of Cesar Chavez Park, and by the west edge of the Meadow area of Eastshore State Park and a southerly extension thereof.

A. Tenant agrees that except as otherwise provided in this Ground Lease, it is not a covenant or condition of this Ground Lease or of any other agreement with Tenant that Landlord undertake or cause to be undertaken any development or redevelopment of the Premises or the Berkeley Waterfront, and Landlord shall incur no liability whatsoever to Tenant for failure to undertake such development or redevelopment.

B. Landlord at all times shall have the right and privilege of making such changes in and to the Berkeley Waterfront (other than the Premises) from time to time which in its sole opinion are deemed to be desirable or appropriate, including the location and relocation of stairways, sidewalks, pathways, driveways, streets, entrances, exits, automobile parking spaces, the direction and flow of traffic, designation of prohibited areas, landscaped areas, landscaping, toilets, utilities and all other facilities; provided, however, that the foregoing is not intended to entitle Landlord to unreasonably effect changes that would materially and adversely affect access or lines of sight to the Premises, except temporarily during periods of construction. Any changes or additions by Landlord to the Berkeley Waterfront shall be performed in such a manner so as not to unreasonably interfere with Tenant's use of the Premises and shall not change in a material, adverse way the access to the Premises. If as a result of the foregoing work by Landlord or its designated representatives, Tenant is unable to operates its business in the Premises and Facility or any portion thereof as a result of being denied access to the Premises or Facility or any stoppage or interruption in any of the basic services to be provided by Landlord hereunder, Tenant is entitled to a pro rata abatement of Base Rent to the extent that such denial of access or stoppage or interruption interferes with the normal conduct of Tenant’s business. Landlord shall have the right to establish, promulgate, and enforce such reasonable rules and regulations concerning the Berkeley Waterfront, as it may deem necessary or advisable for the proper and efficient management, operation, maintenance and use thereof, and Tenant shall comply with the same.

C. Landlord at all times shall have the sole and exclusive management and control of the Berkeley Waterfront, including, without limitation, the right to lease, license or permit the use of space within the Berkeley Waterfront to persons for the sale of merchandise and/or services and the right to permit advertising displays, educational displays, displays of art, and promotional activities and entertainment.

D. Nothing contained herein shall be deemed to create any liability to Landlord for any personal injury, or any damage to motor vehicles, vessels, or other property of Tenant’s principals, employees or others, unless caused by the gross negligence or willful misconduct of Landlord, its agents, servants or employees. Tenant is solely responsible for the security of the Premises and Facility, and for the safety of those using the Premises and Facility pursuant to this Ground Lease or any permits or licenses from the City. Tenant acknowledges that if Landlord provides security guards or police patrols for the Berkeley Waterfront or any portion thereof, Landlord does not represent, guarantee or assume responsibility that Tenant or any person or entity will be secure from losses caused by the illegal acts of third parties and

does not assume responsibility for any such illegal acts. To induce Landlord to provide such security, if any, as Landlord in its sole discretion deems reasonable, appropriate and economically feasible, Tenant hereby waives any present or future claims Tenant may have against Landlord, whether known or unknown, for bodily injury or property damage arising from the performance of such security agents. Landlord shall not be obligated to provide any public liability or property damage insurance for the benefit of Tenant or any other person or entity, each such party being responsible for its own insurance.

5.11 Public Trust Tidelands Requirements.

A. Tenant acknowledges that the Premises are located on State tidelands held by the City of Berkeley in trust for the promotion of commerce, navigation, and fishery pursuant to Chapter 347 of the California Statutes of 1913, as amended (the **"Grant"**), subject to the conditions, restrictions, limitations, rights, powers, and duties reversionary rights and other rights created or reserved in the Grant. Tenant agrees that, notwithstanding anything in this Ground Lease to the contrary, Tenant shall use the Facility and Premises consistently with and in a manner that shall not result in a violation of the Grant or of provisions of the Berkeley City Charter, the California Constitution or other applicable Laws.

B. Landlord reserves to itself and the right to grant to others in the future nonexclusive utility easements over, under, through, across or on the Premises in locations that will not unreasonably interfere with Tenant's access to or use of the Premises or Facility. Landlord may make changes in any utility system serving the Facility or Premises as Landlord determines to be necessary or desirable in the course of any construction performed by or under the authorization of Landlord. Any interference to Tenant's use of the Facility or Premises shall be temporary, and all work on the Premises shall proceed expeditiously. Tenant shall be given reasonable notice before commencement of any work on the Premises. No such work shall invalidate or affect this Ground Lease or give Tenant any claim against Landlord for abatement of Rent or loss of business as a result thereof unless the work continues for more than three (3) days in which event Tenant shall be entitled to a pro rata abatement of Base Rent thereafter until completion of such work. In the event the installation or maintenance of utility lines in such easements causes any damage to the Premises, or any portion thereof, or to the Facility, or other facilities located upon the Premises, including but not limited to pavement, curbs and sidewalks, the same shall be repaired by Landlord at its expense, if not so repaired by the party installing and maintaining the line. Landlord shall hold harmless and indemnify Tenant from all claims arising out of the grant or use of such utility easements, except to the extent they result from the negligence or willful misconduct of Tenant.

5.12 Landlord's Status as a Landowner. Tenant understands and agrees that Landlord is entering into this Ground Lease in its capacity as a landowner with a proprietary interest in the Premises and Facility and not as a regulatory agency of the City of Berkeley with certain police powers. Landlord's legal status shall in no way limit the obligation of Tenant to obtain any required approvals from Landlord's departments, boards or commissions that have jurisdiction over the Premises or Facility. By Landlord's entering into this Ground Lease, neither Landlord nor any of Landlord's Council, boards, commissions, agencies, departments, or affiliates obligates itself to any other governmental agent, board, commission or agency, or to Tenant, or to any other individual or entity, with regard to any discretionary action relating to development or operation of the Premises, Facility or Berkeley Waterfront. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals that may be required or desirable for the improvement, alteration, or operation of the Premises, Facility or Berkeley Waterfront. By entering into this

Ground Lease, Landlord is in no way modifying or limiting the obligation of Tenant to cause the Premises and Facility to be used and occupied in accordance with all Laws.

5.13 Regulatory Approvals Generally. Tenant acknowledges and agrees that this Ground Lease does not guarantee that Landlord, in its regulatory capacity, will grant any particular request for a license, permit or other regulatory approval. Tenant understands that Landlord may grant or deny such request in its sole discretion, and may impose such terms and conditions as it deems consistent with that discretion.

5.14 Covenants Regarding Improvements.

Tenant acknowledges and agrees that the Improvements will be maintained as follows:

A. Building. Tenant shall provide and install all furniture, fixtures, and accessories necessary for the operation of a full service restaurant and event space. Tenant shall maintain in good condition all aspects of the building, including but not limited to building systems and structural elements.

B. Pilings. Tenant acknowledges that restaurant building is situated over the water, and is supported by pilings in the Bay. Tenant will maintain these pilings in good condition and provide periodic assessment and maintenance to assure they remain in good condition.

C. Landscaping. Tenant shall install and maintain such landscaping as may be reasonably required to provide an attractive development consistent with a full service restaurant.

D. Off-Site Improvements. Tenant shall maintain all off-site improvements as described in Exhibit C for the duration of the Lease Term.

E. Exclusive Use Parking. Subject to any permits or conditions required or imposed by regulatory agencies, Tenant may utilize the Exclusive Use parking spaces and any connected architecture to generate income for purpose of covering the maintenance costs. Revenue will be included in calculation of gross receipts, per Section 3.5.

ARTICLE 6.
CONDITION OF PROPERTY

6.1 Landlord's Disclaimers and Tenant's Acknowledgements. The Premises are being leased to Tenant in their current, existing, "AS-IS" condition. Except as expressly set forth in this Ground Lease, Landlord makes no representations or warranties as to any matters concerning the Premises or Facility, including without limitation: (i) matters relating to soils, subsoils, geology, the presence or absence of fill, groundwater, drainage, and flood zone designation; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises or Facility; (iii) the development potential of the Premises or Facility, or their uses, habitability, merchantability, or fitness, suitability, value or adequacy for any particular purpose, (iv) the zoning or other legal status of the Premises or Facility or any other public or private restrictions on their use, (v) the adequacy, condition, repair status, or remaining useful life of the Facility's electrical, plumbing, HVAC, utility, mechanical or safety systems ("Facility Systems"), (vi) the adequacy, condition, repair status, or remaining useful life of the Facility's roof, walls, foundation, pilings, or other structural components, any other structures within the Premises, parking lot, the drive aisle and associated parking stall, loading stalls,

pathways, and landscaping, and drive aisle between Lot and the restaurant (vii) the compliance of the Premises or Facility with Hazardous Materials Laws, covenants, conditions or restrictions of any governmental or quasi-governmental entity or of any other person or entity, (viii) the presence or removal of Hazardous Materials (as defined in Section 6.2) or wastes on, under or about the Premises or Facility; or (ix) the compliance of the Premises or Facility under any other Laws, including without limitation the ADA and other Disability Laws. It is specifically understood and agreed that Landlord has no obligation and has made no promises to alter, remodel, improve, decorate or paint the Premises or Facility, repave the adjacent parking lot, construct or install any improvements or Alterations (as defined in Section 7.3), repair or replace any Facility Systems, or otherwise alter or improve the Premises, Facility, or any portion thereof. By entering onto the Premises or Facility, Tenant represents and confirms that it is familiar with the existing legal and physical condition of the Premises and Facility, fully approves the same, and acknowledges that except as expressly provided in this Ground Lease Landlord has made no representation or warranty regarding the condition thereof. Tenant acknowledges and agrees that Tenant is leasing the Premises and accepting the Premises and Facility on the basis of Tenant's own investigation, and will act only upon information obtained by it directly from such investigation and from materials or records from independent third parties. Tenant assumes the risk that adverse physical and environmental conditions may not have been revealed by its own investigation, that below-ground improvements or facilities may still be located under the Premises, and that Hazardous Materials may subsequently be discovered upon, under or about the Premises. Tenant further acknowledges that neither Landlord, nor its officers, elected officials, agents, employees, or representatives ("Landlord's Parties") have made any representation or warranty of any kind in connection with any matter relating to the condition, value, fitness, or suitability of the Premises, Facility or other improvements thereon, upon which Tenant has relied directly or indirectly for any purpose.

6.2 Hazardous Materials

A. General Compliance. Tenant shall, at its sole cost and expense, comply with all laws, codes, rules, orders, ordinances, directives, regulations, permits, or other requirements of federal, state, county, municipal or governmental authorities having jurisdiction, now in force or which may hereafter be in force (collectively, **"Hazardous Materials Laws"**) concerning the management, use, generation, storage, transportation, presence, discharge or disposal of any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substances, carcinogenic materials or contaminants and all other materials governed, monitored, or regulated by any Federal, State or local law or regulation, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Substances Account Act, and/or the Resources Conservation and Recovery Act. **"Hazardous Materials"** include asbestos, asbestos-containing materials, hydrocarbons, polychlorinated biphenyl (**"PCB"**) or PCB-containing materials, petroleum, gasoline, petroleum products, crude oil or any fraction, product or by-product thereof. Except for routine substances which are used in the normal and customary operation of a restaurant for the Permitted Use, including such substances technically constituting Hazardous Materials, neither Tenant nor Tenant's Parties shall use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials anywhere in, on, under or about the Premises or the Facility. Tenant shall cause any and all Hazardous Materials brought onto, used, generated, handled, treated, stored, released, or discharged on or under the Premises or the Facility to be removed from the Premises and Facility and transported for disposal in accordance with applicable Hazardous Materials Laws. Landlord shall have the right to enter the Premises from time to time to conduct tests, inspections and surveys concerning Hazardous Materials and to monitor Tenant's compliance

with its obligations concerning Hazardous Materials and Hazard Materials Laws. Tenant shall immediately notify Landlord in writing of: (i) any release or discharge of any Hazardous Material; (ii) any voluntary clean-up or removal action instituted or proposed by Tenant, (iii) any enforcement, clean-up, removal or other governmental or regulatory action instituted or threatened, or (iv) any claim made or threatened by any person against Landlord, Tenant, the Premises, or the Facility or any portion thereof relating to Hazardous Materials or Hazardous Materials Laws. Tenant shall also supply to Landlord as promptly as possible, and in any event within five business days after Tenant receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Facility or Tenant's use thereof and concerning Hazardous Materials or Hazardous Materials Laws. In the event Tenant institutes a cleanup or removal action, Tenant shall provide to Landlord in a timely manner copies of all workplans and subsequent reports submitted to the governmental agency with jurisdiction over such action.

B. Tenant's Indemnification. Except to the extent caused by Landlord's sole negligence or willful misconduct, Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses (including attorneys' fees and expenses and consultant fees and expenses) caused or alleged to have been caused by the presence of Hazardous Materials in, on, under, about, or emanating from the Premises or the Facility, including, without limitation, any bodily injury, death, property damage, natural resource damage, decrease in value of the Premises or the Facility, caused or alleged to have been caused by Tenant or Tenant's Parties' use, storage, handling, treatment, generation, presence, discharge or release of Hazardous Materials in violation of Tenant's obligations under this Ground Lease, whether such claims, causes of action or liabilities are first asserted during the Term or thereafter, and including without limitation, claims made against Landlord with respect to bodily injury, death or property damage sustained by third parties caused or alleged to have been caused by Tenant or Tenant's Parties' use, storage, handling, treatment, generation, presence, discharge or release of Hazardous Materials.

ARTICLE 7.
CONSTRUCTION AND LIENS

7.1 Improvements to the Leased Premises.

A. Construction. Tenant shall construct or cause to be constructed the improvements described in Exhibit B (**"Improvements to the Leased Premises"**) within the time and in the manner set forth in Exhibit B. Except as otherwise provided in this Section 7.1, Tenant shall diligently prosecute, complete, and accomplish the Improvements without cost or expense to Landlord, by licensed contractors, in compliance with all applicable Laws and permits, and in a first-class and workmanlike manner, as provided in Exhibit B and this Article 7.

B. Timely Completion. Tenant shall take all steps necessary to enable it to commence, and will commence the construction of the Improvements and will diligently prosecute and complete maintenance on improvements necessary to maintain the Facility and Premises in good condition. In the event Tenant fails to improve or maintain the Premises and Facility in good condition, and does not cure such failure within 60 days of receipt of written notice from Landlord of such failure (or, if such failure cannot be cured within that 60 day period, Tenant has failed to commence the cure within 60 days and thereafter diligently and continuously pursue such cure to completion), at Landlord's election, exercisable in its

reasonable discretion, this Ground Lease shall terminate, and be null and void, and of no further force or effect.

7.2 Off-Site Improvements. For improvements outside of Premises as described in Exhibit C, Off-Site Improvements, the following conditions apply:

A. Judicial Streamlining. Tenant will ensure that construction of the Off-Site Improvements described in Exhibit C. complies with all the requirements of the Governor of California's Judicial Streamlining Program for Environmental Leadership Development Projects, codified in Section 21183 of the California Public Resources Code.

B. Construction. Tenant shall construct or cause to be constructed the improvements described in Exhibit C (**"Off-Site Improvements"**) within the time and in the manner set forth in Exhibit C. Except as otherwise provided in this Section 7.2, Tenant shall diligently prosecute, complete, and accomplish the Improvements without cost or expense to Landlord, by licensed contractors, in compliance with all applicable Laws and permits, and in a first class and workmanlike manner, as provided in Exhibit C and this Article 7.

C. Timely Completion. Tenant shall take all steps necessary to enable it to commence and complete the construction of the Improvements upon approved plans and permits and will diligently complete maintenance on the improvements described in Exhibit C in good condition. In the event Tenant fails to complete construction of the Improvements within the timelines established in Exhibit C, or the Tenant fails to maintain the Improvements in good condition, and does not cure such failure within 60 days of receipt of written notice from Landlord of such failure (or, if such failure cannot be cured within that 60 day period, Tenant has failed to commence the cure within 60 days and thereafter diligently and continuously pursue such cure to completion), at Landlord's election, exercisable in its reasonable discretion, this Ground Lease shall terminate, and be null and void, and of no further force or effect.

7.3 Alterations on Premises or Facility. Any construction, reconstruction, alterations, additions, or improvements or remodeling, in, on, or about the Facility or the undertaken by or on behalf of Tenant from and after the Commencement Date (including without limitation the Improvements, "Alterations") shall be governed by this Ground Lease. All Alterations, including exterior elevations and color thereof, and all such other improvements, shall be architecturally and aesthetically compatible and harmonious with the Facility, Premises, and any other buildings and improvements thereon to create a uniform general plan for the entire Berkeley Marina. Any Alterations shall be in compliance with applicable Laws and permits, shall at all times be of first class construction and architectural design, and shall be in accordance with all plans and specifications therefor submitted to and approved by Landlord as set forth below. No material changes to such approved plans and specifications shall be made without Landlord's prior written approval. All Alterations shall be diligently prosecuted, completed, and accomplished without cost or expense to Landlord, by licensed contractors, and in a first-class and workmanlike manner.

A. Alterations, Other than Minor Alterations. Except with Landlord's prior written consent, which may be granted or denied in Landlord's discretion, Tenant shall not make or cause to be made any Alterations except for Minor Alterations as set forth below. If Tenant at any time following the Commencement Date desires to undertake any Alterations (other than Minor Alterations), Tenant shall, prior to the commencement of such work, prepare or cause to be prepared, at its sole expense, and shall submit to Landlord for its review, cost estimates, plans and specifications for such work, showing, without limitation, scaled elevations, scaled

floor plans, design concepts, dimensions, material selection, colors, signing (if any) and such additional information as is reasonably requested by Landlord to make an informed decision on such submission. The plans and specifications shall comply with this Ground Lease and shall be in compliance with applicable Laws. Landlord shall approve or disapprove such submitted plans within 30 days of receipt of complete plans and specifications meeting the requirements of this subsection. Failure of the Landlord to approve or disapprove such plans and specifications within such 30-day period shall be deemed to be Landlord's disapproval.

B. Minor Alterations. Tenant shall have the right without Landlord's consent (but subject to all other provisions of this Ground Lease and upon 30 days prior written notice to Landlord), to undertake nonstructural alterations or remodeling of the Facility not visible from the outside or affecting exterior appearance and not altering the preexisting location of the Facility on the Premises, not exceeding $150,000 individually or $300,000 in cumulative costs during the Term of this Ground Lease (**"Minor Alterations"**). Notwithstanding the foregoing, and regardless of the cost thereof, Landlord's prior consent is required for any Alteration involving utility work, or attachment or any fixture or equipment to the Facility.

C. No Alterations to Off-Site Improvements. Tenant may not alter the design and construction specifications of Off-Site Improvements, unless as directed by Landlord in writing. Tenant must construct the Off-Site Improvements with the City's specifications, as discussed in Exhibit C. If Tenant proposes any change to off-site improvements, such proposal must be made in writing. Landlord will review and Landlord shall retain sole discretion to modify off-site improvement plans. Tenant would be responsible for any additional cost and permitting requirements, as described in 7.4.D.

7.4 Construction Standards. Unless expressly provided otherwise in this Article or Exhibit B or Exhibit C, the following standards shall apply to the design and construction of all Alterations under this Ground Lease.

A. Insurance. Tenant's designers, contractors and subcontractors shall maintain in force workman's compensation and such other employee, liability and property insurance as is customary for similar construction projects, and Tenant's designers, contractors and subcontractors shall also maintain in force professional liability insurance as is customary for similar construction projects. Other than worker's compensation and professional liability insurance, Landlord and Landlord Parties shall be named as additional insureds on all such insurance and Tenant shall provide certificates of insurance confirming such additional insured status prior to commencement of any Alterations work other than Minor Alterations.

B. Utility Work. Any work performed by or on behalf of Tenant or any occupant or sublessee to connect to, repair, relocate, maintain or install any storm drain, sanitary sewer, water line, gas line, telephone conduit or any other public utility service shall be performed so as to minimize interference with the provision of such services to other occupants and users of the Berkeley Marina.

C. Contracts, Plans and Specifications. With the exception of Minor Alterations, all contracts with any architect, other design professional, or any general contractor for the Alterations shall provide, in form and substance reasonably satisfactory to Landlord, for the assignment thereof to Landlord as security to Landlord for Tenant's performance hereunder, and Landlord shall be furnished with any such agreement, together with the further agreement of the parties thereto, that if this Ground Lease is terminated due to Tenant's default, Landlord may use any plans and specifications to which Tenant is then entitled pursuant to any such

contract without payment of any further sums to any party thereto. Tenant shall additionally furnish the City with all plans, specifications, studies, drawings, as-built drawings, evaluations, and documents in their complete or most complete state.

D. Permits and Approvals. To the extent that any Alterations require a building permit or other permits from the City of Berkeley, Bay Conservation and Development Commission (**"BCDC"**) and/or any other governmental agency, Tenant shall not perform any Alterations until Tenant has obtained all requisite permits and approvals. This includes compliance with the California Environmental Quality Act (CEQA).

E. Construction Safeguards. Tenant shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by Tenant, all necessary safeguards for the protection of workers and the public.

F. Prevailing Wage Laws. Tenant shall comply with all prevailing wage requirements of California Labor Code Sections 1720 *et seq*., to the extent such requirements are applicable to Alterations. Tenant agrees that to the extent it is required to comply with the prevailing wage requirements, Tenant shall assure that all workers are paid the general prevailing rate of per diem wages and the general per diem prevailing rate for holiday and overtime work as defined by applicable Laws (including without limitation Labor Code Section 1773.1) in effect from time to time. Copies of the applicable prevailing rate of per diem wages are on file at Landlord's principal office and will be made available to any interested party on request. Tenant agrees to post a copy of the prevailing rate of per diem wages at the Premises. Tenant, as a penalty to Landlord, shall forfeit $200 for each calendar day, or portion thereof (or such other sum as specified from time to time by Section 1775 of the California Labor Code), for each worker paid less than the applicable prevailing rates for such work or craft in which such worker is employed. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Tenant.

G. Landlord's Rights. Nothing herein shall limit any Landlord right under this Ground Lease, including without limitation those under Sections 5.10 and 5.11 above.

H. Completion. Upon completion of any Alterations (including Minor Alterations), Tenant shall deliver to Landlord two sets of final as-built plans and specifications, and copies of all permits, for the applicable work.

I. Tenant Costs. Except as otherwise expressly provided in this Ground lease, all Alterations shall be without cost or expense to Landlord.

7.5 Protection of Landlord. Nothing in this Ground Lease shall be construed as constituting the consent of Landlord, expressed or implied, to the performance of any labor or the furnishing of any materials in connection with any Alterations by any contractor, subcontractor, laborer or materialman, nor as giving Tenant or any other person any right, power or authority to act as agent of, or to contract for or permit the rendering of, any services, or the furnishing of any materials, in such manner as would give rise to the filing of mechanics' liens or other claims against the Premises or Facility. Landlord shall have the right at all reasonable times to post, and keep posted, on the Facility and the Premises any notices which Landlord may reasonably deem necessary for the protection of Landlord and of the Premises and Facility from mechanics' liens or other claims. Tenant shall give Landlord 10 days' prior written notice of the commencement of any Alterations to be done on or about the Facility or Premises to enable

Landlord to post such notices. In addition, Landlord may in its discretion require Tenant to furnish to Landlord at Tenant's expense reasonable improvement security, including performance and labor and materials bonds, prior to commencement of any Alterations. Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any Alterations or furnishing any materials or supplies to Tenant or any of its contractors or subcontractors in connection therewith.

7.6 **Liens and Stop Notices**. Tenant shall keep the Premises and Facility free and clear of all stop notices, mechanics' liens, and other liens on account of any Alterations done for Tenant or persons claiming under it. Tenant shall indemnify and save Landlord harmless against liability, loss, damages, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or materialmen or others for Alterations performed or materials or supplies furnished to Tenant or persons claiming under it. If a claim of a lien or stop notice is given or recorded affecting the Premises or Facility, Tenant shall within 30 days of such recording or service:

A. Pay and discharge the same;

B. Affect the release thereof by recording and delivering to Landlord a lien release bond in customary form and amount which results in the removal of such lien from the Facility and the Premises; or

C. Otherwise obtain or effect the release thereof.

7.7 **Notice**. Should any claims of lien be filed against the Premises or Facility thereon, or any action be commenced affecting the title to such property, the party receiving notice of such lien or action shall forthwith give the other party written notice thereof.

7.8 **Reimbursement and Payment.** For Landlord costs arising from Tenant improvements to the premises or off-site improvements, Tenant agrees to reimburse or pay the Landlord directly for those costs.

A. Payment for Landlord's consultants: Landlord shall provide Tenant with consultant cost estimate in advance. Tenant shall submit a lump sum to Landlord equal to the cost estimate within 30 days of receiving the estimate. When the work is completed, any excess funds will be refunded by Landlord to Tenant within 30 days. Landlord shall periodically bill Tenant in amounts equal to any change orders or added costs, and Tenant shall promptly submit payment within 30 days.

B. Payment for Landlord staff and/or related resources: Tenant agrees to provide progress payments to cover the costs of any Landlord staff or use of City resources. Landlord shall provide periodic statements listing Landlord's expenditures relating to staff or resources used for the Project and Tenant shall remit payment within thirty (30) days.

ARTICLE 8.
OWNERSHIP OF IMPROVEMENTS AND PERSONAL PROPERTY

8.1 **Ownership of Facility During Term**. The Facility shall remain the property of the Landlord during the Term.

8.2 **Ownership of Improvements at Termination or Expiration**. Upon the expiration or other termination of this Ground Lease, all improvements on the Premises, without compensation to Tenant, shall become Landlord's property free and clear of all claims to or against them by Tenant or any third person, and Tenant shall defend, indemnify, and hold Landlord harmless against any and all claims, liability and losses arising from such claims or from Landlord's exercise of the right conferred by this Section 8.2.

8.3 **Removal and Ownership of Personal Property at Termination or Expiration**. Parties agree that all attached, wired, plumbed, affixed, or mounted furniture, fixtures and equipment, including stoves, hoods, refrigeration, and other booths, bars, and kitchen equipment which are located in the Premises on the date of this Lease are the property of the City. Should Tenant purchase and install replacements for any item listed above during the Term of this Lease, then at Tenant's election, Tenant may remove such item(s) at the termination of the Term. At the expiration or sooner termination of the Term, Landlord may, at Landlord's election, require Tenant to remove from the Premises, at Tenant's sole cost and expense, all personal property. Tenant shall be entitled to remove from the Premises, at Tenant's sole cost and expense, at the expiration or sooner termination of the Term, all of Tenant's personal property , inventory, books and records, artwork, and any of Tenant's proprietary items or those which contain any of Tenant's intellectual property, Tenant shall be liable to Landlord for costs incurred by Landlord in effecting the removal of such personal property (including fixtures) which Tenant has failed to remove after demand pursuant to this section.

A. Tenant may, from time to time during the Term, remove any personal property (other than fixtures) that may be removed without damage to the structural integrity of the Premises or Facility. Tenant shall repair all damage caused by any such removal.

B. Any personal property owned by Tenant and not removed by Tenant prior to the expiration or earlier termination of the Term shall be deemed to be abandoned by Tenant and shall, without compensation to Tenant, become the Landlord's property, free and clear of all claims to or against them by Tenant or any other person, but subject to the rights of third party lenders and equipment lessors as to which Landlord has notice.

ARTICLE 9.
UTILITIES

Tenant shall be solely responsible for contracting for, and shall promptly pay all charges for telephone, computers and cable lines, wiring, materials, security, heat, air conditioning, water, gas, sewer, electricity, refuse, sewage, garbage, pest control services, and any other utility service supplied to the Facility, the Premises or any portion thereof, or any other improvements located thereon ("Utilities"). Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all demands, liabilities, claims, actions, damages, costs, and expenses, including reasonable attorneys' fees, arising out of or connected with the provision and payment of the Utilities.

ARTICLE 10.
INSURANCE AND INDEMNITY

10.1 **General Insurance Requirements**.

A. During the entire Term of this Ground Lease, Tenant shall provide the following forms and amounts of insurance with respect to the Facility and the Premises, and shall provide evidence of such coverage to Landlord on an annual basis. Such insurance shall be primary to and not contributing with any other insurance, self-insurance, or joint self-insurance maintained by the Landlord, shall name the Landlord as an additional insured, and shall include, but not be limited to:

1. Fire and Extended Coverage Insurance in All-Risk form, with vandalism and malicious mischief endorsements, covering the Facility including all Alterations and the Premises against loss or damage in an amount equal to not less than 100% of the replacement cost of the Facility, including all Alterations and fixtures, with such commercially reasonable deductible as may be approved by Landlord in its reasonable discretion; provided however, Tenant maintains a deductible or self-insured retention of $500,000.00 and the same is approved by Landlord. Such insurance shall include coverage for cost of demolition and increased cost of construction by reason of changes in applicable ordinances and laws and shall not contain a co-insurance clause.

2. Business Interruption Insurance on an “all risk” basis which will provide recovery for a minimum of 12 months of Tenant’s continuing Rent obligations, (including without limitation Percentage Rent which likely would have been payable in the absence of the interruption).

3. Broad Form Commercial General Liability Insurance protecting Tenant against claims for bodily injury, personal injury and property damage based upon, or arising out of, the ownership, use, occupancy or maintenance, directly or indirectly, of the Premises and Facility and all areas appurtenant thereto. Such insurance shall be written on an “occurrence” policy form providing single limit coverage in an amount not less than $2,000,000 per occurrence and umbrella/excess liability insurance in the amount of $5,000,000. Tenant shall add Landlord and its officers, agents, employees, and representatives (together, **“Landlord Parties”**) as additional insureds by means of an endorsement at least as broad as the Insurance Service Organization’s “Additional Insured-Managers or Landlords of Premises” endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Ground Lease as an “insured contract” for the performance of Tenant’s indemnity obligations under this Ground Lease. The limits of this insurance shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. Tenant shall provide a “per location’ endorsement on its liability policy or policies that provides that the general aggregate and other limits apply separately and specifically to the Premises and Facility.

4. Auto Liability Insurance endorsed for all owned and non-owned vehicles in the initial amount of $2,000,000, combined single limit.

5. Worker’s Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California.

6. Lender Insurance. Any additional policy of insurance required by any lender providing permanent financing for the Facility or any Alterations.

7. Removal Insurance. Tenant shall secure and maintain insurance coverage for any costs to remove and dispose of exoskeleton and related elements, and any

costs of resulting repairs to the building and premises to the City's satisfaction. Landlord, in its sole discretion, may require such removal, disposal and repair in the event that Tenant defaults or terminates prior to the end of the lease term.

8. Other Insurance. Any additional policy of insurance required by any Exhibit to this Ground Lease.

B. Review. The liability insurance requirements may be reviewed by Landlord every five years, for the purpose of increasing (in consultation with its insurance advisors) the minimum limits of such insurance from time to time to limits which shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards, but in no event will Tenant be required to increase the amount of cumulative or single occurrence coverage by more than 50% for any five-year period.

C. General. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. The commercial general liability and automobile liability policies hereunder shall name Landlord and Landlord Parties as additional insureds. Tenant shall furnish Landlord with a certificate of insurance evidencing the required insurance coverage and a duly executed endorsement evidencing such additional insured status. The certificate shall contain a statement of obligation on the part of the carrier to notify Landlord of any material change, cancellation or termination of the coverage at least 30 days in advance of the effective date of any such material change, cancellation or termination. Upon Landlord's request, Tenant shall provide certified copies of all insurance policies, including declarations pages. Coverage provided hereunder by Tenant shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by Landlord or City, and the policy shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the Landlord and other additional insureds. The required certificate and endorsement shall be furnished by Tenant to Landlord prior to the Commencement Date, and prior to each anniversary thereof. If Tenant fails to purchase, renew or maintain any insurance policies required herein, Landlord shall have the right to so purchase any such insurance.

10.2 Indemnity. To the greatest extent permitted by Law (including without limitation Civil Code Section 2782 if and to the extent applicable), Tenant shall protect, indemnify, defend and hold Landlord and Landlord Parties harmless from and against any and all demands, liability, claims, actions and damages to any person or property, costs and expenses, including attorneys' fees, arising out of or connected with: (i) a default by Tenant of its obligations under this Ground Lease; (ii) the use or occupancy of the Facility, the Premises, the improvements thereon including any Alterations, or any portion thereof, by Tenant or Tenant's Parties, other than those attributable to the sole negligence or willful misconduct of Landlord or Landlord Parties; and (iii) the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Premises in violation, or alleged violation, of any Laws, which occurs at any time during the Term. The indemnity obligation in clause (iii) above shall include any demands, liability, claims or actions for tangible or intangible property damage; compensation for lost wages, business income, profits or other economic loss; damage to the natural resource or the environment; nuisance; trespass; and/or contamination, leak, spill, release or other adverse effect on the environment. Tenant's indemnity obligations under this Section shall survive the expiration or termination of this Ground Lease.

ARTICLE 11.
DAMAGE OR DESTRUCTION

11.1 Restoration.

A. Insured Damage. No loss or damage by fire or any other cause resulting in either partial or total destruction of the Facility or any other improvements now or hereafter located on the Premises, including any fixtures, personal property, equipment or machinery used or intended to be used in connection with the Premises or Facility, shall (except as otherwise provided in Sections 11.1.B or 11.2, below) operate to terminate this Ground Lease or to relieve or discharge Tenant from the payment of any Rent, or other amounts payable hereunder, as and when they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained to be performed and observed by Tenant. Provided however, Rent shall abate during any period of time after the occurrence of such casualty if Tenant can no longer operate its business in the Facility. Tenant covenants to repair, reconstruct, and/or replace or cause to be repaired, reconstructed and/or replaced the Facility and any other improvements now or hereafter located on the Premises, including any fixtures, personal property, equipment or machinery used or intended to be used in connection with the Premises or Facility, so damaged or destroyed. Subject to the rights of any Ground Leasehold Mortgagee (as defined in Section 14.2 below) Tenant also covenants that all insurance proceeds will be deposited with the Insurance Trustee and applied to the repair, reconstruction and/or replacement described herein. Tenant's failure to make such full repair, restoration and replacement under any conditions in which it was elected or required so to do shall constitute a default by Tenant under this Ground Lease.

B. Facility Uninsured Damage. Notwithstanding the provisions of Section 11.1.A, if, during the Term, (i) the Facility is totally destroyed or rendered inaccessible or if the remaining portion of the Facility is rendered unsuitable (as defined herein) for Tenant's continued use, from a risk not covered 90% by the insurance required to be carried by Tenant under this Ground Lease, and (ii) the cost of restoration exceeds 50% of the then replacement value of the Facility as reasonably determined by Landlord, Tenant can elect to terminate this Ground Lease by giving notice to Landlord within 30 days after Landlord's determination of the restoration cost and replacement value. The Facility shall be deemed unsuitable for Tenant's continued use if, following a reasonable amount of reconstruction, Tenant's business in the Facility could not be operated at an economically feasible level. If Tenant elects to terminate this Ground Lease, Landlord in Landlord's sole and absolute discretion may, within 90 days after receiving Tenant's notice to terminate, elect to pay the difference between 90% of the replacement value of the Facility and the actual cost of restoration, in which case Tenant shall restore the Facility. Promptly following Landlord's election to contribute, Landlord shall deposit the amount of its contribution with the Insurance Trustee provided for in subsection C below. If Tenant elects to terminate this Ground Lease and Landlord in its sole and absolute discretion does not elect to contribute toward the cost of restoration as provided in this Subsection 11.1.B, this Ground Lease shall terminate as of the 91st day following Tenant's notice.

C. Establishment of Insurance Trust and Disbursement Procedures. Except as may otherwise be required by any Ground Leasehold Mortgagee, Tenant shall make the loss adjustment with the insurance company insuring the loss and on receipt of the proceeds shall immediately pay them to a builder's control company, title company, or bank selected by the mutual agreement of the parties (**"Insurance Trustee"**). To the extent Landlord in its sole and absolute discretion elects to contribute to the restoration costs as provided in subsection B above, Landlord shall deposit with the Insurance Trustee its contribution toward the cost of

restoration. All sums deposited with the Insurance Trustee shall be held for the following purposes and the Insurance Trustee shall have the following powers and duties:

1. The sums shall be paid in installments by the Insurance Trustee to the contractor retained by Tenant as construction progresses, for payment of the cost of restoration. Any final retention provided for in the contract with such contractor will be paid to the contractor on completion of restoration, payment of all costs, expiration of all applicable lien periods, and proof that the restored Facility and the Premises are free of all mechanics' liens and lienable claims.

2. Payments shall be made on presentation of certificates or vouchers from the architect or engineer retained by Tenant showing the amount due. If the Insurance Trustee, in its reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Tenant, the Insurance Trustee shall have the right to appoint an architect or an engineer to supervise construction and to make payments on certificates or vouchers approved by the architect or engineer retained by the Insurance Trustee. The reasonable expenses and charges of the architect or engineer retained by the Insurance Trustee shall be paid by the Insurance Trustee out of the trust fund.

3. If the sums held by the Insurance Trustee are not sufficient to pay the actual cost of restoration, Tenant shall deposit the amount of the deficiency with the Insurance Trustee within ten (10) business days after request by the Insurance Trustee indicating the amount of the deficiency.

4. Any undisbursed funds after compliance with the provisions of this Subsection 11.1.C shall be delivered to Landlord to the extent of Landlord's contribution to the fund, and the balance, if any, shall be paid to Tenant.

5. All actual costs and charges of the Insurance Trustee shall be paid by Tenant.

6. If the Insurance Trustee resigns or for any reason is unwilling to act or continue to act, the parties shall substitute a new trustee in the place of the designated Insurance Trustee.

7. Both parties shall promptly execute all documents and perform all acts reasonably required by the Insurance Trustee to perform its obligations under this Subsection 11.1.C.

11.2 **Right to Terminate Upon Destruction Near the End of the Term**. If, during the last year of the Term, the Facility is totally or partially destroyed, and if the cost of restoration exceeds 20% of the replacement cost of the Facility immediately before the damage or destruction, Tenant may elect to terminate this Ground Lease, provided that Tenant complies with all of the following conditions:

A. Tenant gives Landlord written notice of the damage or destruction within 30-days after the event causing such damage or destruction;

B. Tenant is not in default under this Ground Lease;

C. Tenant transfers to Landlord all insurance proceeds resulting from the casualty, net of any cost incurred by Tenant in collecting such insurance proceeds and/or in complying with the provisions of Subsection 11.2.E below and net of the portion of such proceeds that are payable to any Ground Leasehold Mortgagee pursuant to the Ground Leasehold Mortgage; and

D. Tenant delivers possession of the Premises, the Facility and all other improvements located on the Premises to Landlord and quitclaims to Landlord all of Tenant's right, title and interest therein.

E. If Tenant so elects to terminate this Ground Lease under this Section, then Tenant shall, at its expense, promptly remove all debris and put the Facility, the Premises and all improvements thereon in a safe condition. Following Tenant's satisfactory performance of the foregoing requirements, this Ground Lease shall terminate and the parties shall have no further obligations to each other excepting those previously accrued but theretofore unsatisfied and those obligations which by their terms survive expiration or termination of this Ground Lease.

11.3 Waiver. The provisions of this Article 11 shall govern the rights of the parties in the event of any full or partial destruction of the Facility and any improvements thereon. Tenant hereby waives the provisions of Civil Code Section 1932(2) and Civil Code Section 1933(4) and any similar successor statute or Law with respect to any destruction of the Facility.

11.4 Determination of Extent of Destruction, Interference with Use. For purposes of this Article 11, the extent of destruction of the Facility shall be determined by dividing the estimated cost of replacement or restoration as evidenced by estimates prepared by licensed general contractors acceptable to Landlord by the full replacement cost of the Facility, as reasonably determined by Landlord.

11.5 Procedures for Repair and Restoration. In the event of any damage or destruction, Tenant shall promptly give Landlord written notice of such damage or destruction and the date on which such damage or destruction occurred. Tenant shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims which Tenant may have against insurers or others based upon any such damage or destruction. Except as otherwise provided above, amounts received on account of any losses pursuant to insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the portions of the Facility which have been destroyed or damaged. Tenant shall commence and complete or cause to be commenced and completed, in a good and workmanlike manner and in accordance with Article 7, the reconstruction or repair of any part of the Facility damaged or destroyed, after Landlord has approved Tenant's plans, drawings, specifications, construction schedule and permits for such reconstruction or repair.

ARTICLE 12.
CONDEMNATION

12.1 Definitions.

A. **"Condemnation"** means: (1) the exercise of any governmental power in eminent domain, whether by legal proceedings or otherwise, by a condemnor, and (2) a voluntary sale or transfer to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

B. **"Date of taking"** means the date the condemnor has the right to possession of the property being condemned.

C. **"Award"** means all compensation, sums or anything of value awarded, paid or received on a total or partial condemnation.

D. **"Condemnor"** means any public or quasi-public authority, or private corporation or individual, having the power of condemnation.

12.2 Parties' Rights and Obligations to be Governed by Ground Lease. If during the Term there is any taking of all or any part of the Premises, the Facility or any other improvements on the Premises or any interest in this Ground Lease by condemnation, the rights and obligations of the parties shall be determined pursuant to the provisions of this Article 12.

12.3 Total Taking. If the Premises or Facility is totally taken by condemnation, this Ground Lease shall terminate on the date of taking.

12.4 Effect of Partial Taking. If a portion of the Facility or Premises or any other improvements thereon are taken by condemnation, this Ground Lease shall remain in effect, except that Tenant may elect to terminate this Ground Lease if the remaining portion of the Premises or Facility is rendered unsuitable (as defined herein) for Tenant's continued use. The remaining portion of the Facility or the Premises shall be deemed unsuitable for Tenant's continued use if, with a reasonable amount of reconstruction, Tenant's business in the Facility could not be operated at an economically feasible level. Tenant must exercise its right to terminate by giving Landlord written notice of its election within 90 days after the nature and extent of the taking have been finally determined. Such notice shall also specify the date of termination, which shall not be prior to the date of taking. Failure to properly exercise the election provided for in this Section 12.4 will result in this Ground Lease continuing in full force and effect. Provided however, if the Ground Lease continues in effect as aforesaid, the Base Rent shall be equitably abated based on the remaining area of the Facility or the Premises bears to the pre-condemnation area of the Facility or the Premises.

12.5 Restoration of Facility. If in Tenant's judgment it is reasonably possible and economically feasible to do so, Tenant shall be entitled to use that portion of the award allocable to the Facility (but not any portion allocable to the Premises) as is necessary to restore or to add on to the Facility so that the area and approximate layout of the Facility will be substantially the same after the date of taking as it was before the date of taking. If it is not reasonably possible and economically feasible to so restore the area and layout of the Facility, the remaining provisions of this Article 12 shall govern the rights of the parties. If Tenant fails to promptly commence any reasonably required repair, restoration or reconstruction of the Facility and diligently prosecute such repair, restoration or reconstruction to completion, and such failure is not remedied within 30 days of written notice from the Landlord to Tenant, this Ground Lease may be terminated by the Landlord.

12.6 Waiver of CCP Section 1265.130. Each party waives the provisions of the Code of Civil Procedure Section 1265.130 allowing either party to petition the Superior Court of the County of Alameda, State of California to terminate this Ground Lease in the event of a partial taking of the Premises.

12.7 Award. If all or any portion of the Premises is taken in connection with a condemnation, the entire portion of the award allocable to the Premises shall belong to

Landlord. Subject to the provisions of Section 12.5, and subject to the rights of any Ground Lease Mortgagee, if all or any portion of the Facility or any other improvements on the Premises is taken in connection with a condemnation, the award for the Facility or such other improvements shall belong to Landlord, except as hereinafter provided. Tenant, or any subtenant, as applicable, shall be entitled to receive only: (a) the value of any leasehold improvements, merchandise, personal property, and furniture, fixtures and equipment owned by Tenant or its subtenant that are taken in connection with such condemnation; and (b) loss of Tenant's or its subtenant's business goodwill, if agreed to be paid by the condemning authority or awarded by a court. Neither Tenant nor any subtenant shall have any right to receive any amount on account of any loss of any other interest in this Ground Lease, including without limitation any so-called "leasehold bonus value" or other amount due to differences between the Rent payable hereunder and the then current fair market rental value of Tenant's interest in this Ground Lease. Nothing in this Section 12.7 shall be deemed a waiver or surrender by Tenant or any subtenant of any right to receive relocation assistance under Government Code Section 7260, et seq., or compensation for moving of personal property under Code of Civil Procedure Section 1263.260.

ARTICLE 13.
QUALITY, ASSIGNMENT AND SUBLETTING

13.1 Quality Expectations.

A. Tenant shall operate a high quality, full-service restaurant and event space that meets a community need.

B. Tenant shall provide the City with advance notice in the event that a name change or other change is requested. The request shall include the reason for the request, along with supporting documentation that the proposed concept will continue to facilitate a high quality, full-service restaurant and event space that meets a community need and comparable revenue expectations to the prior use. The City shall have 3 months to review the proposal, request additional information. However, the City's approval shall not be unreasonably withheld, conditioned, or delayed.

13.2 Assignment.

A. Tenant shall not assign, sublet or otherwise transfer, whether voluntarily or involuntarily or by operation of Law, this Ground Lease, the Facility or any part thereof (collectively an **"assignment"**) without Landlord's written consent, which shall not unreasonably be withheld, conditioned or delayed. The merger of Tenant with any other entity or the assignment or transfer of any controlling or managing ownership or beneficial interest in Tenant, or the assignment or transfer of a substantial portion of the assets of Tenant, whether or not located at the Premises, shall constitute an "assignment" hereunder. Tenant agrees that it shall not be unreasonable for Landlord to condition its approval upon, among other things, the proposed assignee having a financial net worth, according to a current financial statement prepared by a certified public accountant, which is equal to or greater than that of Tenant at the date of execution of this Lease or at the time of assignment, whichever is higher, upon the proposed assignee having a reputation for and experience and qualifications in operating and maintaining restaurant properties comparable to the Facility, and upon the proposed assignee having a first-class business reputation. In evaluating the acceptability of the net worth of a proposed assignee, Landlord may require that the assignee's net worth be sufficient to carry out the performance of Tenant's obligation under this Ground Lease. Subject to the foregoing,

Landlord agrees that it will not withhold its consent to Tenant's assignment of its interest in this Ground Lease if Tenant demonstrates to Landlord's reasonable satisfaction that such assignee has a net worth equal to or exceeding that of Tenant as of the Effective Date or the assignment date (whichever is greater), has a reputation for and at least five years' experience and qualifications in operating and maintaining at least three similar restaurants of comparable quality, has a first-class business reputation in the restaurant industry, and will provide a restaurant that serves the community well. Tenant shall promptly provide Landlord with any information reasonably requested by Landlord relating to the identity of any proposed assignee, the nature of such assignee's business and the proposed assignee's financial responsibility. Landlord's consideration should be limited to the proposed assignee's financial condition, its business experience and reputation, and the standard of operation of its existing restaurants, in determining whether to grant consent to the assignment.

B. Notwithstanding Subsection 13.1.A above, Landlord's consent is not required for any assignment to an Affiliate of Tenant (as defined below), as long as the following conditions are met: (i) Landlord receives written notice of the assignment (as well as any documents or information reasonably requested by Landlord regarding the assignment or assignee); and (ii) the assignee assumes in writing all of Tenant's obligations under this Ground Lease. For purposes of this Section, **"Affiliate"** means an entity which controls, is controlled by or under common control with Tenant. For the purposes of this definition, "control" means the direct or indirect ownership of more than 50% of the voting securities of an entity or possession of the right to direct the entity's day-to-day affairs. Notwithstanding Subsection 13.1.A above, Landlord's consent is not required for (A) a transfer of any ownership interest in connection with a proposed public offering by Tenant or an Affiliate or parent or holding company; or (B) the merger or consolidation with or the sale of substantially all of the assets of Tenant or Tenant's parent to a third party who shall assume Tenant's obligations under this Lease; in such event, Tenant shall notify Landlord in writing of the occurrence of either of the foregoing events, and shall provide a true and correct copy of the assignment and assumption agreement, together with such other documentation supporting or evidencing said event as may be reasonably requested by Landlord.

C. No partial assignments of this Ground Lease shall be permitted. Assignments of this Ground Lease shall only be made pursuant to a written assignment and assumption agreement in a form reasonably acceptable to Landlord. Landlord's consent to any one assignment shall not constitute consent to any other assignment, and shall not constitute a waiver of the right to give or withhold consent in accordance with this Section 13.2.

D. In the event Tenant shall assign this Ground Lease or request the consent of Landlord to any assignment, or if Tenant shall request the consent of Landlord for any other act Tenant proposes to do, then Tenant shall pay Landlord's reasonable attorneys' fees incurred in connection with each such request.

13.3 **Subleases.** Tenant shall not sublease all or any portion of the Facility or the Premises without Landlord's prior written consent, which may not be unreasonably withheld, conditioned or delayed.

ARTICLE 14.
TENANT DEFAULTS AND LANDLORD'S REMEDIES

14.1 **Defaults by Tenant**. Tenant shall be in default under this Ground Lease upon occurrence of any of the following:

A. Tenant shall at any time be in default in the payment of Rent or any other monetary sum called for by this Ground Lease for more than 10 days following written notice from Landlord to Tenant; or

B. Tenant shall at any time be in default in the keeping and performing of any of its other covenants or agreements herein contained, and should such other default continue for 30 days after written notice thereof from Landlord to Tenant specifying the particulars of such default, or if such other default is of a nature that curing such default will take more than 30 days Tenant has failed to commence such cure within such 30-day period and to thereafter diligently and continuously pursue completion of such cure; or

C. Tenant fails to have timely Commenced Construction or achieved substantial completion of the Improvements as required by Exhibit B and Exhibit C; or

D. Tenant abandons or substantially suspends the Improvements prior to completion thereof and such default is not cured within 30 days of written notice from Landlord to Tenant; or

E. Tenant assigns, sells, transfers, conveys, encumbers, hypothecates or leases the whole or any part of the Facility, the Premises, or any other improvement constructed thereon in violation of the Ground Lease; or

F. Except as otherwise expressly permitted in this Ground Lease there is any change in control of Tenant, or any other act or transaction involving or resulting in a change in the identity of the parties in control of Tenant or the degree of such control; or

G. Tenant fails to pay promptly when due each and every installment of principal and interest on any private loan encumbering Tenant's interest in this Ground Lease or any improvements on the Premises for which Tenant is responsible, and such failure continues beyond (i) the expiration of any applicable grace or cure period, and (ii) the date by which Tenant must make payment to cure any notice of default received from the holder of such private loan; or

H. Any Ground Leasehold Mortgagee or any other holder of any private loan encumbering Tenant's interest in this Ground Lease, or any improvements on the Premises initiates a foreclosure of the deed of trust by which such loan is secured, and Tenant fails to cause such foreclosure proceedings to be dismissed prior to the earlier to occur of (i) the trustee under the deed of trust giving notice of the trustee's sale, or (ii) within 30 days of Tenant's receipt of written notice from Landlord..

14.2 Remedies. Subject to the rights of any Ground Leasehold Mortgagees permitted under Article 15, upon the occurrence of any such default, in addition to any and all other rights or remedies of Landlord hereunder, or by Law or in equity provided, Landlord shall have the sole option to exercise the following rights and remedies:

A. Terminate this Ground Lease by giving Tenant thirty (30) days prior written notice of termination. Thirty days after the giving of such notice, all of Tenant's rights in the Premises, Facility and any other improvements located thereon, shall terminate. On the 30th day Immediately following delivery of the notice of termination, Tenant shall surrender and vacate the Premises, including the Facility and any other improvements located thereon, leaving them in broom-clean condition; and, subject to Subsection 14.2.B, below, respecting the right of certain

subtenants to remain, Landlord may reenter and take possession of the Premises and Facility and eject all parties in possession or eject some and not others, or eject none. Termination under this subsection shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.

B. Without terminating this Ground Lease, Landlord may at any time and from time to time relet the Premises, including the Facility, or any part or parts thereof for the account and in the name of Tenant or otherwise. Any reletting may be for the remainder of the Term or for a longer or shorter period. Landlord may execute any leases made under this provision either in Landlord's name or in Tenant's name, and shall be entitled to all rents from the use, operation, and occupancy of the Premises, Facility and any other improvements thereon. Tenant hereby appoints Landlord its attorney-in-fact for purpose of such leasing. Tenant shall nevertheless pay to Landlord on the due dates specified in this Ground Lease the equivalent of all sums required of Tenant under this Ground Lease, less the revenue received by Landlord from any reletting or attornment, plus Landlord's expenses, including (by way of example), but not limited to, remodeling expenses, Landlord's brokerage and advertising costs and attorneys' fees and costs. No act by or on behalf of Landlord under this subsection shall constitute a termination of this Ground Lease unless Landlord gives Tenant written notice of termination.

C. Even though Landlord may have relet all or any portion of the Premises, including the Facility and any other improvements thereon, Landlord may thereafter elect to terminate this Ground Lease and all of Tenant's rights in or to the foregoing.

14.3 **Damages**. Should Landlord elect to terminate this Ground Lease, Landlord shall be entitled to recover from Tenant, as damages:

A. The worth at the time of the award of the unpaid Rent that had been earned at the time of termination of this Ground Lease;

B. The worth at the time of the award of the amount by which the unpaid Rent that would have been earned after the date of termination of this Ground Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;

C. The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term of this Ground Lease after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and

D. Any other amount (and court costs) necessary to compensate Landlord for all detriment proximately caused by Tenant's default, including costs of alterations and improvements in connection with reletting.

E. Computing Worth at the Time of Award. The "worth at the time of the award," as used in Subsections 14.3.A and 14.3.B, is to be computed by allowing interest at the maximum rate permitted by Section 1(2) of Article XV of the California Constitution. The "worth at the time of the award," as referred to in Subsection 14.3.C, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent.

F. Landlord shall mitigate its damages by making reasonable efforts to relet the Premises on reasonable terms, including engaging a listing broker to market the Leased

Premises and publishing the space as “available” in real estate databases commonly used by commercial brokers in the San Francisco/Berkley, CA market. Landlord may relet for a shorter or longer period of time than the Term and make any necessary repairs or alterations. If Landlord relets for a period of time shorter or longer than the current Term or at a lower rental rate than the Base Rent herein, then Tenant shall be liable for any lost Rent and expenses related to the new lease limited to leasing commissions, and reasonable tenant improvements. However, the cost of the leasing commissions and tenant improvements shall be amortized over the entire reletting term so that Tenant shall only be liable for such costs and expenses allocated to the remaining term of the Lease.

14.4 **Landlord’s Right to Cure Tenant’s Default**. Landlord, at any time after Tenant commits a default which Tenant has failed to cure within the time established therefor, may cure the default at Tenant’s cost. If Landlord at any time, by reason of Tenant’s default, pays any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date, shall bear interest at the maximum rate permitted under Section 1(2) of Article XV of the California Constitution from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant.

ARTICLE 15.
MORTGAGEE PROTECTION PROVISIONS

15.1 **Ground Leasehold Mortgage Authorized**. As provided and defined in this Article, Tenant may mortgage or otherwise encumber Tenant’s interest in this Ground Lease to an “Institutional Investor” under one or more Ground Leasehold Mortgage(s) and assign this Ground Lease as security for such mortgage(s). The Ground Leasehold Mortgage(s) shall affect only Tenant’s interest in this Ground Lease and shall be subject to all of the terms and provisions of this Ground Lease. Landlord’s fee interest shall not be encumbered or subordinated.

15.2 **Notice to Landlord**. If Tenant shall mortgage Tenant’s interest in this Ground Lease to an Institutional Investor, and if the holder of such Ground Leasehold Mortgage shall provide Landlord with notice of such Ground Leasehold Mortgage, together with a true copy of such Ground Leasehold Mortgage, the note and all other documents relating to such Ground Leasehold Mortgage, and the name and address of the holder, Landlord and Tenant agree that, following receipt of such notice by Landlord, the provisions of this Article 15 shall apply with respect to such Ground Leasehold Mortgage. In the event of any assignment of a Ground Leasehold Mortgage, or in the event of a change of address of the holder thereunder or of an assignee of such holder, notice of the new name and address shall be provided to Landlord. Tenant shall thereafter also provide Landlord from time to time with a copy of each amendment or other modification or supplement to such instruments. All recorded documents shall be certified as true and correct copies of official records by the Alameda County Recorder and all nonrecorded documents shall be accompanied by a certification by Tenant or the holder that such documents are true, complete, and correct copies of the originals.

15.3 **Definitions**. As used in this Article 15:

A. **“Institutional Investor”** means any lender which has assets in excess of $100 Million at the time the Ground Leasehold Mortgage or similar loan is made.

B. **“Ground Leasehold Mortgage”** includes a mortgage, deed of trust or other security instrument authorized in favor of an (except as provided in Section 15.3)

Institutional Investor by which Tenant's interest in this Ground Lease are mortgaged, conveyed, assigned or otherwise transferred to secure a debt or other obligation.

C. "**Mortgagee**" shall refer to a holder of a Ground Leasehold Mortgage under with respect to which the notice provided for by Section 15.2 has been given and received and as to which the provisions of this Article 15 are applicable.

15.4 Consent of Ground Leasehold Mortgagee Required. No cancellation, surrender or modification of this Ground Lease shall be effective as to any Ground Leasehold Mortgagee unless consented to in writing by such Ground Leasehold Mortgagee.

15.5 Notice to Ground Leasehold Mortgagee. With respect to any Ground Leasehold Mortgage, whenever Landlord shall deliver any notice to Tenant with respect to any default by Tenant hereunder, Landlord shall at the same time deliver a copy of such notice to each Ground Leasehold Mortgagee authorized by this Ground Lease. No notice of default shall be effective as to the Ground Leasehold Mortgagee unless such notice is given. Each Ground Leasehold Mortgagee shall (insofar as the rights of Landlord are concerned) have the right, at its option, within 60 days after the receipt of the copy of the notice, to cure or remedy or commence to cure or remedy any such default. In the event possession of the Facility or the Premises, or any portion thereof, is required to effectuate such cure or remedy, the Ground Leasehold Mortgagee shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within 60 days after receipt of the copy of the notice, diligently and continuously pursues such proceedings to completion, and, after obtaining possession, diligently and continuously completes such cure or remedy. The provisions of Section 15.7 below shall apply if, during such 60-day termination notice period, the Ground Leasehold Mortgagee shall

A. Notify Landlord of such Ground Leasehold Mortgagee's desire to nullify such notice, and

B. Pay or cause to be paid all Rent, and other payments then due and in arrears as specified in the termination notice to such Ground Leasehold Mortgagee and which may become due during such 60-day period, and

C. Comply, or in good faith, with diligence and continuity, commence to comply, with all nonmonetary requirements of this Ground Lease then in default and reasonably susceptible of being complied with by such Ground Leasehold Mortgagee; provided, however, that in the event such Ground Leasehold Mortgagee shall commence foreclosure proceedings within such 60-day period, such Ground Leasehold Mortgagee shall not be required during such 60-day period to cure or commence to cure any default consisting of Tenant's failure to satisfy and discharge any lien, charge or encumbrance against the Tenant's interest in this Ground Lease junior in priority to the lien of the Ground Leasehold Mortgage held by such Ground Leasehold Mortgagee.

D. Any notice to be given by Landlord to a Ground Leasehold Mortgagee pursuant to any provision of this Article 15 shall be deemed properly addressed if sent to the Ground Leasehold Mortgagee who served the notice referred to in Section 15.2 at the address stated in such notice unless notice of a change of mortgage ownership has been given to Landlord pursuant to Section 15.2.

15.6 **Ground Leasehold Mortgagee Foreclosure**. If Landlord shall elect to terminate this Ground Lease by reason of any default of Tenant and the Ground Leasehold Mortgagee shall have proceeded in the manner provided for by Section 15.5, the specified date for termination of this Ground Lease as fixed by Landlord in its termination notice shall be extended for a period of six months, provided that such Ground Leasehold Mortgagee shall, during such six-month period:

A. Pay, or cause to be paid, Rent (including the Base Rent, Percentage Rent, and any other monetary obligations of Tenant under this Ground Lease) as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this Ground Lease; and

B. If not enjoined or stayed, take steps to acquire or sell Tenant's interest in this Ground Lease by foreclosure of the Ground Leasehold Mortgage or other appropriate means and prosecute the same to completion with diligence.

If, at the end of such six-month period, such Ground Leasehold Mortgagee is diligently complying with this Section 15.6, this Ground Lease shall not then terminate, and the time for completion by such Ground Leasehold Mortgagee of its proceedings shall continue so long as such Ground Leasehold Mortgagee is enjoined or stayed and thereafter provided such Ground Leasehold Mortgagee continues to meet its obligations under Subsection 15.6.A above, and proceeds to complete steps to acquire or sell Tenant's interest in this Ground Lease by foreclosure of the Ground Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this Section 15.6, however, shall be construed to extend this Ground Lease beyond the Initial Term (or, if applicable, any then-effective Extension Term), nor to require a Ground Leasehold Mortgagee to continue such foreclosure proceedings after the default has been timely cured. If the default shall be timely cured and the Ground Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Ground Lease shall continue in full force and effect as if Tenant had not defaulted under this Ground Lease.

15.7 **Purchaser at Foreclosure**. If the Ground Leasehold Mortgagee is complying with Section 15.6, upon the acquisition of the entirety of Tenant's interest in this Ground Lease by such Ground Leasehold Mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise (and the discharge or extinguishment of any lien, charge or encumbrance against Tenant's interest in this Ground Lease which is junior in priority to the lien of the Ground Leasehold Mortgage held by such Ground Leasehold Mortgagee and which the Tenant is obligated to satisfy and discharge by reason of the terms of this Ground Lease), this Ground Lease shall continue in full force and effect as if Tenant had not defaulted under this Ground Lease. Any such purchaser, including the Ground Leasehold Mortgagee or the transferee under any instrument of assignment or transfer in lieu of the foreclosure of the Ground Leasehold Mortgage, shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such purchase and assignment.

15.8 **Ground Leasehold Mortgagee's Right to Sell**. If such Ground Leasehold Mortgagee acquires title to Tenant's interest in this Ground Lease pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings, such Ground Leasehold Mortgagee, upon acquiring Tenant's interest in this Ground Lease, may sell and assign the combined entirety of Tenant's interest in this Ground Lease only on such terms and to such persons and organizations as are reasonably acceptable to Landlord. If such Ground Leasehold

Mortgagee's proposed transferee is acceptable to Landlord, in the exercise of Landlord's commercially reasonable discretion, then from and after the date of such sale and assignment the Ground Leasehold Mortgagee shall be relieved of all obligations under this Ground Lease as if such transferee has delivered to Landlord its written agreement to be bound by all of the provisions of this Ground Lease.

15.9 Holder Not Obligated to Construct Improvements. The holder of any Ground Leasehold Mortgage authorized by this Ground Lease shall not be obligated by the provisions of this Ground Lease to construct or complete the Improvements or to guarantee such construction or completion. Nothing in this Ground Lease shall be deemed to or be construed to permit or authorize any such Ground Leasehold Mortgagee to devote the Facility or the Premises to any uses or to construct any improvements thereon or therein other than those uses and improvements provided for and authorized by this Ground Lease.

15.10 Right of Landlord to Cure Ground Leasehold Mortgage Default. If a Ground Leasehold Mortgage default or breach by Tenant occurs prior to completion of the Improvements, and the Ground Leasehold Mortgagee has not exercised its option to cure the default, Landlord may cure the default following prior notice thereof to Tenant. In such event, Tenant shall be liable for, and Landlord shall be entitled to reimbursement from Tenant of, all costs and expenses incurred by Landlord associated with and attributable to the curing of the Ground Leasehold Mortgage default or breach. Landlord shall also be entitled to record a lien against Tenant's interest in this Ground Lease to the extent of such incurred costs and disbursements. Any such lien shall be subject and subordinate to all prior Ground Leasehold Mortgages and encumbrances.

ARTICLE 16.
MISCELLANEOUS

16.1 Holding Over. If Tenant shall hold over in the Facility or on the Premises after the expiration of the Term hereof with the consent of Landlord, such holding over shall be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Ground Lease. Tenant hereby agrees to pay to Landlord as monthly rental 1/12th of the amount which is 125% of the highest amount of total Annual Rent paid by Tenant to Landlord during the Term.

16.2 Attorneys' Fees. In the event that any action is brought by either party hereto against the other for the enforcement or declaration of any right or remedy in or under this Ground Lease or for the breach of any covenant or condition of this Ground Lease, the prevailing party shall be entitled to recover, and the other party agrees to pay, all fees and costs to be fixed by the court therein including, but not limited to, attorneys' fees.

16.3 Quiet Possession. Landlord agrees that so long as Tenant is not in default under this Ground Lease and is paying the Rent and performing all of the covenants and conditions of this Ground Lease, Tenant shall quietly have, hold and enjoy the Premises throughout the Term hereof without interruption or disturbance from Landlord or any other persons claiming by, through or under Landlord.

16.4 Force Majeure. Except as to the payment of Rent, subject to the limitations set forth below, performance by either party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Ground Lease shall be extended, where delays are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires;

casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; unusually severe weather; lack of reasonable availability of labor or materials; acts or omissions of the other party; or acts or failures to act of the City or any other public or governmental agency or entity (other than the acts or failures to act of Landlord which shall not excuse performance by Landlord). An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within 30 days of the commencement of the cause. Times of performance under this Ground Lease may also be extended in writing by the mutual agreement of Landlord and Tenant. Tenant expressly agrees that adverse changes in economic conditions, either of Tenant specifically or the economy generally, changes in market conditions or demand, and/or Tenant's inability to obtain financing or other lack of funding, or to complete the Improvements shall not constitute grounds of force majeure delay pursuant to this Section 16.4. Tenant expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Commencement Date.

If, at any time during the Term, fifty percent (50%) or more of the indoor dining room portion of the Premises cannot be utilized as a seated indoor dining restaurant for more than three (3) days as a result of any local, state, or federal order, regulation, law, directive or other mandate (each a "Government Order"), then Base Rent payable thereafter shall abate commencing as of the date on which such Government Order takes effect, and expiring on the date on which such Government Order is lifted. In the event that the Government Order has not ceased within 180 days from the first date on which the Government Order takes effect, Tenant shall have the right to elect to terminate this Lease at any time thereafter upon written notice to Landlord at any time after the expiration of such 180 day period, and both parties shall be relieved of all further obligations hereunder except for those obligations which expressly survive any termination hereof.

16.5 **Notices**. Any notice to be given or other document to be delivered by either party to the other hereunder shall be in writing and shall be deemed to have been duly given and received (i) upon personal delivery, (ii) as of the third business day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, or (iii) the immediately succeeding business day after deposit with Federal Express or other equivalent overnight delivery system, addressed to the party for whom intended, as indicated in the Basic Lease Information. Any party hereto may from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

16.6 **Waiver**. No waiver of any breach of any of the terms, covenants, agreements, restrictions or conditions of this Ground Lease shall be construed to be a waiver of any succeeding breach of the same or other terms, covenants, agreements, restrictions and conditions hereof.

16.7 **Surrender**. Upon the expiration or sooner termination of the Term of this Ground Lease, and notwithstanding anything herein contained to the contrary, Tenant shall surrender to Landlord the Facility, the Premises and any improvements thereon, broom clean and in good condition and repair, reasonable wear and tear excepted.

16.8 **Binding**. Subject to the restrictions set forth herein regarding assignment of , Tenant's interest in this Ground Lease, each of the terms, covenants and conditions of this Ground Lease shall extend to and be binding on and shall inure to the benefit of not only

Landlord and Tenant, but to each of their respective heirs, administrators, executors, successors and assigns. Whenever in this Ground Lease reference is made to either Landlord or Tenant, the reference shall be deemed to include, wherever applicable, the heirs, administrators, executors, successors and assigns of such parties, the same as if in every case expressed.

16.9 Landlord's Right to Enter Premises and Facility. Landlord and its authorized representatives shall have the right to enter the Premises and Facility at all reasonable times, after giving Tenant 24 hours prior written notice (except in emergency in which case no notice shall be required), for any purpose, including: to determine whether the Premises, the Facility, or any other improvements on the Premises is in good condition and whether Tenant is complying with its obligations under this Ground Lease; to do any necessary maintenance and to make any restoration to the Facility or any other improvements upon the Premises that Landlord has the right or obligation to perform; to serve, post or keep posted any notices required or allowed under the provisions of this Ground Lease; and to do any act or thing necessary for the safety or preservation of the Facility and the Premises if any excavation or other construction is undertaken or is about to be undertaken on any adjacent property or nearby street.

A. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises and Facility as provided in this Section other than any property damage, bodily injury, or death caused by the sole active negligence or willful misconduct of Landlord, its agents, employees or contractors.

B. Tenant shall not be entitled to an abatement or reduction of Rent if Landlord exercises any rights reserved in this section but only if Landlord's exercise of such rights does not prevent Tenant from operating its business in the Premises in the ordinary course.

16.10 Disclaimer of Partnership. The relationship of the parties hereto is that of Landlord and Tenant, and it is expressly understood and agreed that Landlord does not in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the Improvements or in the conduct of Tenant's business or otherwise.

16.11 Memorandum. Landlord and Tenant shall execute a Memorandum of this Ground Lease or any amendment or modification thereof for recordation in the official records of the County of Alameda, California, in substantially the form attached hereto as Exhibit D.

16.12 Quitclaim. At the expiration or earlier termination of the Term, Tenant shall execute, acknowledge and deliver to Landlord within 15 days after Landlord's written demand to Tenant, any quitclaim deed or other document reasonably required by Landlord or any reputable title company to remove the cloud of this Ground Lease from the Premises and confirm Landlord's title to the Facility.

16.13 Interpretation. The titles to the sections of this Ground Lease are not a part of this Ground Lease and shall have no effect upon the construction or interpretation of any part of this Ground Lease. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

16.14 **Severability**. If any term, provision, condition or covenant of this Ground Lease or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Ground Lease, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by Law.

16.15 **Computation of Time**. The time in which any act is to be done under this Ground Lease is computed by excluding the first day, and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term “holiday” shall mean all holidays as specified in Sections 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

16.16 **Legal Advice**. Each party represents and warrants to the other the following: they have carefully read this Ground Lease, and in signing this Ground Lease, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Ground Lease, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Ground Lease; and, they have freely signed this Ground Lease without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Ground Lease, and without duress or coercion, whether economic or otherwise.

16.17 **Time of Essence**. Time is expressly made of the essence with respect to the performance by Landlord and Tenant of each and every obligation and condition of this Ground Lease.

16.18 **Nonliability of Landlord’s Officials and Employees**. No member, official or employee of Landlord shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by Landlord or for any amount which may become due to Tenant or its successors, or on any obligations under the terms of this Ground Lease. Tenant hereby waives and releases any claim it may have against the members, officials or employees of Landlord with respect to any default or breach by Landlord or for any amount which may become due to Tenant or its successors, or on any obligations under the terms of this Ground Lease.

16.19 **Assignment by Landlord**. Landlord may assign or transfer any of its interests hereunder at any time without Tenant’s consent, provided any such assignee shall assume in writing all of Landlord’s obligations under this Lease, and shall provide written notice to Tenant of any such assignment, and the notice and payment addresses of such assignee.

16.20 **Applicable Law**. The laws of the State of California, including all statutes of limitations but without regard to conflict of laws principles, shall govern the interpretation and enforcement of this Ground Lease.

16.21 **Agent for Service of Process**. Tenant expressly agrees and understands that if it is not a resident of this State, or is an association or partnership without a member or partner resident of this State, or is a foreign corporation or company, then Tenant shall file with Landlord a designation of a natural person residing in the County of Alameda, State of California, giving his or her name, residence, and business address as Tenant's agent

for the purpose of service of process in any court action between Tenant and Landlord arising out of or based upon this Ground Lease, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon such Tenant. Tenant further expressly agrees, covenants and stipulates that if for any reason service of such process upon such agent is not possible, or Tenant fails to maintain such an agent, then in such event Tenant may be personally served with such process out of the State of California, and that such service shall constitute valid service upon such Tenant; and it is further expressly agreed that Tenant is amenable to the process so served, submits to the jurisdiction of the court so acquired, and waives any and all objection and protest thereto.

16.22 **Covenants and Conditions**. Each obligation of the parties hereunder, including, without limitation, Tenant's obligation for the payment of Rent, shall be construed to be both a covenant and a condition of this Ground Lease.

16.23 **Integration**. This Ground Lease, together with all exhibits and attachments hereto, constitute the entire agreement between the parties and there are no conditions, representations or agreements regarding the matters covered by this Ground Lease which are not expressed herein.

16.24 **Estoppel Certificates**. From time to time, Tenant shall execute and deliver to Landlord within 20 days of request a certificate certifying (i) that this Ground Lease is unmodified and in full force and effect or, if there has been any modification, that this Ground Lease is in full force and effect as modified, and stating the date and nature of each such modification; (ii) the date to which Rent and other sums payable hereunder have been paid; (iii) that no notice has been received by Tenant of any default which has not been cured, except as to defaults specified in such certificate; (iv) that Landlord is not in default under this Lease and that Tenant has no claims, charges, offsets or defenses against Landlord, or specifying the nature of any such default or claim, charges, offsets or defense; and (v) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by any prospective purchaser, vendee or other party. If Tenant fails to execute and deliver any such certificate within ten business days after Landlord's written request, such failure, at Landlord's election, shall be conclusive against Tenant that this Lease is in full force and effect, without modification (except as may be represented by Landlord), that there are no uncured defaults in Landlord's performance, and that not more than one month's rent has been paid in advance. In the event that Tenant requests Landlord to execute a certificate pursuant to this 16.25, then Tenant shall pay Landlord's reasonable attorneys' fees and consultant costs incurred in connection with each such request in an amount not to exceed $1,500, which amount shall be increased by annual CPI adjustments.

16.25 **Amendments to this Ground Lease**. Landlord and Tenant agree to mutually consider reasonable requests for amendments to this Ground Lease that may be made by either of them, lending institutions or bond counsel or financial consultants to Landlord or Tenant, provided such requests are consistent with this Ground Lease and would not materially alter the basic business terms included herein. Tenant shall pay Landlord's reasonable attorneys' fees and third-party costs incurred in connection with any amendment requested by or on behalf of Tenant. No amendment shall be effective unless in writing and signed by the parties hereto. Amendments are subject to approval by the City Council in its sole discretion.

16.26 **Brokerage Commissions**. Landlord and Tenant each represents that it has not been represented by any broker in connection with this Ground Lease, and that no real estate broker's commission, finder's fee or other compensation (individually and collectively,

"Brokerage Commission") is due or payable. Landlord and Tenant each agrees to indemnify and hold the other harmless from any claims or liability, including reasonable attorneys' fees, in connection with a claim by any person for a Brokerage Commission based upon any statement, representation or agreement of the other party.

16.27 City Non-Discrimination Ordinance. Tenant hereby agrees to comply with the provisions of the Berkeley Municipal Code (**"B.M.C."**), including without limitation Chapter 13.26, as amended from time to time. In the performance of its obligations under this Ground Lease, Tenant agrees as follows:

1. Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

2. Tenant shall permit Landlord access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the reasonable opinion of Landlord, are necessary to monitor compliance with this non-discrimination provision. In addition, Tenant shall fill out, in a timely fashion, forms supplied by Landlord to monitor this non-discrimination provision.

16.28 Non-Discrimination Against Persons With Disabilities.

A. If Tenant provides any aid, service or benefit to others on the Landlord's behalf, Tenant shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Tenant shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the Landlord, if applicable.

B. If Tenant is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Tenant shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Tenant. All of Tenant's activities must be in accordance with these laws, ordinances, codes, and regulations, and Tenant shall be solely responsible for complying therewith.

16.29 Conflict of Interest Prohibited.

A. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Tenant nor any employee, officer, director, partner or member of Tenant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a committee or commission member of Landlord, who has directly or indirectly influenced the making of this Ground Ground Lease

B. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 et seq.,) no person who is a director, officer, partner, trustee, employee or consultant of Tenant, or immediate family member of any of the preceding, shall make or participate in a decision made by Landlord or any of its boards,

commissions or committees, if it is reasonable foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Tenant, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).

C. Interpretation of this paragraph shall be governed by the definitions and provisions use in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

16.30 Nuclear Free Berkeley. Tenant agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

16.31 Required Accessibility Disclosure.

A. Landlord hereby advises Tenant that the Premises and Facility have not undergone an inspection by a certified access specialist, and except to the extent expressly set forth in this Ground Lease, Landlord shall have no liability or responsibility to make any repairs or modifications to the Premises or the Project in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law:

B. "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." [Cal. Civ. Code Section 1938(e)]. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Premises with regard to such inspections and shall be subject to Landlord's prior written consent.

16.32 Oppressive States.

A. In accordance with Resolution No. 59,853-N.S., Tenant certifies that it has no contractual relations with, and agrees during the Term of this Ground Lease to forego contractual relations to provide personal services to, the following entities:

1. The governing regime in any Oppressive State.

2. Any business or corporation organized under the authority of the governing regime of any Oppressive State.

3. Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of this Ground Lease) for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

B. For purposes of this Ground Lease, the Tibet Autonomous Region and the provinces of Ado, Kham, and U-Tsang shall be deemed oppressive states.

C. Tenant's failure to comply with this Section shall constitute a default of this Ground Lease and Landlord may terminate this Ground Lease pursuant to Article 14. In the event that Landlord terminates this Ground Lease due to a default under this provision, Landlord may deem Tenant a non-responsible bidder for five years from the date this Ground Lease is terminated.

16.33 Berkeley Living Wage Ordinance (LWO).

A. Tenant agrees to comply with Berkeley Municipal Code Chapter 13.27, the Berkeley Living Wage Ordinance. If Tenant employs six or more part-time or full-time employees, and generates $350,000 or more in annual gross receipts, Tenant will be required to provide all eligible employees with City mandated minimum compensation during the Term of this Ground Lease, as defined in B.M.C. Chapter 13.27, and well as comply with the terms enumerated herein.

B. Tenant shall be required to maintain all reasonable records and documents that would establish whether Tenant is subject to Berkeley's Living Wage Ordinance (**"LWO"**). If Tenant is subject to the LWO, as defined therein, Tenant shall be further required to maintain monthly records of those employees located on the leased Premises. These records shall include the total number of hours worked, the number of hours spent providing service on the leased Premises, the hourly rate paid, and the amount paid by Tenant for health benefits, if any, for each of its employees providing services under the lease. The records described in this Section shall be made available upon the Landlord's request. The failure to produce these records upon demand shall be considered a default, subject to the provisions contained in Article 14 herein.

C. If Tenant is subject to the LWO, Tenant shall include the requirements of the ordinance, as defined in B.M.C. Chapter 13.27, in any and all subleases in which Tenant enters with regard to the subject Premises. Subtenants shall be required to comply with this ordinance with regard to any employees who spend 25% or more of their compensated time on the leased Premises.

D. If Tenant fails to comply with the requirements of the LWO and this Ground Lease, the Landlord shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

E. Tenant's failure to comply with this Section shall constitute a default of the Ground Lease, upon which City may terminate this Ground Lease pursuant to Article 14.

F. In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of $50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Tenant's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty of forfeiture for Tenant's breach.

16.34 Berkeley Equal Benefits Ordinance (EBO).

A. Tenant hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant will be required to provide all eligible employees with City mandated equal benefits during the Term of this Ground Lease, as defined in B.M.C. Chapter 13.29, as well as comply with the terms enumerated herein.

B. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant agrees to supply the City with any records the City deems necessary to determine compliance with this provision. Failure to do so shall be a considered a default, subject to the provisions of Article 14.

C. If Tenant fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity. Tenant's failure to comply with this Section shall constitute default of the Ground Lease, upon which City may terminate this Ground Lease pursuant to Article 14.

D. In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of $50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Tenant's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Tenant's breach.

16.35 Berkeley Marina Zone Worker Retention Ordinance. As a "Marina Zone Business" (as defined in the Berkeley Marina Zone Worker Retention Ordinance, B.M.C. Chapter 13.25 "Marina Zone Ordinance"), Tenant shall comply with such Ordinance. Without limiting the foregoing, during the Ground Lease Term, Tenant shall cause any "New Operator" (as defined in the Marina Zone Ordinance) to comply with such Ordinance.

16.36 Pests and Pesticide Management. All use of pesticides on or about the Premises shall be in compliance with the City of Berkeley's Pest/Pesticide Management Policy.

16.37 Berkeley Sanctuary City Ordinance.

Tenant hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Tenant agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:

A. "Data Broker" means either of the following: (1)The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies; (2) the aggregation of data that was collected for another purpose from that for which it is ultimately used.

B. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include: (1) The City's computer-network health and performance tools; (2) Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

16.38 Labor Peace Ordinance. Tenant hereby agrees to comply with the provisions of the Labor Peace Policy Ordinance, B.M.C. Chapter 2.102. In accordance with this Chapter, Tenant agrees that any future Lease, and any potential sublease agreements, shall include provisions that a hospitality operation at the 199 Seawall Drive property shall be required to provide evidence satisfactory to the City that it is party to a labor peace agreement that protects the City's proprietary interest in the property.

16.39 Employment Opportunities for Former Staff. Tenant agrees to provide employees of the former Hs. Lordships restaurant located at 199 Seawall Drive employed at the time of the restaurant's closure an opportunity to apply for positions in new business operations conducted on the property.

16.40 Audit. In addition to any other Landlord audit right herein, the City Auditor's Office, or its designee, may conduct an audit of Tenant's financial and compliance records maintained in connection with the operations and services performed under this Ground Lease, and with the payments made under this Ground Lease. In the event of such audit, Tenant agrees to make all such financial and compliance records available to the Auditor's Office, or to its designee. City agrees to provide Tenant an opportunity to discuss and respond to any findings before a final audit report is filed.

16.41 City Business License, Payment of Taxes, Tax I.D. Number. Tenant has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Tenant is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Tenant shall pay all state and federal income taxes and any other taxes due. Tenant certifies under penalty of perjury that the taxpayer identification number written below is correct.

16.42 Survival. The provisions of Sections 4.3 (Real Property Taxes), 4.4 Assessments, 5.5 (General Standards of Maintenance), 5.7 (Governmental Requirements), 6.2 (Hazardous Materials), 7.2 (Alterations on Premises), 7.5 (Liens and Stop Notices), 10.2 (Indemnity), 16.7 (Surrender) and any other obligation of Tenant that, by its terms or nature, is to be performed after or is to survive expiration or termination of this Ground Lease, shall survive such expiration or termination.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Ground Lease to be executed on their behalf by their respective officers thereunto duly authorized as of the dates set forth below.

[Signature Page Follows]

TENANT:

By:_____

Date:_____

LANDLORD:

CITY OF BERKELEY, a public body corporate and politic

By:_____
City Manager

Date:_____

Approved as to form:

_____
Farimah Brown, City Attorney

Registered by:

_____
_____, City Auditor

Attest:

_____
_____, City Clerk

TENANT INFORMATION

Tax Identification No.
Incorporated:
Certified Woman Business Enterprise:
Certified Minority Business Enterprise:
Certified Disadvantaged Business Enterprise:
City Business License No. _____, or
Exempt pursuant to B.M.C. Section ____

EXHIBIT A

SITE MAP AND PREMISES DESCRIPTION

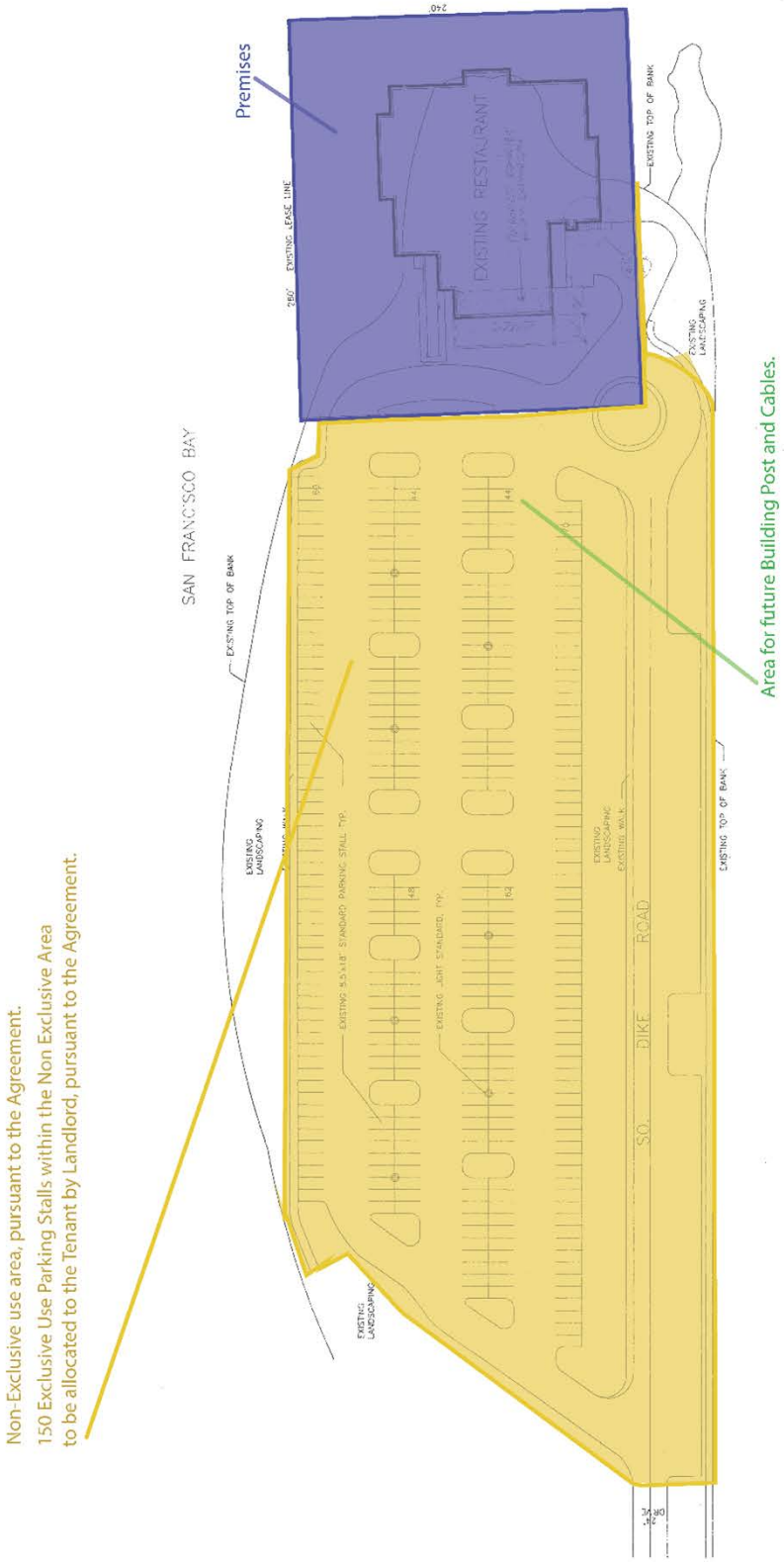
Leased “Premises” include the approximately 1.543 acre parcel of land commonly known and referred to as 199 Seawall Drive on the Berkeley Marina, Berkeley, California (being a portion of APN 60-2545-1), shown below. Leased Premises include the approximately 25,000 square feet free-standing building located on the Premises shown above, as well as support pilings, rip-rap, landscaping and pathways.

Non-Exclusive Use Areas outside the leased Premises include the Seawall Parking Lot, Bay Trail, and Seawall Drive section below. This Lease grants Tenant exclusive use of 150 parking spaces in the Seawall Lot in exchange for construction of improvements and maintenance of the non-exclusive use areas shown here. Specific location of exclusive use parking spaces may be adjusted throughout the lease term with mutual agreement of Tenant and Landlord.

Both parties agree that Tenant may place a post and cables for potential exoskeleton structure in the parking lot (non-exclusive area) contingent upon Landlord approval of location and design. Tenant agrees to provide Landlord access to the Leased Premises for City work and public access to the shoreline, trails and turnaround areas, as noted in Section 5.7 and 5.8 of the Lease.

Internal

Exhibit A: Site Map



Original Map Source: 6/15/1998 RW; HS Lordships Restaurant; Site Plan Sheet A1
Specialty Restaurants Corporation; 4155 La Palma Ave, Suite 250, Anaheim, CA 92807; (714) 579 3900
Modified by City of Berkeley for 2025 Lease Agreement | 199 Seawall Drive, Berkeley, CA 94701

EXHIBIT B

IMPROVEMENTS TO THE LEASED PREMISES

1. General

The Improvements to the Leased Premises will be carried out in the following four consecutive phases: (1) Conceptual Design/Environmental Review; (2) Permitting and Final Design; (3) Construction; and (4) Maintenance. Conceptual Design/Environmental Review will be complete and Permitting/Final Design may be in progress prior to lease execution. The Tenant has secured all necessary funding and resources needed to successfully complete all phases of the Project with sufficient construction quality and workmanship to be accepted by the City.

2. Project Scope

The On Premises Improvements shall provide a comprehensive building renovation to 199 Seawall, including:

- *Necessary Building Improvements:*

  These improvements are required to repair the existing building, structure and systems, consistent with current code requirements:

  - Piling and riprap repairs beneath and surrounding the building.
  - Structural repairs to compromised beams and other structural elements.
  - Upgrades to electrical, HVAC, plumbing, and communication systems.
  - ADA-compliant access and restroom improvements.

- *Tenant-Specific Exterior Improvements:*

  An architectural exoskeleton may be added to the building's exterior. There may be a tall post and cables to support the structure located outside the leased premises.

  Tenant will make landscaping and pathway improvements within the leased premises, maintaining public access and connection to the existing pathways along the 199 Seawall peninsula.

- *Tenant-Specific Interior Improvements:*

  Tenant shall install furniture, fixtures, and equipment (FF&E), paint, trim, flooring, wall coverings, and lighting elements, tailored to the tenant’s restaurant/cafe concepts.

3. Landlord Approval and Permitting Requirements

Final design of On-Premises Improvements is subject to Landlord review and approval, California Environmental Quality Act (CEQA)-compliant review and certification, and regulatory approvals; see Table 1 for permitting requirements. Tenant may modify improvement plans in response to feedback through this permitting phase, and provide updated plans for Landlord review and approval.

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Internal

Table 1: Permitting Requirements

Leased Premises - Design, CEQA and Permitting Phase

Table below reflects the typical, at the minimum, approvals prior to construction. Tenant is responsible for additional permits and other approvals not listed below.

Regulatory Approval	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approving Body	Approval Needed Prior to Construction	Cost
Design & Engineering	To Perform	To Review and Approve	PRW	PRW	Borne by the Tenant
Alameda Countywide Clean Water Program	To Complete Technical Checklist and all needed info	To Review and facilitate permit submittal process	Building Permit/Public Works	C3 Checklist	Borne by the Tenant
Construction Erosion Control Plan	To Perform	To Review and facilitate permit submittal process	PRW/Building Permit/Public Works	Building Permit	Borne by the Tenant
Pedestrian and Vehicular Traffic Handling Plan	To Perform	To Review and Approve	PRW	PRW	Borne by the Tenant
Construction Staging Area Plan with BMPs	To Perform	To Review and Approve	PRW	PRW	Borne by the Tenant
Tree Pruning or Removal Permit (https://berkeleyca.gov/sites/default/files/documents/Tree-Pruning-Removal-Permit_1.pdf)	To Complete Tree Removal Form	To Review and Approve	PRW	Tree Removal Permit	Borne by the Tenant

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Regulatory Approval	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approving Body	Approval Needed Prior to Construction	Cost
CEQA[1]	To Complete Analysis and Documentation	To Review, Approve, and otherwise conduct CEQA process as lead agency	City	City Council, if Initial Study/Mitigated Declaration, or Environmental Impact Report	Borne by the Tenant
BCDC Permit	To Complete Permit Application and provide all needed information	To Review, and facilitate permit submittal	BCDC	Major, administrative, regionwide, or abbreviated regionwide permit	Borne by the Tenant
Army Corps of Engineers Permit	To Complete Permit Application and provide all needed information	To Review	Army Corps of Engineers	Nationwide Permit, or others	Borne by the Tenant
Regional Water Quality Board	To Complete Permit Application and provide all needed information	To Review, and facilitate permit submittal process	Regional Water Quality Board	401 Water Quality Certification or others	Borne by the Tenant
CA Fish and Wildlife Permit	To Complete Permit Application and provide all needed information	To Review and facilitate permit submittal process	CA Fish and Wildlife	TBD	Borne by the Tenant
City of Berkeley Zoning and Design Review	To Complete Permit Application and provide all	To Review and facilitate permit submittal process	Planning Commission, Zoning Adjustments	Use permit amendment	Borne by the Tenant

[1] *Note: CEQA review expected to be complete prior to lease execution. If any subsequent changes occur that require additional environmental review, CEQA will need to be updated.*

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Regulatory Approval	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approving Body	Approval Needed Prior to Construction	Cost
	needed information		Board, Design Review Committee		
City of Berkeley Building Permit	To Complete Permit Application and provide all needed information	To Review	Planning & Development Department	Building Permit	Borne by the Tenant

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Leased Premises - Construction Phase

Scope	Tenant's Responsibility	Landlord (PRW)'s Responsibility	Approval Body	Approval Needed Prior to Notice of Project Completion	Cost
Construction	To Perform	To inspect and issue corrective action	Building Permit Department and PRW	Obtain Substantial Construction Completion, Address Punchlist Items	Borne by the Tenant
Construction Management & Inspection	To provide qualified construction manager and inspector	To inspect and issue corrective action	PRW	Qualified construction manager to issue project completion document to PRW	Borne by the Tenant
City of Berkeley Building Permit Inspection & Certificate of Occupancy	To coordinate with Building Department	To receive Certificate of Occupancy from Tenant	Building Permit Department	Building Permit Close Out Document	Borne by the Tenant
Regulatory Permits, including but not limited to BCDC, CA Fish and Wildlife, Army Corps of Engineers	To perform all work in the approved permits, and coordination with regulatory agencies	To inspect and issue corrective action	Regulatory Agencies	Regulatory Permit Close Out Documents	Borne by the Tenant

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4. Funding

The Improvements will be fully funded by the Tenant at no cost to the City.

5. Conceptual Design / Environmental Review

Environmental review will be complete prior to lease execution. If there are any changes to the project or surrounding circumstances that require additional environmental review, Tenant shall notify Landlord and pay the cost for review of additional environmental impacts under CEQA.

Tenant shall conduct any required environmental studies in accordance with CEQA, and Landlord shall review, evaluate, and if necessary certify. As required by CEQA, the Project shall implement all feasible mitigation measures. Tenant may modify the project, subject to Landlord review and approval, to mitigate any identified environmental impacts to the extent required by CEQA. If Tenant is unable to modify the project to mitigate identified environmental impacts to the extent required by CEQA, the Lease will terminate, subject to Section 2.2 of the Lease.

6. Design Phase Approval Process

Applicant shall provide stamped submittals of the 199 Seawall Project at the 30%, 65%, 90%, and 100% design level to the City's Director of Parks, Recreation, and Waterfront Department ("the Director") at each submittal stage for review and approval. Applicant shall conduct project progress meetings with the Director after each submittal upon the Director's request.

At any stage of design, if Landlord determines that additional environmental review is required due to a change in project conditions, Tenant will conduct such review according to Section B.1.4. of the Lease.

7. Design Standards

Final Design shall meet all applicable and latest building codes, stormwater quality requirements, City polices and standards, and any other applicable standards.

8. Construction

Tenant shall procure construction contractors at its sole discretion. Tenant shall provide all construction administration and management for the project. Tenant shall provide a qualified project manager to act on the behalf of the Tenant in project coordination and decision making with the City. Any changes to design and/or construction must be approved by the City and require Tenant to secure all necessary regulatory approvals and comply with CEQA.

9. Public Convenience, Safety, and Environmental Protection

All areas outside the leased premises shall remain accessible to the public during construction to the extent feasible. Tenant shall erect and properly maintain at all times all necessary safeguards for the protection of workers and the public, as required in Section 7.4 of the Lease.

10. Changes in Construction

Any changes to construction of the approved 199 Seawall Project that deviate from the prior-approved plans and specifications shall require the prior written approval of the City. The City is

under no obligation to pay for any changes to construction or unforeseen circumstances that affect construction.

11. Acceptance of Construction

Upon completion of construction, Tenant shall submit in writing to the Director to request a “Final” Walkthrough. Acceptance of construction will be issued upon satisfaction of the project by the Director.

12. Course of Construction

Tenant shall purchase at all times during construction maintain, or cause its general contractor to purchase and maintain, All-Risk Course of Construction insurance including damage to property owned by City, Tenant, or third parties caused by fire. Such insurance shall be in the amount of 100 percent of the completed value of the work to be performed under this Exhibit B. Deductible shall not exceed $25,000.

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EXHIBIT C

OFF-SITE IMPROVEMENTS

1. Amounts and Eligible Expenses:

As described in the Lease (Basic Lease Information, 14. Off-Site Improvements), Tenant agrees to complete off-site improvements valued at $17M towards construction and maintenance of off-site improvements, in lieu of $16M in payment for 150 exclusive use parking spaces during the Initial Term and a $1M capital contribution.

a. Eligible expenses towards that $17M include:

i. Initial construction of off-site improvements.

Element	**30% Design Cost Estimate**
Parking Lot	$8,624,555
Bay Trail on Seawall Drive	$1,612,262
Seawall Drive (From 199 Seawall Drive Terminus to University Avenue)	$1,840,957
Subtotal	**$12,077,774***

*Cost estimate will continue to be refined as the project moves through Design. Actual scope may change at Landlord's discretion, depending on needs and whether Landlord secures alternative funding sources for these scope elements.

ii. Annual maintenance to replenish rock in geogrid parking stalls. Estimated to cost $1,335,726 over 45 years, starting at $15,000 and escalating 3% per year.

iii. Microsurfacing of asphalt in Year 10, Year 20, and Year 40. Estimated to cost $384,222 in total.

iv. Replacement of asphalt in Year 30, or as needed and approved by City. Estimated to cost $7,566,534 in total.

v. At Landlord's sole discretion and with Tenant agreement in advance and in writing, Tenant's completion of other off-site Waterfront improvements may be considered eligible expenses. Landlord will provide cost estimate of improvements to Tenant in advance, and if Tenant concurs with estimate, this estimate will be used to determine eligible credit amount. If any of the initial construction elements described in 1.a.i. above are swapped for other off-site Waterfront improvements, these Waterfront improvements will be completed within the same timeframe as the

improvements described above, pending all necessary regulatory and permitting requirements.

vi. Landlord estimates for these expenses shall be the credit that Tenant receives towards the $17M. However, if Tenant provides evidence that the actual costs exceed estimated costs, Landlord at its discretion will apply additional costs as eligible expenses.

b. If actual eligible costs exceed $17M, and the City agrees in writing with cost and scope, the parties may negotiate cost share.

c. If 10-year option periods are exercised, parking lot maintenance in lieu of rent may continue in the same way, (see costs below).

i. Option 1 (Years 46-55): $7.5M parking lot rent[2]
ii. Option 2 (Years 56-65): $10M parking lot rent[3]

2. General

Off-Site Improvements will be carried out in the following four consecutive phases: (1) Conceptual Design/Environmental Review; (2) Permitting and Final Design; (3) Construction; and (4) Maintenance. The first two phases are being completed by the Landlord. The Tenant shall complete Construction and Maintenance. The Tenant shall secure all necessary funding and resources needed to successfully complete the Project with sufficient construction quality and workmanship to be accepted by the City.

3. Project Scope

In exchange for 150 exclusive use parking spaces in the 199 Seawall Parking Lot, the Tenant agrees to complete and maintain throughout the Lease term the following Off-Site Improvements, located on City property outside the Leased Premises:

- *199 Seawall Drive Parking Lot:* Renovate the parking lot, including parking areas along the adjacent portions of Seawall Drive, with new pavement, surfacing, striping, lighting, and stormwater treatment; as well as any electric vehicle supply equipment and electrical connections at designated parking stalls, as required by code.

- *Bay Trail improvements:* Construct a portion of the planned Bay Trail Extension, from the south end of Seawall Drive to the area across from the northwest end of the 199 Seawall

[2] When escalated 3%/year, the amount of the original $172,800/year rent for 150 exclusive use parking spaces will be $652,011 by Year 46. Over 10 years at continued 3% escalation, the total parking lot rent would be $7.5M.

[3] By Year 56, the amount of the original $172,800/year parking lot rent will be $876,249. Over 10 years at continued 3% escalation, total parking lot rent would be $10M.

Drive Parking Lot.

- *Seawall Drive improvements:* Implement improvements to Seawall Drive, including re-alignment, repaving, and restriping of the road from the southern terminus to northwest end of the 199 Seawall Drive Parking Lot.

Tenant agrees to construct these improvements according to City design and specifications. The improvements are currently at 30% design, as shown in Exhibit C.1., 30% Design Plan. Note that figures in Exhibit C.1. are preliminary design, and exclude additional features (e.g. striping and materials for Bay Trail; electrical vehicle charging stalls and requirements; tree removals required for construction; etc.) that will be included in later phases of design.

Any off-site improvements performed by the Tenant must be conducted in accordance with the City final design and in full compliance with Judicial Streamlining requirements as described in Section 7.2.A. of the Lease.

Other Waterfront improvements may be included in this project scope, for example, if City secures other funding sources for the improvements listed above. Such a change may be made with mutual agreement in writing by Landlord and Tenant as noted in this 1.a.v., and in accordance with Section 7 of the Lease.

4. Funding

The Improvements will be fully funded by the Tenant at no cost to Landlord.

5. Conceptual Design, Environmental Review and Final Design

Design and environmental permitting for these improvements are underway as part of the Landlord's separate Pier Ferry project. The improvements are currently at 30% design, as shown in Exhibit C.1. Landlord will provide Tenant with Final Design Documents for the off-site improvements listed above, after environmental review and permitting has been completed for those improvements. The Final Design Documents will incorporate all feedback from the permitting process, and be construction-ready.

6. Construction

Tenant shall procure construction contractors at its sole discretion. Tenant shall provide all construction administration for the project. Tenant shall provide a qualified project manager to act on the behalf of the tenant in project coordination and decision making with the City.

Landlord shall provide professional construction management services to represent the City for all aspects of construction at Landlord's sole cost. Landlord's Construction Manager shall have the enforcement authority to ensure that construction conforms with the approved plans and specifications for the project, and shall be given full access to the site and all construction activities, project meetings, and project documents.

No more than 60 days after Landlord's delivery to the Tenant of Final Design Documents for the Off-Site Improvements, the Tenant shall:

a. Conduct Project Kickoff Meeting with Landlord and Tenant's construction team
b. Provide for Landlord approval the following submittals: construction sequence and duration schedule, traffic control and pedestrian handling plans, erosion control/stormwater quality control plans, and all construction materials and shop drawing cutsheets.

Upon Landlord approval of submittals, Tenant will provide all required documents listed in the Project Manual such as but not limited to bonds, insurance, and City standard forms.

Landlord will issue notice to proceed with construction. This document will include the number of working days to reach substantial completion.

Time extension request: Upon unforeseen circumstances, such as unforeseen ground conditions and utility conflicts, the Tenant shall request a time extension from Landlord.

Failure to request time extension: Tenant may be subject to additional construction management and inspection fees, and liquidated damages as stipulated in the Project Manual.

Failure to complete improvements in a timely manner, consistent with the Landlord's notice to proceed and any approved time extension requests, shall be addressed per Section 7.2.C. of the lease.

7. Public Convenience, Safety, and Environmental Protection

Tenant shall maximize public access to the shoreline during construction to the extent feasible.

City standard provisions related to public convenience, safety and environmental protection will be included in the Final Design Documents.

8. Changes in Construction

Any changes to construction of the approved 199 Seawall Project that deviate from the prior-approved plans and specifications shall require the prior written approval of the City. The City is under no obligation to pay for any changes to construction or unforeseen circumstances that affect construction.

9. Acceptance of Construction

Upon completion of construction, Tenant shall ask Landlord in writing for a "punch-list" walk-through of the project. After the walk-through, Landlord shall provide a "punch-list" to Tenant within 5 working days. Tenant shall address the punch list within 10 working days, though items need not be completed within that 10-day period.

Upon completion of the punch list items, Tenant shall submit in writing to Landlord a request a "Final" walk-through. Acceptance of construction will be issued upon satisfaction of the project by Landlord.

10. Maintenance

For the duration of the lease term, the Tenant is responsible for maintaining these improvements in good condition at no additional cost to the City, up to the amount described in the Lease: Basic Lease Information, 14. Off-Site Improvements. At the City's discretion, this may include microsurfacing of asphalt every 10 years, replacement of asphalt at 30 years (or earlier as needed), annual maintenance to replenish rock in geogrid parking stalls, maintenance of bioretention areas, and ongoing striping and concrete repairs to keep the improvements in good condition, as additionally described in Section 5.5 of the Lease. Tenant will coordinate with the City before undertaking any maintenance and will not proceed without Landlord approval in writing at each occurrence.

11. Course of Construction

Tenant shall purchase at all times during construction maintain, or cause its general contractor to purchase and maintain, All-Risk Course of Construction insurance including damage to property owned by City, Tenant, or third parties caused by fire. Such insurance shall be in the amount of 100 percent of the completed value of the work to be performed under this Exhibit C. Deductible shall not exceed $25,000.

DRAFT

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

Figure 1 - North side of Seawall Lot area improvements: shows areas of permeable paving, asphalt, and concrete

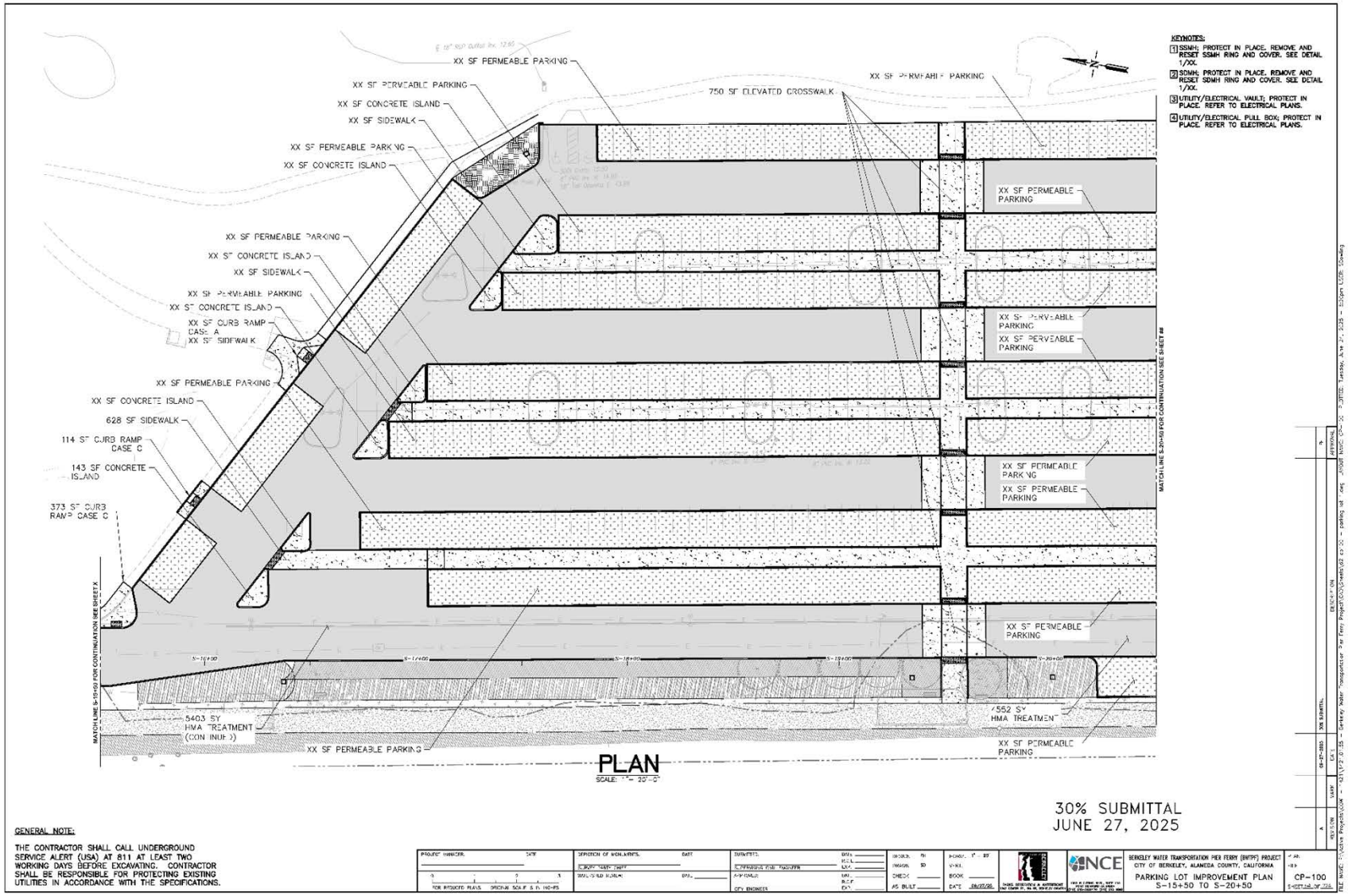
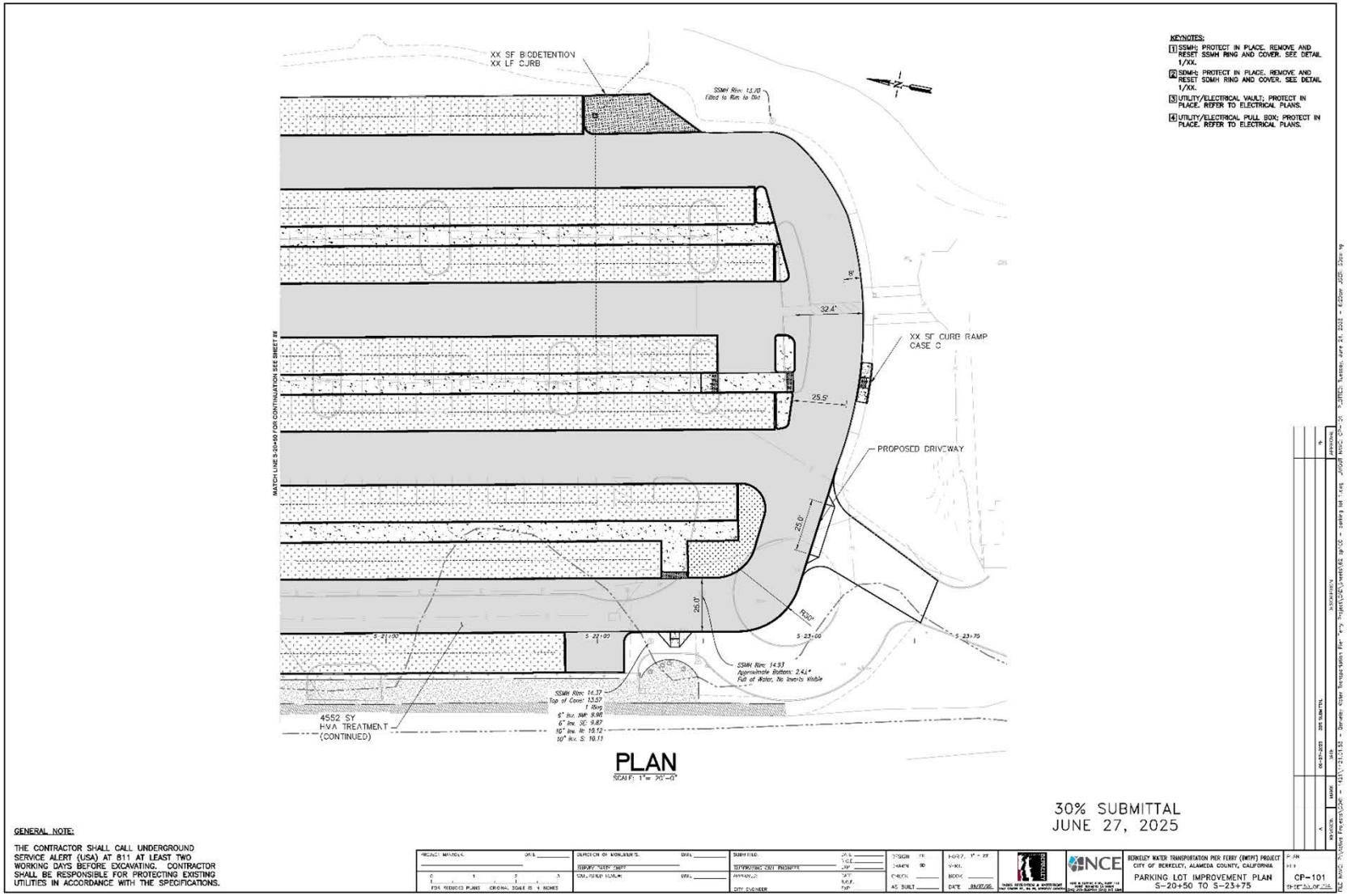


Exhibit C1

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

Figure 2 - South side of Seawall Lot area improvements: shows areas of permeable paving, asphalt, and concrete



Internal

Exhibit C.1: 30% Design for Off-Site Improvements

Figure 3 - North side of Seawall Lot area improvements: shows grading, drainage and bioretention areas.

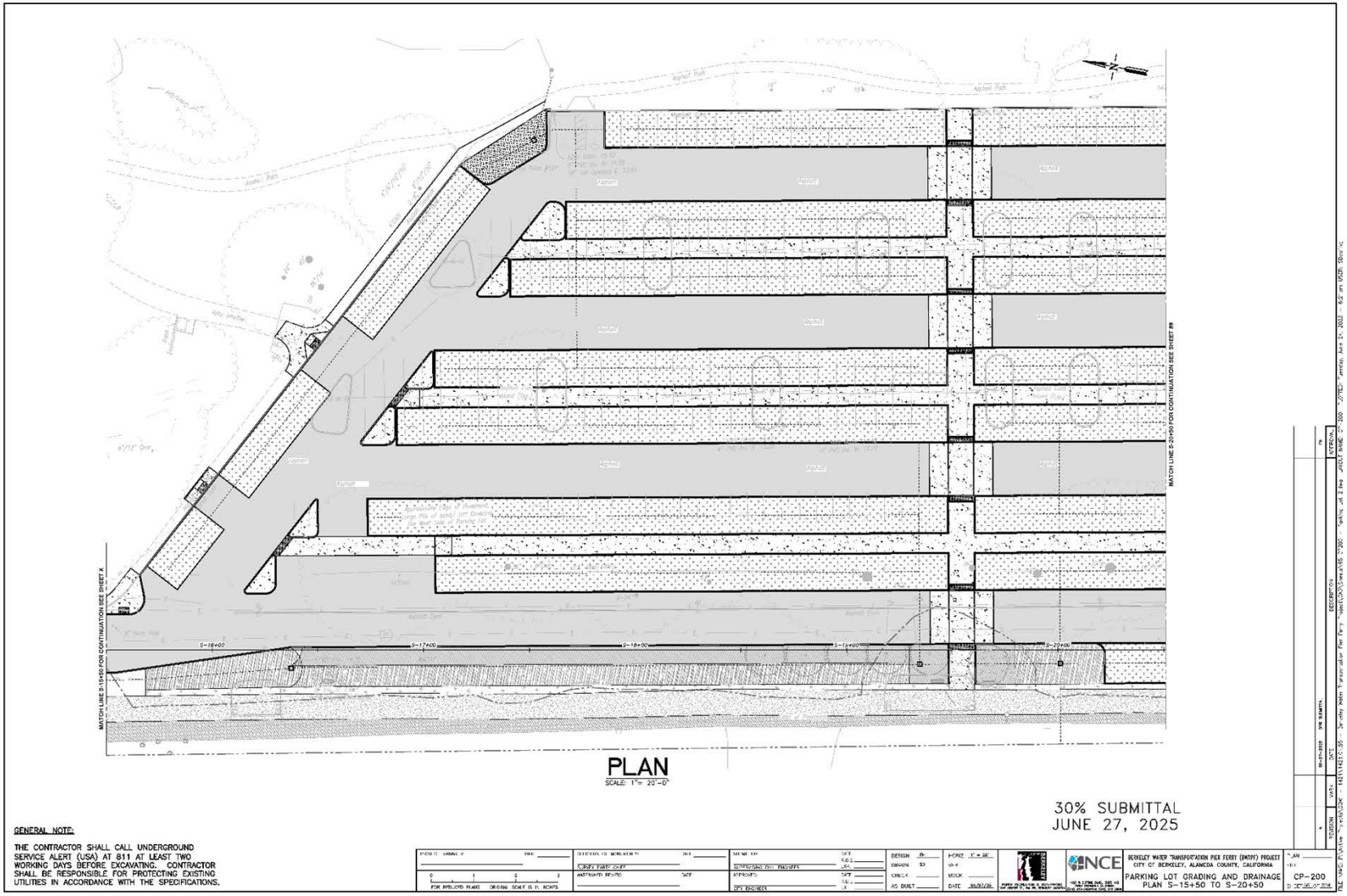


Exhibit C1

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

Figure 4 - South side of Seawall Lot area improvements: shows grading, drainage and bioretention areas.

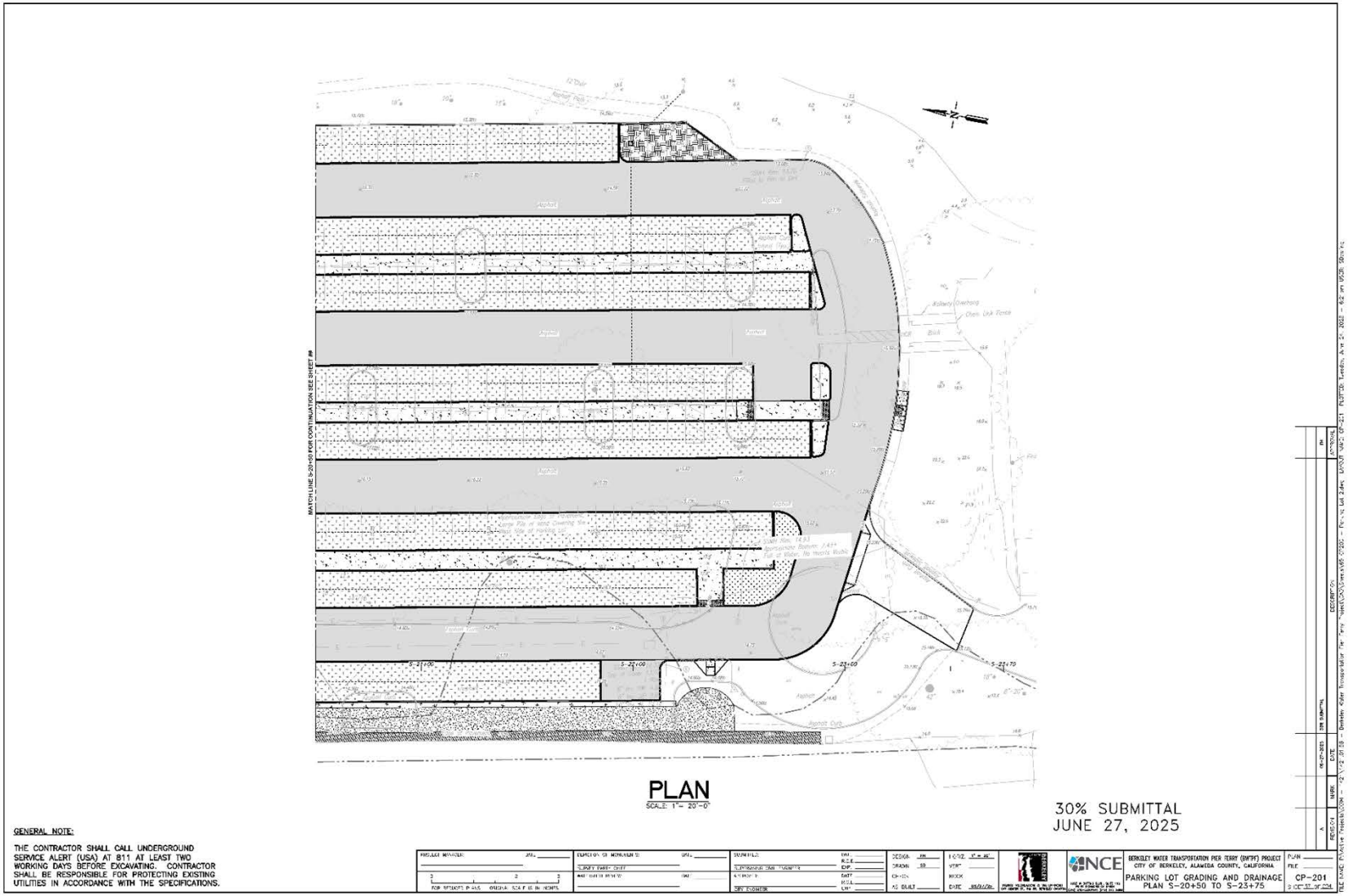


Exhibit C1

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

Figure 5 - North side of Seawall Lot area improvements: shows parking lot layout and striping

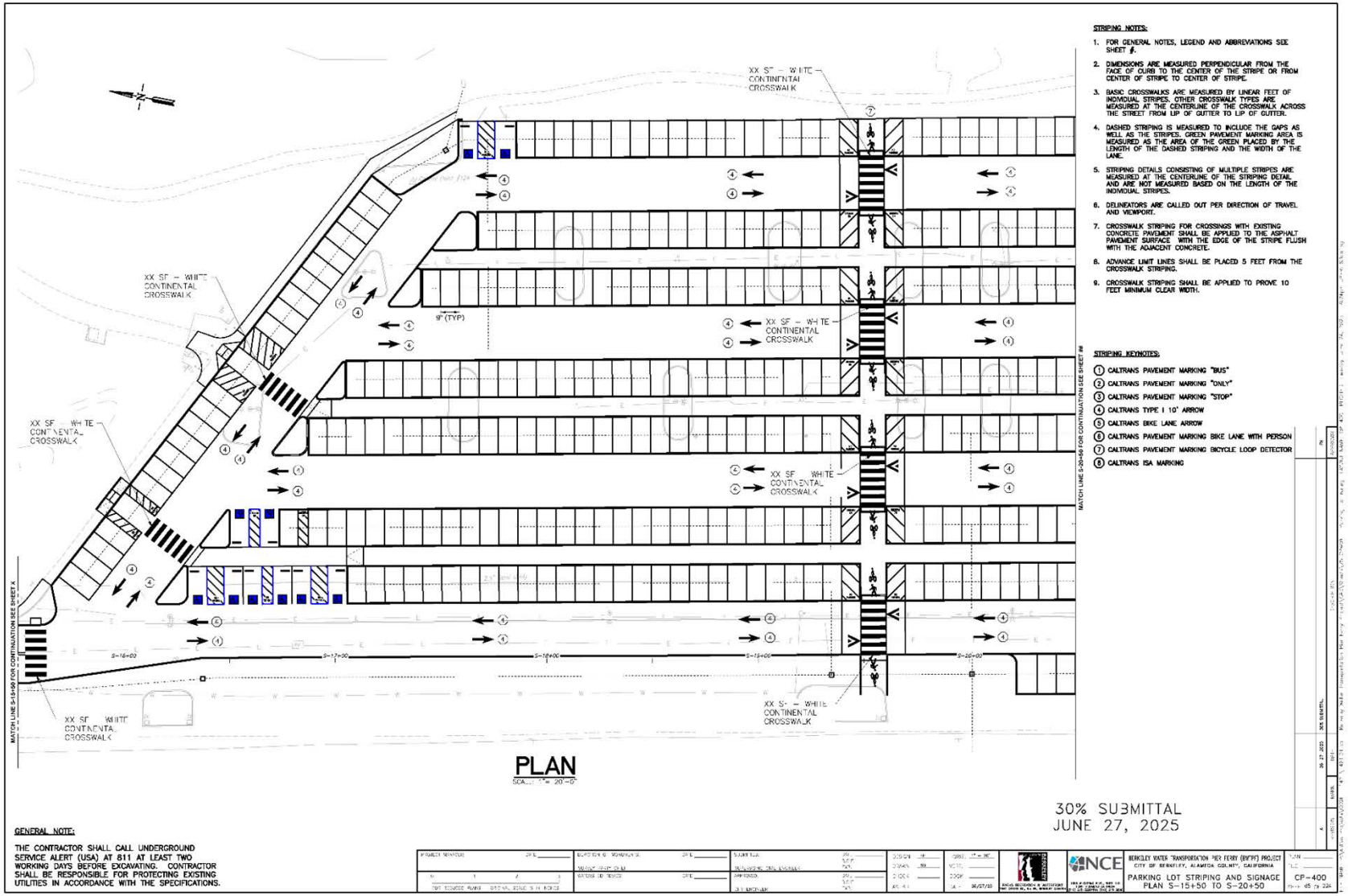


Exhibit C1

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

Figure 6 - South side of Seawall Lot area improvements: shows parking lot layout and striping

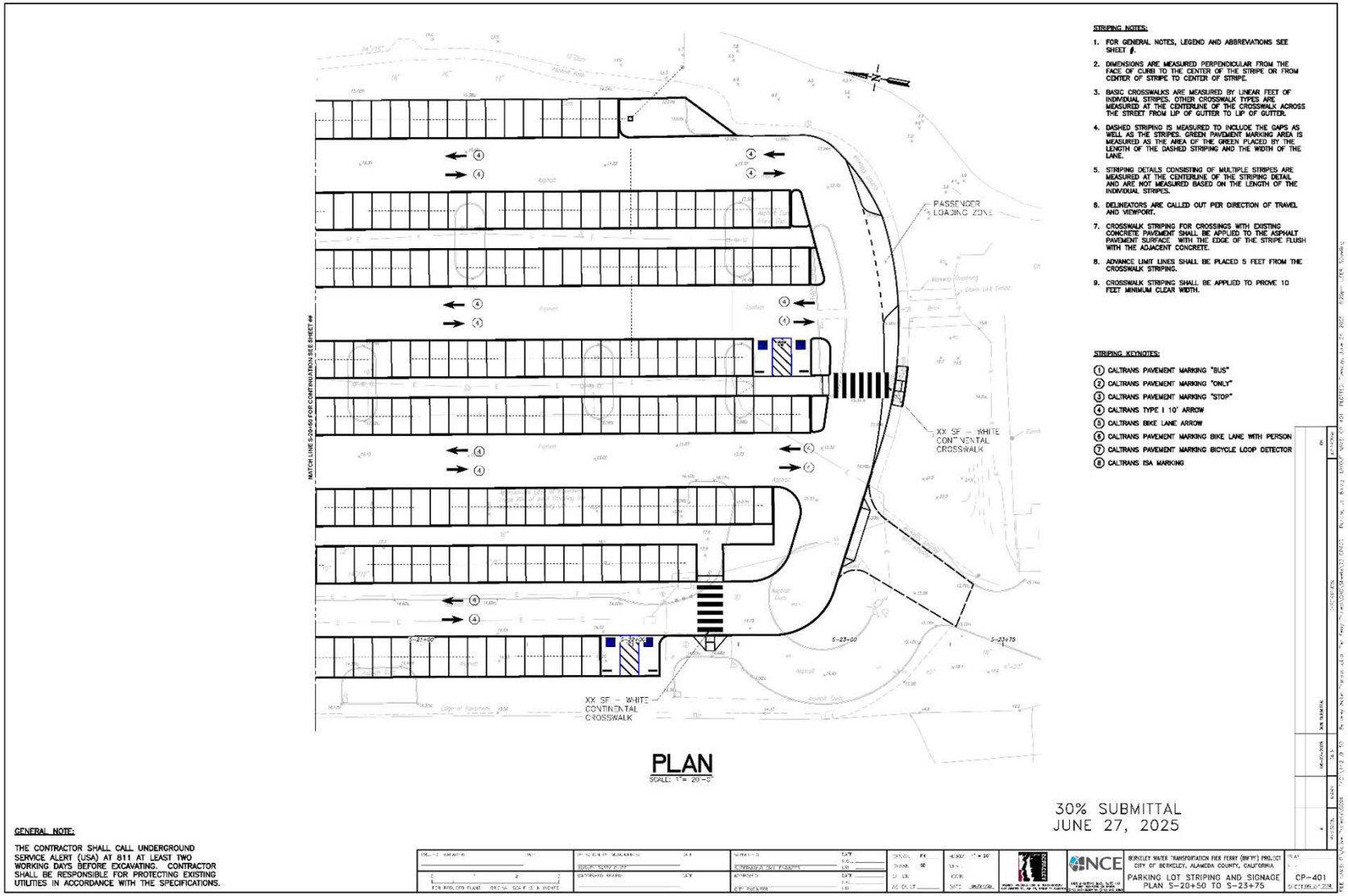


Exhibit C1

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

*Figure 7 - North side of Seawall Lot area improvements: shows landscape materials and lighting plan (note: plans do not yet show required electric vehicle charging, which will be included in later phase of design)**

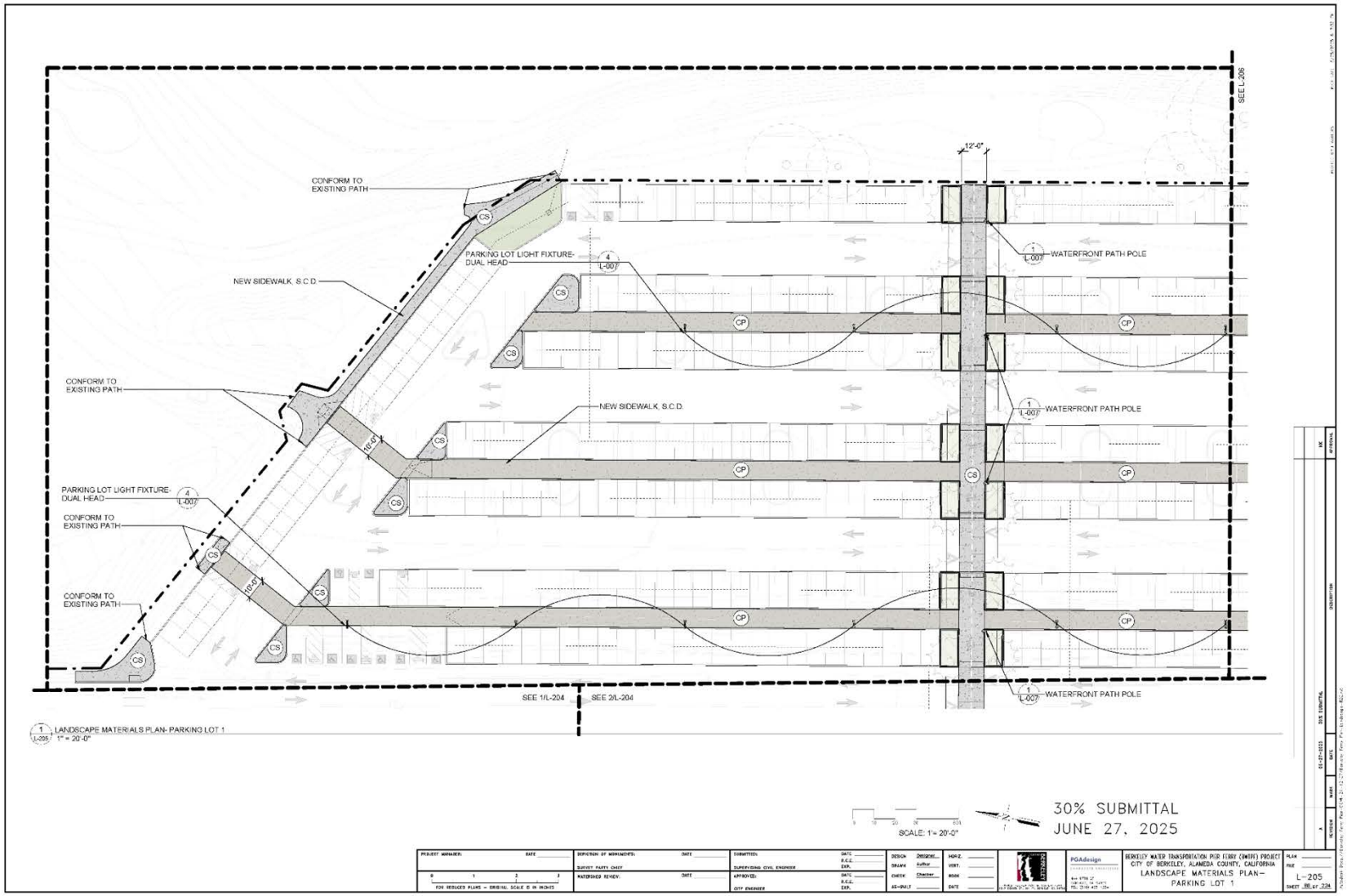


Exhibit C1

Internal

Exhibit C.1: 30% Design for Off-Site Improvements

*Figure 8 - South side of Seawall Lot area improvements: shows landscape materials and lighting plan (note: plans do not yet show required electric vehicle charging, which will be included in later phase of design)**

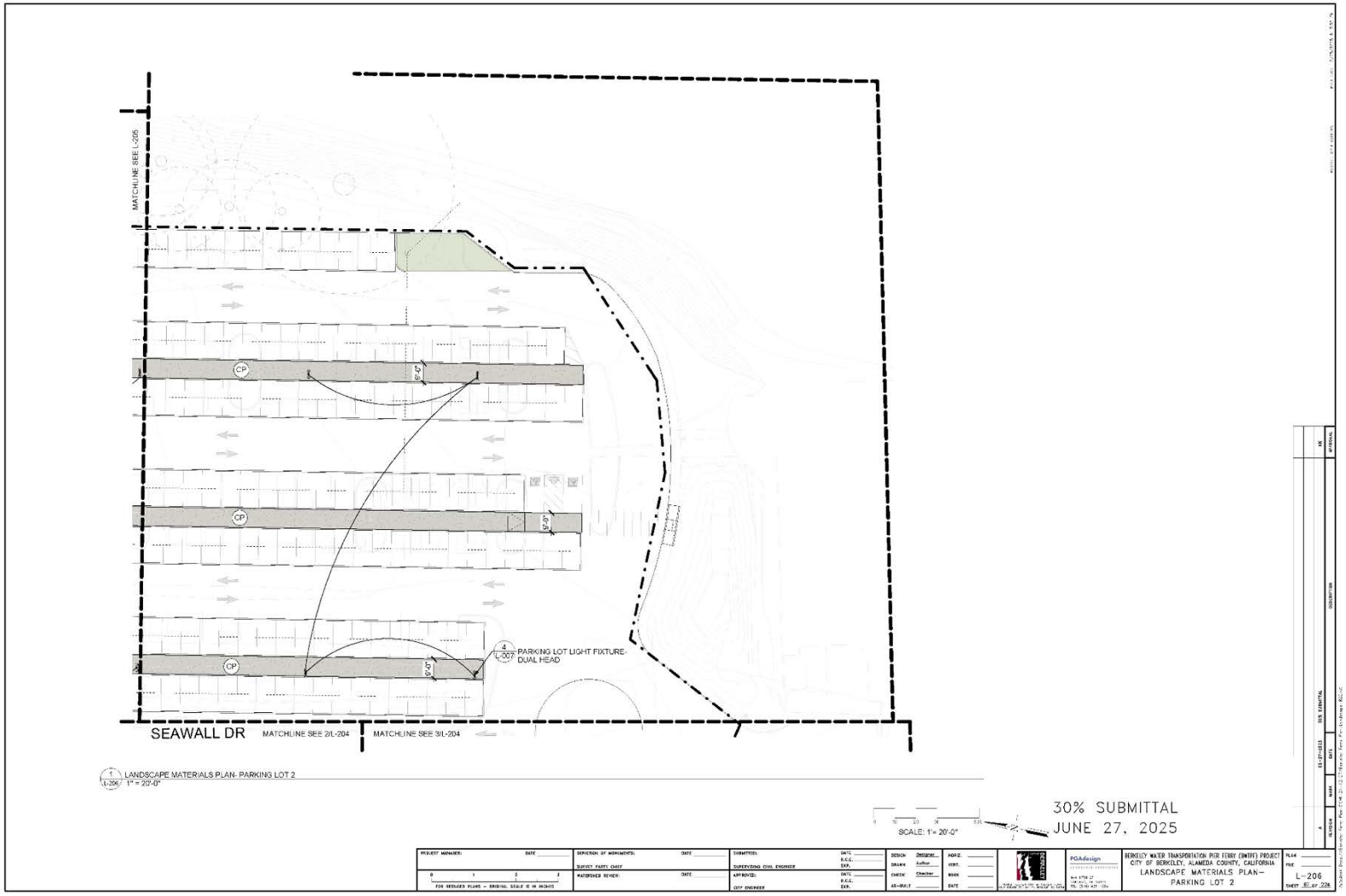


EXHIBIT D

MEMORANDUM OF GROUND LEASE

And When Recorded Mail To: City of Berkeley 2180 Milvia Street, 4th Floor Berkeley, CA 94704 Attn: City Clerk	

(Space Above This Line for Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

MEMORANDUM OF GROUND LEASE

CITY OF BERKELEY, a public body corporate and politic, as Landlord, has _____ as Tenant, the real property described described in Exhibit A attached hereto and incorporated herein by this reference (the **"Premises"**).

1. Landlord and Tenant have now entered into that certain unrecorded Ground Lease dated as of _____, 20__ (the **"Ground Lease"**), pursuant to which Landlord has leased the Premises to Tenant. The Ground Lease grants to Tenant the right to continue to use and occupy the Premises until _____, ____. There are two (2) options to extend the term of the Ground Lease for ten years each (total 20 years). If Tenant properly exercises all options, the term of the Ground Lease could extend until _____, ____. Notice of the Ground Lease is provided by that certain _____ dated _____, 20__ and recorded in the Official Records of Alameda County as Instrument No. _____ on _____, 20__ (the **"Ground Lease Memorandum"**). The Ground Lease granted to Tenant the right to use and occupy the Premises until _____, 20__.

2. This Memorandum of Ground Lease supersedes and replaces the Prior Ground Lease Memorandum; and this Memorandum of Ground Lease shall provide record notice of the existence of the Ground Lease with respect to the Premises and of Tenant's rights with respect thereto.

[Signature Page Follows]

TENANT:

By:_____

Date:_____

LANDLORD:

CITY OF BERKELEY, a public body corporate and politic

By:_____
City Manager

Date:_____

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Internal

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared
_____, who proved
to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____, 20__ before me,
_____, Notary Public, personally appeared, who
proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____

07

Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Contracts: On-Call Equitable Community Engagement Services

RECOMMENDATION

Adopt nine Resolutions authorizing the City Manager to approve contracts in response to the April 24, 2025 Request for Qualifications, Specification No. 25-11721-C, "On-Call Equitable Community Engagement Services with City of Berkeley," with the following firms, in not-to-exceed amounts of $250,000 each, for total contract periods of five years:

- 360 Total Concept Consulting
- Be the Change Consulting
- Community Planning Collaborative
- D & A Communications, Inc.
- Denaya Shorter Consulting
- The Ecology Center
- Equity First Consulting
- Moore Iacofano Goltsman, Incorporated (MIG)
- Plan to Place

FISCAL IMPACTS OF RECOMMENDATION

The selected consultants will form a list of on-call consultants to provide services to the City when needed, on a task-order basis for specific projects. These projects may be funded in a variety of ways, including state grants for community planning efforts, taxes such as Measure FF, other special funds, or one-time General Fund allocations for City Council priorities and strategic plan projects.

When a project requires outside community engagement services, City staff will forward a request for services to at least three of the on-call consultants under contract, including a project description and pertinent supporting information. The consultants will respond with a proposed scope of work estimating the time required for the various tasks, and their proposed cost for the specific project, based on the hourly rates previously submitted in response to the Request for Qualifications (RFQ). The City will review the proposals, select a consultant for the project, and negotiate a schedule and

not-to-exceed cost. A Notice to Proceed can then be issued with the full scope of work and cost identified.

Each contractor may be paid up to its specified not-to-exceed amount over a five-year period. Larger project amounts are reserved for contractors which can be called upon to provide a wider range of services (e.g., project specific public meeting services, direct payments to community focus group participants, technical support, or videography and web services).
Proposals have included anticipated cost adjustments during the contract term. Upon mutual agreement, contracts may be extended for two years. Contracts will be overseen by the Planning and Development Department, but consultants may be engaged to provide services for other City Departments as needed.

CURRENT SITUATION AND ITS EFFECTS

Effective and intentional community engagement is critically important for City plans and projects, particularly when working with community members who are most impacted or have been historically underserved. The City's On-Call Equitable Community Engagement Services RFQ aims to create opportunities for staff to partner with a diverse group of consultants and community organizations to expand and deepen the City's engagement efforts. This will help ensure that community members are included in decision-making, that the City understands community goals, and that shared priorities are reflected in future City work. Examples of recent projects which have retained outside engagement services include:

- the creation of a new Environmental Justice Element for the General Plan and update to the existing Safety Element of the General Plan, which includes funding from the State of California's Office of Land Use and Climate Innovation;
- the new Community Health Assessment and Implementation Plan, which utilized a Future of Public Health grant; and
- the Pilot Climate Equity Fund Program which was seeded by a General Fund budget referral.

For this RFQ, the City solicited written proposals from qualified firms, community-based organizations, nonprofit organizations and individuals to assist with equitably engaging the community, particularly those who are adversely impacted or historically disadvantaged, on various City efforts.

The RFQ was released on April 24, 2025 and closed on June 24, 2025. The City received 13 submittals, but one mistakenly submitted by a subcontractor was withdrawn. The remaining 12 submittals were reviewed by a panel of City staff from multiple departments.

Of the 12 proposals evaluated, 11 were selected to move forward to interviews and reference checks. Following panel interviews with City staff, nine consultants were selected as the most qualified to meet the requirements.

Establishing a bench of on-call community engagement consultants aligns with the City's Strategic Plan Priorities, advancing its goal to be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.

BACKGROUND

Community outreach is a long-standing City obligation, particularly to communities who are most impacted or have been historically underserved in City plans and projects.

City Council highlighted the ongoing need to elevate staff efforts in the development of equitable community engagement when it adopted Resolution No. 69,501-N.S. to "Transform Community Safety and Initiate a Robust Community Engagement Process" on July 14, 2020, Resolution No. 71,582-N.S. recognizing the vision and goals of the Equity for Black Berkeley (E4BB) on November 19, 2024, and a referral on December 2, 2025 titled, "Notifying Residents of Upcoming Public Works Projects in their Neighborhoods."

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The work of the selected on-call contractors will help ensure that City projects and new infrastructure that impact local and regional climate resilience are reflective of the needs and values of Berkley communities. Utilizing local and regional contractors for community outreach also lowers vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

The lengthy process for Request for Proposals, RFQs, and contracts can delay projects and make it more difficult for contractors to schedule their work. Having an on-call contract already in place provides City departments with the flexibility to engage consultants quickly, avoiding delays and helping to meet requirements set forth in many of the City's local, state, and federal grants and statutory outreach requirements. These on-call contracts will expedite service delivery for the public and allow for more effective planning processes for staff.

Further, these outside services are needed due to the specialized nature of community outreach work, and the need to effectively serve members of the community who have been historically underserved. 360 Total Concept Consulting, Be the Change Consulting, Community Planning Collaborative, D & A Communications, Inc., Denaya Shorter Consulting, The Ecology Center, Equity First Consulting, Moore Iacofano

Goltsman Incorporated, and Plan to Place are highly qualified and have particular expertise in fulfilling the criteria stated in the RFQs.

ALTERNATIVE ACTIONS CONSIDERED
The City could continue to have individual departments contract separately for similar services, as has been done previously.

CONTACT PERSONS
Kellie Knox, Community Services Specialist III, Health Housing and Community Services (510) 981-5301
Amanda Montez, Senior Management Analyst, Public Works (510) 981-6317
Katie Van Dyke, Chief Resilience Officer, Planning and Development Department (510) 981-7403

Attachments:
1: Resolution to Contract with 360 Total Concept Consulting
2: Resolution to Contract with Be the Change Consulting
3: Resolution to Contract with Community Planning Collaborative
4: Resolution to Contract with D & A Communications, Inc.
5: Resolution to Contract with Denaya Shorter Consulting
6: Resolution to Contract with The Ecology Center
7: Resolution to Contract with Equity First Consulting
8: Resolution to Contract with Moore Iacofano Goltsman, Incorporated (MIG)
9: Resolution to Contract with Plan to Place

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

CONTRACT: 360 TOTAL CONCEPT CONSULTING FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that 360 Total Concept Consulting is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with 360 Total Concept Consulting for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: BE THE CHANGE CONSULTING FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that Be the Change Consulting is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with Be the Change Consulting for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: COMMUNITY PLANNING COLLABORATIVE FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that Community Planning Collaborative is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with Community Planning Collaborative for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: D&A COMMUNICATIONS, INC. FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that D&A Communications, Inc. is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with D&A Communications, Inc. for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: DENAYA SHORTER CONSULTING FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that Denaya Shorter Consulting is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with Denaya Shorter Consulting for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: THE ECOLOGY CENTER FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that The Ecology Center is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with The Ecology Center for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: EQUITY FIRST CONSULTING FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that Equity First Consulting is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with Equity First Consulting for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: MOORE IACOFANO GOLTSMAN, INCORPORATED (MIG) FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that Moore Iacofano Goltsman, Incorporated (MIG) is well qualified to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with Moore Iacofano Goltsman, Incorporated (MIG) for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

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

CONTRACT: PLAN TO PLACE FOR EQUITABLE COMMUNITY ENGAGEMENT SERVICES

WHEREAS, when the City develops plans, projects, programs and/or policies it is critical to have active, effective, and intentional community engagement – particularly with community members who are most impacted and/or have been historically underserved; and

WHEREAS, the City has contracted with Community Engagement consultants on an ongoing basis for over 20 years to assist with equitably engaging the community, particularly adversely impacted and/or historically disadvantaged members of the community, on various City projects, programs, and/or policies; and

WHEREAS, these outside services are needed due to limited staff resources, the need for additional staff training and the need to outreach to community members outside of regular City staffing hours; and

WHEREAS, the City of Berkeley released a Request for Qualifications (RFQ) (Specification No. 25-11721-C) on April 24, 2025, and closed on June 24, 2025; and

WHEREAS, staff reviewed the proposals and determined that Plan to Place to provide services that are needed and responsive to the City's request; and

WHEREAS, no work will be authorized under the contract and no funds will be encumbered unless a department approves a Statement of Work and provides full funding; and

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

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve a contract and any amendments with Plan to Place for Equitable Community Engagement Services for a total contract period of five years in the amount not to exceed $250,000.

BE IT FURTHER RESOLVED that a record signature copy of said contracts and any amendments will be on file in the City Clerk Department.

08

Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract: B Bros Construction, Inc. for Fire Station #6 Remodel

RECOMMENDATION

Adopt a Resolution:

1. Approving plans and specifications for Fire Station #6 Remodel (Project), Specification No. 26-11760-C; and
2. Accepting the bid of B Bros Construction, Inc. 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 $597,913.20, which includes a contingency of $99,652.20.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project is available in the Fiscal Year 2026 budget in the Measure T1 Funds.

Low bid by B Bros Construction, Inc.	$498,261.00
20% Contingency	$99,652.20
Total Construction Cost NTE	**$597,913.20**

Fiscal Year 2025 Funding:

- Measure T1 Phase 2 Fund: …… $597,913.20

CURRENT SITUATION AND ITS EFFECTS

Fire Station 6 is located at 999 Cedar Street. The station consists of two apparatus rooms, three sleeping rooms, a kitchen, and an office. The station was rebuilt in 1999.

Currently, the building contains several deficient windows. Deficiencies include peeling paint around windowsills, inoperable windows, and deteriorating framing. This Project will replace 14 windows at the station, add an ADA-compliant lift to the front of the station, and other ancillary related work.

The Project was advertised for bids on November 6, 2025, and bids were opened on December 4, 2025. The City received 12 bids for the project ranging from $348,800 to $685,000. The lowest responsive and responsible bidder was determined to be B Bros Construction, Inc. Staff recommends that a construction contract for the Project be awarded to B Bros Construction, Inc.

The Fire Station #6 Remodel Project is in alignment with the City's Strategic Plan Priorities, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Fire Station 6 was rebuilt in 1999. It is comprised of apparatus storage and living quarters for fire department staff. The renovation project is a Measure T1 Phase 2 project.

The City engaged the services of an architectural consultant to assess the condition of various city buildings in 2021. After building deficiencies were cataloged, the City engaged an architectural consultant in July 2022 to help identify the scope for improvements and begin design of the Project. In October 2025, permit documents were approved and the project was advertised for public bid on November 6, 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This project will address the City's sustainability and climate goals by increasing energy efficiency, and by providing newer, easily operable windows to the station.

RATIONALE FOR RECOMMENDATION

Contracted services are required for this project as the City does not have the in-house expertise to complete this specialized work.

ALTERNATIVE ACTIONS CONSIDERED

The City can elect not to construct the project; however, deferring the work will lead to deterioration of the existing windows and continued discomfort for the fire department personnel stationed there. Postponing the project will escalate costs and cost the City more money in the future as deterioration continues.

CONTACT PERSON

Wahid Amiri, Deputy Director, Department of Public Works (510) 981-6396
Priya Chopra; Associate Civil Engineer, Department of Public Works (510) 981-6338

Attachment:
1. Resolution
2. Bid Abstract

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

CONTRACT: B BROS CONSTRUCTION, INC, FOR FIRE STATION #6 REMODEL; SPECIFICATION NO. 26-11760-C, AT 999 CEDAR STREET

WHEREAS, the City engaged the services of an architectural consultant to assess the condition of various City buildings in 2021; and

WHEREAS, after building deficiencies were cataloged in Fire Station 6, the City engaged an architectural consultant in July 2022, to help identify the scope for improvements and begin design of the Project; and

WHEREAS, the project consists of window replacement and ADA upgrades at Fire Station 6; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS; in October 2025, permit documents were approved and the Project was advertised for bids on November 6, 2025 (Plans and Specifications No. 26-11760-C) and opened on December 4, 2025; and

WHEREAS, B Bros Construction Inc. was determined to be the lowest responsive and responsible bidder.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specifications No. 26-11760-C for Fire Station #6 Remodel are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of B Bros Construction as the lowest responsive and responsible bidder.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders, until completion of the project in accordance with the approved plans and specifications with B Bros Construction, Inc for the Fire Station #6 Remodel in an amount not to exceed $597,913.20, which includes a contingency in the amount of $99,652.20. A record signature copy of the agreement and any amendments will be on file in the Office of the City Clerk.

Finance Department

General Services Division

City of Berkeley
Abstract of Bid Worksheet

FOR: Fire Station No. 6 Remodel

Spec. # 26-11760-C

Bid Date: 12/4/2025

	Bidders	Base Bid	Exp & Qualif.	Non Collusion	Bid Bond (required w/ bid)	Addenda	~~SC~~	~~LW~~	~~WF~~	~~EBO~~	~~OS~~	~~NF~~
8	CWS Construction Group	$685,000.00	X	X	X	X						
1	Belz Construction	$626,304.32	X	X	X	X						
9	Bay Construction	$567,000.00	X	X	X	X						
6	MFS Construction	$530,611.89	X	X	X	X						
2	Marcon Builders	$509,355.00	X	X	X	X						
11	KYA	$496,222.00	X	X	X	X						
3	Greentech Industry	$488,780.00	X	X	X	X						
4	Evra Construction	$468,500.00	X	X	X	X						
7	SDM Construction	$459,600.00	X	X	X	X						
10	Rubicon Builders	$459,000.00	X	X	X	X						
5	B Bros Construction Inc	$439,095.00	X	X	X	X						
12	Paymun Building & Development	$348,800.00	X	X	X	X						
13												
14												
15												
16												

Bid Recorder: Sandra Blain *Sandra Blain* Sandra Blain (Dec 10, 2025 09:37:59 PST) Date 10/12/2025

Bid Opener: Roop Soorma *RSoorma* Date 09/12/2025

Project Manager: Priya Chopra *Priya Chopra* Date 09/12/2025

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390
E-mail: finance@ci.berkeley.ca.us

09

Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract: St. Francis Electric for On-Call Electrical Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with St. Francis Electric to provide on-call electrical services for a three year period from March 1, 2026, to February 28, 2029, in an amount not to exceed $375,000, with an option to extend for two additional one-year terms. The service rates will be adjusted annually in accordance with the pricing outlined in the awarded bid.

FISCAL IMPACTS OF RECOMMENDATION

There are funds available in the adopted FY2026 Public Works Budget (Funds 127, 134, and 142) for electrical on-call services. Funding for future years is subject to Council approval of the funds in the Fiscal Years 2027-2028 Budget.

CURRENT SITUATION AND ITS EFFECTS

The City's existing contracts for on-call electrical services are more than five years old and are set to expire at the end of fiscal year 2026. To avoid disruption in maintenance, repair and installations for the City's electrical infrastructure, it is necessary to execute a new contract based on the results of the recent competitive solicitation.

On-call electrical services provide support on critical electrical projects and tasks, including:

- Traffic and Pedestrian Signal Installation, Maintenance and Repair
- Conduit Repairs and Support of Electric Vehicle Charges in City-Owned Garages
- Parking, Parks, Pathway and Street Light Installation, Maintenance and Repair
- Indoor Electrical Services and Repairs

The City conducted Invitation to Bid Specification No. 25-11728-C, released on August 12, 2025, with proposals due no later than September 25, 2025. The City received five proposals in response. The selection committee, composed of subject matter experts from the Public Works Department, evaluated all proposals.

The evaluation criteria used to rate the proposals were as follows: Project Approach (20%), Expertise and References (25%), Cost (25%), and Ability to Perform Services Listed in the Scope of Services (30%). St. Francis Electric, along with DC Electric, was selected as one of the most responsive and highest scoring bidders to the solicitation.

This contract will support the City's facilities and is in alignment with the City's Strategic Plan, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The department maintains the City's electrical infrastructure, which includes 223 traffic signals and 8,000 streetlights, as well as internal electrical systems within City facilities. These systems are essential systems to provide needed traffic control, illumination and access to electricity for staff and community members. However, the department does not have the staffing capacity and expertise required to support all the needs of the City's electrical systems. These systems need regular maintenance and repair to run optimally and function efficiently. The department also lacks the staffing capacity required to install or upgrade lighting and electrical systems, so the department utilizes vendors for support.

St. Francis Electric has the adequate staff and equipment necessary to service the City. This contract will ensure clear guidelines and standardized prices for electrical services for City assets.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Regular maintenance and repair of electrical systems is essential for optimizing system performance, prolonging equipment lifespan and minimizing the environmental impact of these systems. Well-maintained electrical systems operate more efficiently, which leads to consuming less energy and reducing carbon emissions.

RATIONALE FOR RECOMMENDATION

The City requires reliable and responsive electrical services to maintain the electrical infrastructure and assets of City facilities. This agreement ensures ongoing service and prevents potential disruption to City operations.

The on-call electrical services contract will address the City's needs, while stabilizing costs and fees. The selected service provider will be utilized as needed to ensure the City has adequate resources available for electrical installation, maintenance and repair.

ALTERNATIVE ACTIONS CONSIDERED

If the Public Works Department does not contract for electrical services, there will be delays and increased costs associated with maintaining and updating the City's electrical infrastructure.

CONTACT PERSON
Joy Brown, Operations Manager, (510) 981-6629
Aaron Baker, Facilities Maintenance Superintendent, (510) 981-6452
Tucker Brofft, Senior Management Analyst, (510) 981-5375
Erika Barros, Associate Management Analyst, (510) 981-6462

Attachments:
1: Resolution
2: Abstract of Bids

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

CONTRACT: ST. FRANCIS ELECTRIC FOR ON-CALL ELECTRICAL SERVICES

WHEREAS, the City conducted RFP Solicitation No. 25-11728-C with bids due no later than September 25, 2025; and

WHEREAS, the City received five proposals and a selection committee composed of subject matter experts from the Department of Public Works, evaluated the bids; and

WHEREAS, St. Francis Electric was selected as one of the most responsive and highest-scoring vendors; and

WHEREAS, funding is available in the FY2026 adopted budget in the Public Works Electrical Division Fund 127, Fund 134 and Fund 142 budgets. Funding for future years is subject to Council's approval of the proposed citywide budget for Fiscal Years 2027-2028.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with St. Francis Electric to provide on-call electrical services for Public Works Electrical Division for a three-year period from March 1, 2026 to February 28, 2029 in an amount not to exceed $375,000, with an option to extend for two additional one-year terms. The service rates will be adjusted annually in accordance with the pricing outlined in the awarded bid.

Finance Department
General Services Division

City of Berkeley
Abstract of Bid Worksheet

For: On-Call Electrical Services
Spec. 25-11728-C **DATE: 09/25/2025**

	Bidders		Local Vendor	WC	NF	OS	SC	LW	EBO
1	St. Francis Electrical, LLC			X	X	X	X	X	X
2	DC Electric Group, Inc.			X	X	X	X	X	X
3	OBR Electric, LLC								
4	Ray's Electric			X	X	X	X	X	X
5	Quality Control Electric								
6									
7									
8									
9									
10									

Bid Recorder: Tanisha Gainer *Tanisha Gainer* DATE 09/29/2025

Bid Opener: Sherri Degnan *Sherri Degnan* Sherri Degnan (Sep 29, 2025 16:21:50 PDT) DATE 09/29/2025

Project Manager: Tucker Brofft *Tucker Brofft* DATE 09/30/2025

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390
E-mail: finance@ci.berkeley.ca.us

2511728-C - Abstract1

Final Audit Report 2025-09-30

Created:	2025-09-29
By:	Roopreet Soorma (RSoorma@berkeleyca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAngN2D78zfDHDMpQ99o7T2_8dG7ZW8q5f

"2511728-C - Abstract1" History

Document created by Roopreet Soorma (RSoorma@berkeleyca.gov)
2025-09-29 - 11:20:39 PM GMT

Document emailed to Tucker Brofft (TBrofft@berkeleyca.gov) for signature
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Email viewed by Tanisha Gainer (tgainer@berkeleyca.gov)
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Email viewed by Tucker Brofft (TBrofft@berkeleyca.gov)
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Document e-signed by Tucker Brofft (TBrofft@berkeleyca.gov)
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Agreement completed.
2025-09-30 - 2:22:13 PM GMT

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Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract: Siemens Industry, Inc. dba SIEMENS for Inspection, Testing, and Monitoring Services for the City's Fire and Life Safety System Equipment.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and subsequent amendments with Siemens Industry, Inc, for Inspection, Testing, Monitoring, and On-Call Maintenance Services for Fire and Life Safety equipment installed in 23 City owned buildings; in an amount not to exceed $350,000 for the initial contract period March 1, 2026, through February 28, 2029, and with the option to extend the contract term for two additional years, for a total contract term of five years.

FISCAL IMPACTS OF RECOMMENDATION

Funds are available in the adopted FY2026 Public Works Budget (Funds 011, 601, 627, 636, 672, and 673) for Fire and Life Safety services. The yearly cost for this contract is estimated to be $115,000-$120,000. Funding for future years is subject to Council's approval of the proposed citywide budget for Fiscal Years 2027, 2028, and 2029.

CURRENT SITUATION AND ITS EFFECTS

The Public Works Department is responsible for maintaining the Fire and Life Safety equipment deployed throughout 23 different City buildings to ensure the equipment functions properly at all times and to maintain compliance with National Fire Protection Association (NFPA) guidelines and the California Fire Code. This includes semi-annual and annual inspection and testing of the Fire and Life Safety equipment, quarterly inspection and testing of sprinkler systems, Five Year Sprinkler System Certifications, and 24 hour per day monitoring of the City's Fire Alarm systems.

The current contract for Inspection, Testing, and Monitoring of the City's Fire and Life Safety systems expires on March 31, 2026. Authorization to execute a new Fire and Life Safety contract, to start March 1, 2026, ensures continued City compliance with NFPA guidelines and the State Fire Code.

Maintaining this critical safety infrastructure and around-the-clock monitoring of Fire and Life Safety systems is in alignment with the City's Strategic Plan Priority of advancing

our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The City issued Request for Proposal Specification No. 25-11727-C for Fire and Life Safety System Inspection, Testing, and Monitoring services to support the Public Works Facilities and Building Maintenance Division, on September 4, 2025, and received three qualified responsive proposals. A selection panel comprised of Department subject matter experts evaluated the proposals based on the following criteria: Project Approach (30%), Expertise and References (20%), Cost (30%), and Background (20%).

Siemens was selected as the most responsive, qualified, and cost-effective vendor, able to service the full range of manufacturer's equipment and to meet the comprehensive needs outlined in the RFP Scope of Services for all 23 City service locations.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Public Works does not have the personnel or specialized equipment necessary to monitor the City's Fire Alarm systems 24 hours a day or the expertise to inspect, test and certify the other components of the City's Fire and Life Safety systems. The existing contract for Fire and Life System Inspection and Testing is due to expire March 31, 2026. Executing a new contract ensures that critical City safety infrastructure is well maintained and functions properly and that the City continues to follow local and state fire safety regulations.

ALTERNATIVE ACTIONS CONSIDERED

Public Works does not currently have staff with the experience and skills necessary to monitor, service, and certify the City's Fire and Life Safety infrastructure. As a result, contracting with an outside vendor is a necessity.

CONTACT PERSON

Joy Brown, Public Works Operations Manager, (510)981-6629
Aaron Baker, Public Works Facilities & Building Mtc Superintendent, (510)981-6452
Tucker Brofft, Public Works Senior Management Analyst (510)981-5375
Erika Barros, Associate Management Analyst, (510)981-6462

Attachments:
1: Resolution

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

CONTRACT: SIEMENS INDUSTRIES, INC. FOR INSPECTION, TESTING, AND MONITORING OF THE CITY'S FIRE AND LIFE SAFETY SYSTEM INFRASTRUCTURE

WHEREAS, the City's buildings require monitoring and testing of installed Fire and Life Safety Systems; and

WHEREAS, the City does not have the specialized training or staff to perform this work; and

WHEREAS, the City released RFP Specification No. 2511727-C on September 4, 2025; and

WHEREAS, the City received three qualified, responsive proposals and a selection panel comprised of subject matter experts from the Public Works Operations Divisions evaluated the proposals; and

WHEREAS, Siemens Industries, Inc. was selected as the most responsive and qualified vendor; and

WHEREAS, Inspection, Testing, and Monitoring to maintain the functional integrity of the City's Fire and Life Safety System infrastructure in City facilities is essential to the safety of City staff and to the public and ensures continued compliance with National Fire Protection Association (NFPA) guidelines and the California Fire Code; and

WHEREAS, funding is available in the Fiscal Year 2026 adopted budget in Funds 011, 601, 627, 672, and 673. Funding for future years is subject to Council's approval for the proposed citywide budget for Fiscal Years 2027, 2028, and 2029.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and subsequent amendments with Siemens Industry, Inc, for Inspection, Testing, Monitoring, and On-Call Maintenance Services for the Fire and Life Safety equipment installed in 23 City owned buildings; in an amount not to exceed $350,000 for the initial contract period March 1, 2026, through February 28, 2029, and with the option to extend the contract term for two additional years, for a total contract term of five years.

Finance Department
General Services Division

City of Berkeley
Abstract of Bid Worksheet

For: Fire & Life Safety System Inspection, Maintenance, Testing, 24 HR Monitoring

Spec. 25-11727-C **10/28/2025**

	Bidders		Local Vendor	WC	NF	OS	SC	LW	EBO
1	Siemens			X	X	X	X	X	X
2	Western States			X	X	X	X	X	X
3	Tri-Signal Integration	NO SIGNED FORMS SENT***							
4									
5									
6									
7									
8									
9									
10									

Bid Recorder: RSoorma DATE 28/10/2025

Bid Opener: Tanisha Jaiswal DATE 28/10/2025

Project Manager: Tucker Broffit Tucker Broffit DATE 28/10/2025

25-11727-C - Abstract

Final Audit Report 2025-10-28

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Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract No. 32100070 Amendment: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract amendment with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station, increasing the contract by $75,000 from $189,848 to a new not to exceed amount of $264,848 and extending the term through June 30, 2027.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this amendment is available in the FY2026 adopted budget in Zero Waste Fund 601.

CURRENT SITUATION AND ITS EFFECTS

For the past 25 years, Urban Ore has salvaged more than 800 tons annually of reusable materials from the City of Berkeley's Transfer Station. Those items are resold at Urban Ore's retail store located at the intersection of Ashby Avenue and 7th Street in West Berkeley.

This contract extension will allow the City to continue to reduce materials to be landfilled, supporting increased diversion and the City's Zero Waste Goal. The amendment will increase the not-to-exceed amount to cover regular operations and extend existing service levels until June 30, 2027.

The Urban Ore salvage program is a Strategic Plan Priority Project that advances our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

Since 2000, the Urban Ore Salvage and Recycling operation has stationed a box truck and staffing at the City's Transfer Station during regular business hours to salvage reusable household goods and building materials from discarded objects. Urban Ore staff identify reusable items from loads delivered to the Transfer Station by Zero Waste

employees. In many cases, discarded materials are salvaged and prepared for resale, which allows those materials to be diverted from waste streams.

For more than a decade, Urban Ore has been the only local salvage operation able to provide a suitable diversion service on-site at the City's Transfer Station, while maintaining a local retail outlet for salvaged goods and materials. Urban Ore's proven safety record, environmental commitment, and quality customer service have made them an important City partner.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Urban Ore mission statement, "our purpose is to end the age of waste by advocating and developing total recycling," demonstrates a committed environmental vision with recycling as a key component to all aspects of their operation. Urban Ore has reclaimed more than 800 tons annually from the City's Transfer Station, which increases the City's diversion rate, and reduces greenhouse gas emissions.

RATIONALE FOR RECOMMENDATION

This salvage and reuse/recycling program supports increased diversion of materials from landfills and helps move the City toward its Zero Waste Goal. In addition, the Transfer Station's operational expenses associated with waste hauling are also reduced.

ALTERNATIVE ACTIONS CONSIDERED

Opting to discontinue this salvageable waste diversion program will increase City use of area landfills, increase greenhouse gas emissions from long-haul transportation of waste materials, and will negatively impact the Zero Waste Division budget. Alternative service providers to operate this contract have not been identified, due to the unique nature of this work and the requirements for a nearby storefront to resale the salvageable items.

CONTACT PERSON

Leticia Jauregui, Solid Waste and Recycling Division Manager (510) 981-6362

Attachments:
1: Resolution

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

CONTRACT NO. 32100070 AMENDMENT: URBAN ORE, INC. FOR SALVAGE OPERATIONS AT THE CITY'S TRANSFER STATION

WHEREAS, Urban Ore is the only local salvage operation able to provide a suitable diversion service on-site at the Transfer Station, which reduces landfill-bound waste by 800 tons each year by returning useable materials to the community; and

WHEREAS, this salvage and reuse/recycling program helps move the City toward its zero waste goals, while reducing the Transfer Station's operational expenses associated with increased landfill use, and reducing greenhouse gas emissions caused by long-haul trucks; and

WHEREAS, Urban Ore's proven safety record, environmental commitment, and quality customer service have made them an important zero waste partner; and

WHEREAS, Council on July 1, 2020, by Resolution 69,434-N.S. Council authorized Contract No. 32100070; and,

WHEREAS, on June 1, 2023, the City Manager of the City of Berkeley authorized an amendment extending the Contract through June 30, 2025; and,

WHEREAS, on July 25, 2023, by Resolution No. 71,003, the Berkeley City Council authorized an amendment of said Contract; and,

WHEREAS, funding for this contract amendment is available in Zero Waste Fund 601.

WHEREAS, the Urban Ore salvage program is a Strategic Plan Priority Project that advances our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and

WHEREAS, opting to discontinue this salvageable waste removal and diversion program will increase City use of area landfills, and negatively impact the Zero Waste Division budget.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley authorizes the City Manager to execute a contract amendment with Urban Ore, Inc. for salvage operations at the City's Transfer Station increasing the Contract by $75,000 from $189,848 to $264,848 for a new not to exceed amount of $264,848 and extending the contract term by two years through June 30, 2027. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract No.101280-1 Amendment: On-Call Traffic Engineering Services with AECOM USA, Inc. for Engineering Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 101280-1 and any subsequent amendments with AECOM USA, Inc. (AECOM) for:

1) The Ashby-San Pablo Intersection Improvements Project (Project), Specification No.18-11182-C, to provide engineering support services to guide the Project through the required design review and encroachment permit process by the California Department of Transportation (Caltrans) for construction on State right-of-way, and
2) Other as-needed traffic engineering services, increasing the overall contract capacity for On-Call Traffic Engineering Services by up to $800,000, for a total not-to-exceed amount of $2,000,000.

SUMMARY

The purpose of the Ashby-San Pablo Intersection Improvements Project is to improve vehicle and pedestrian safety at that intersection, as evidenced by a history of severe and fatal collisions and the designation of both streets as High-Injury Streets in the 2020 Vision Zero Action Plan. The Project goals are to:

- Reduce the risk of severe and fatal collisions,
- Enhance pedestrian safety and accessibility, and
- Improve overall traffic operations at the intersection.

The Project will construct a new dedicated left-turn lane for westbound vehicles on Ashby Avenue, implement improved signal phasing and timing, repave the east leg of the intersection, construct new accessible curb ramps along the eastern side of the intersection, and install new pavement markings including crosswalk markings.

The Project is funded by

- Alameda County Transportation Commission (Alameda CTC) Vehicle Registration Fee and Measure BB direct local distribution discretionary funds,
- City of Berkeley Capital Improvements fund, and
- Federal Congestion Mitigation and Air Quality Improvement program (CMAQ) funds via the Metropolitan Transportation Commission's (MTC's) One Bay Area Grant (OBAG 2) program for Housing Incentive Pool (HIP) projects.

The Project was conceived in the early 1990s due to numerous vehicle collisions at the intersection. Creation of a westbound left turn lane on Ashby Avenue – the only leg of the intersection without a left turn lane – was viewed as an important feature that would improve visibility of oncoming traffic for eastbound drivers and improve traffic flow through the intersection. In subsequent years, the City acquired property parcels along the north and south sides of Ashby Avenue for the purpose of widening the eastern leg of Ashby Avenue to create space for a dedicated left-turn lane. As the Project is at the intersection of two State highways on State property, the City must obtain an encroachment permit from Caltrans before construction is allowed; this will require the City to submit environmental, right-of-way, and design documentation, along with detailed studies, reports, and forms in an encroachment permit application; and coordinate with numerous groups within Caltrans through an involved review and approval process that often takes approximately a year to complete.

In 2014, City staff engaged AECOM, under its On-Call Traffic Engineering Services contract with the City (Contract No. 101280-1), to perform initial studies and develop conceptual designs for the Project. The Project proceeded intermittently over the next several years and, despite fluctuations in City staffing and funding, AECOM produced final design documents by early 2021. The Project was again put on hold due to lack of construction funding from mid-2021 until mid-2025, when the City applied for and received federal funding to complete the Project. Due to stringent grant milestones, which require Caltrans' approval of the design and associated encroachment permit application by the end of 2026, City staff intend to retain AECOM as the engineer-of-record to guide the Project through the required Caltrans design review and encroachment permit process.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the proposed second amendment to AECOM's On-Call Traffic Engineering Services contract will be available in the FY 2026 - FY 2027 budgets from the Alameda County Measure BB Local Streets and Roads (Fund 134) direct local distribution discretionary funds and UC Berkeley Long-Range Development Plan (Fund 147) funds.

Current On-Call (Contract No. 101280-1) Capacity	$1,200,000
Proposed Amendment #2 (not-to-exceed amounts):	
Engineering Services for Project (Fund 134)	$500,000

Other As-needed Traffic Engineering Services (Fund 147)	$300,000
Total Amended Not-to-Exceed Contract Capacity	**$2,000,000**

The City's On-Call Traffic Engineering Services contract with AECOM covers the work of several different projects, including the subject Project. The total amount for AECOM's services for this Project, including the current request for additional contract capacity, is $909,451.

CURRENT SITUATION AND ITS EFFECTS

The creation of a westbound dedicated left-turn lane at the Ashby Avenue-San Pablo Avenue intersection has been identified as an important potential safety improvement by the City for over thirty years, and the City has taken steps to acquire right-of-way along Ashby Avenue in preparation for a new left-turn lane via:

1) A 1991, condition of development with Walgreens at the northeast corner of the intersection that dedicated a 10-foot wide parcel along the north side of Ashby Avenue to the City, and

2) A 2011, Ordinance No. 7,198-N.S. in which the City accepted a 5-foot wide parcel along the south side of Ashby Avenue. In 2021, Council passed Ordinance No. 7,783-N.S. approving the transfer of these two parcels to Caltrans to widen the existing State right-of-way along the east leg of Ashby Avenue, in anticipation of the new left-turn lane as part of the Project.

On December 10, 2024, Council adopted Resolution No. 71,625-N.S. authorizing the City Manager to submit a grant application to the MTC HIP to fund the completion of the Project. In mid-2025, the City received federal CMAQ funds via the MTC's OBAG 2 program for HIP projects, which re-started the Project and provides funding for construction.

Due to the Project's location on the State highway system on a State right-of-way overseen by Caltrans, the City will need AECOM's specialized engineering services to navigate Caltrans' complex review and approval process in order to obtain an encroachment permit prior to construction. The proposed second contract amendment would provide additional contract capacity for AECOM to provide these necessary services. As the design consultant and engineer-of-record, AECOM has the necessary knowledge and background to provide these services, enabling the City to efficiently manage the Project. Depending largely on Caltrans' review timeline, the City anticipates receiving an encroachment permit from Caltrans by the end of 2026, which will allow the Project to remain on schedule per grant funding milestones.

The Project includes the addition of a dedicated left-turn lane on westbound Ashby Avenue (State Route 13) at the intersection of San Pablo Avenue (State Route 123) and associated widening of the eastern leg of Ashby Avenue – the only leg of this

intersection without a dedicated left-turn lane - to create space for the additional lane. The current two-lane configuration on westbound Ashby Avenue, with one shared left turn-through lane and one shared through-right turn lane, results in congestion on this important high-volume street. It also poses a safety issue because of a lack of dedicated left-turn signal phase, as westbound drivers waiting to turn left block the visibility of oncoming traffic for eastbound vehicles waiting to turn left. The proposed Project will address these issues by improving sightlines and providing queuing space and signal phasing for left-turning vehicles on Ashby Avenue. It will also provide new directional curb ramps at the northeast and southeast corners of the intersection to improve pedestrian accessibility, repave the east leg of the intersection, and install new pavement markings including crosswalk markings.

The Project is in alignment with the Strategic Plan Priority of creating a resilient, safe, connected, and prepared city.

BACKGROUND

On June 3, 2014, Council adopted Resolution No. 66,610-N.S. authorizing the City Manager to execute a contract and any amendments with AECOM for on-call traffic engineering services. AECOM was selected through an open competitive process over six other engineering firms. In July 2014, Contract No. 101280 (FUND$ Contract No. 9677) was executed with AECOM for an amount not to exceed $1,000,000 for the period from July 7, 2014, through June 30, 2017.

The on-call contract with AECOM allowed the City to implement several projects, including Safe Routes to School, pedestrian, bicycle, and vehicle occupant safety improvement projects. The Ashby-San Pablo Intersection Improvements Project is the only remaining unfinished project from this contract.

Due to periodic lack of staffing and funding for the Project, three contract extensions were issued. In May 2017, the City Manager extended the term of the contract through June 2018. In May 2018, the City Manager extended the term of the contract for a second time, through June 2019. In March 2019, the City Manager extended the term of the contract for a third time, through June 30, 2020.

On May 12, 2020, Council adopted Resolution No. 69,393-N.S. authorizing the City Manager to execute an amendment (Contract No. 101280-1) to Contract No. 101280 with AECOM for additional engineering services for the Project, which:

1) Increased the total contract capacity by $200,000 for a total amount not to exceed $1,200,000, and
2) Extended the term through December 31, 2022. Again, due to periodic lack of staffing and funding, in October 2022, the City Manager extended the term of this Contract No. 101280-1 through December 31, 2025.

On November 20, 2025, the City Manager extended the term of Contract No. 101280-1 through December 31, 2026, to provide time for the Project to proceed through the Caltrans design review and encroachment permit process. The proposed Council Resolution to execute a second amendment to AECOM's contract would increase the contract capacity to perform additional services to guide the Project through this required process in accordance with the timeline of the contract term extension.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The work of the Project is intended to reduce the risk of motor vehicle collisions, including collisions between drivers and pedestrians. It is also intended to improve the overall efficiency of the Ashby Avenue-San Pablo Avenue intersection, thereby reducing emissions from trips made by motor vehicles, and encourage pedestrian travel by installation of new directional curb ramps.

RATIONALE FOR RECOMMENDATION

AECOM's On-Call Traffic Engineering Services contract requires an increase to the overall contract capacity to fund additional work to guide the Project through the required Caltrans design review and encroachment permit application process and fund other as-needed traffic engineering services. Successful completion of the Project requires specialized knowledge and contracted engineering services, preferably continuing with AECOM as engineer-of-record, as the City does not possess the necessary background or specific technical expertise.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered for this Project. Not taking the recommended action at this time would risk the following:

1) Increased overall Project costs and a longer Project timeline if a different engineering consultant is procured to assume the role of engineer-of-record;

2) The City defaulting on its obligation to deliver the Project by the grant funding deadlines, which could also endanger future grant opportunities.

CONTACT PERSON

Wahid Amiri, Deputy Director, Public Works, 510-981-6396
Mark Helmbrecht, Transportation Manager, Public Works, 510-981-6403
Kenneth Jung, Supervising Civil Engineer, Public Works, 510-981-7028
Hyunkyung Yoon, Assistant Transportation Engineer, Public Works, 510-981-6416

Attachments:
1: Resolution

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

CONTRACT NO. 101280-1 AMENDMENT FOR ON-CALL TRAFFIC ENGINEERING SERVICES CONTRACT WITH AECOM USA, INC. FOR ENGINEERING SERVICES

WHEREAS, Council authorized the City Manager to enter into a contract (Contract No. 101280) with AECOM USA, Inc. for On-Call Traffic Engineering Services for a total non-to-exceed amount of $1,000,000 on June 3, 2014 (Resolution No. 66,610-N.S.); and

WHEREAS, the City Manager extended the term of the contract (Contract No. 101280) through June 30, 2020, to account for pauses in the project due to lack of staffing and funding; and

WHEREAS, AECOM USA, Inc. performed several projects under said On-Call Traffic Engineering Services contract, with the remaining uncompleted project being the Ashby-San Pablo Intersection Improvements Project (Specification No. 18-11182-C); and

WHEREAS, Council authorized the City Manager to amend the contract (Contract No. 101280-1) with AECOM USA, Inc. for On-Call Traffic Engineering Services to a total not-to-exceed amount of $1,200,000 on May 12, 2020 (Resolution No. 69,393-N.S.) to perform additional professional engineering services to finalize the design of the Ashby-San Pablo Intersection Improvements Project; and

WHEREAS, the City Manager extended the term of the contract (Contract No. 101280-1) through December 31, 2026, to provide time for the project to proceed through the required design review and encroachment permit process by the California Department of Transportation; and

WHEREAS, the Ashby Avenue-San Pablo Avenue intersection has a documented history of severe and fatal collisions and, as a result, Ashby Avenue and San Pablo Avenue have been identified as High-Injury Streets in the Vision Zero Action Plan (2020); and

WHEREAS, the Project has been identified as a priority project by the City of Berkeley; and

WHEREAS, AECOM USA, Inc., under the oversight of City staff, prepared complete plans and specifications for the Ashby-San Pablo Intersection Improvements Project, but this project had been on hold since 2021, due to a lack of construction funding; and

WHEREAS, the City recently received $1,508,000 in grant funding from the Metropolitan Transportation Commission’s One Bay Area Grant program for Housing Incentive Pool projects, which is intended to fund the construction phase; and

WHEREAS, AECOM USA, Inc., as the design consultant and engineer-of-record, has the requisite knowledge and background to provide continued engineering support services, including guiding the project through the required design review and encroachment permit process by the California Department of Transportation, which are necessary for the City to efficiently manage the remaining scope of the project; and

WHEREAS, City staff have determined that additional contract capacity will be needed for said engineering support and other as-needed traffic engineering services, which requires an amendment to Contract No. 101280-1 to increase the capacity by up to $800,000 for a total not-to-exceed amount of $2,000,000; and

WHEREAS, $500,000 for said engineering support is available in the FY 2026 – FY 2027 budget from the Measure BB Local Streets and Roads Fund (134) and $300,000 for said other as-needed traffic engineering services is available in the FY 2026 – FY 2027 budget from the UC Berkeley Long-Range Development Plan (147) fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 101280-1 and any subsequent amendments with AECOM USA, Inc. for engineering services, increasing the overall contract capacity by up to $800,000, for a total not-to-exceed amount of $2,000,000. A record signature copy of said contract amendment will be on file in the Office of the City Clerk.

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Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract No. 108037-1 Amendment: MSR Mechanical, LLC for on-call heating, ventilation and air conditioning services

RECOMMENDATION
Adopt a Resolution authorizing the City Manager to execute a contract amendment with MSR Mechanical, LLC for on-call HVAC maintenance and repair to increase the contract amount by $50,000 for a total contract amount not to exceed $530,000.

FISCAL IMPACTS OF RECOMMENDATION
There are funds available in the adopted FY2026 Public Works Budget (Fund 673) for HVAC maintenance and repairs services. Contract 108037-1 is set to expire on March 31, 2026, and will not be extended past the expiration date.

CURRENT SITUATION AND ITS EFFECTS
MSR Mechanical LLC (MSR) provides a comprehensive range of on-call and emergency heating, ventilation and air conditioning (HVAC) services to support the Public Works Department. Services include inspection, trouble shooting, installation, maintenance and research into repairs or replacements. Timely inspection and maintenance of ventilation systems in City buildings is critical to ensuring optimum system performance.

Recently MSR performed a major HVAC repair and installation project for the City's Public Safety Building. This work was completed recently, but the costs associated with this work went unexpectedly above budget due to unforeseen repairs and parts needed. To complete payment on the already incurred costs, the department is asking for a contract amendment for the additional funds.

This contract will support the City's facilities and is in alignment with the City's Strategic Plan, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND
The City contracted with MSR Mechanical in 2015. MSR has provided quality service throughout the duration of the contract. In May 2025, the City conducted a solicitation

for HVAC services and awarded contracts to two vendors, Matrix HG and Prime Mechanical. MSR Mechanical's contract is set to expire on March 31, 2026, though all service with MSR Mechanical has ceased upon the completion of HVAC work at the Public Safety Building in November 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Regular maintenance and repair of HVAC systems is essential for optimizing performance, prolonging equipment lifespan, and minimizing environmental impacts. Well-maintained HVAC systems operate more efficiently, which leads to reduced energy consumption and carbon emissions. Regular service prevents the leaking of refrigerants into the atmosphere, which are damaging to the ozone layer and contribute to climate change. Optimized HVAC systems also improve indoor air quality and provide air circulation benefits.

RATIONALE FOR RECOMMENDATION

Required HVAC repairs and installation work has been completed at the Public Safety Building and this amendment allows the City to complete payment with MSR Mechanical. The City requires reliable and responsive HVAC maintenance and repair services to maintain the heating, ventilation and air-conditioning needs of City facilities.

ALTERNATIVE ACTIONS CONSIDERED

The City must remit payment, due to the completion of services. While the additional expenses were unexpected, funds are readily available and budgeted for HVAC services. The contractor is knowledgeable about and familiar with the City's equipment and has been highly responsive during emergency situations.

CONTACT PERSON

Joy Brown, Operations Manager, (510) 981-6629
Aaron Baker, Facilities Maintenance Superintendent, (510) 981-6452
Tucker Brofft, Senior Management Analyst, (510) 981-5375

Attachments:
1: Resolution

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

CONTRACT NO. 108037-1 AMENDMENT: MSR MECHANICAL, LLC FOR ON-CALL HEATING, VENTILATION AND AIR CONDITIONING SERVICES

WHEREAS, the City owns and operates buildings with heating, cooling and ventilation systems which regulate the temperature and quality of indoor air; and

WHEREAS, staff rely upon HVAC services provided by supplemental contractors to help maintain properly performing HVAC systems for optimal indoor air quality and reduced energy usage; and

WHEREAS, the City and MSR Mechanical, LLC entered into Contact No. 108037-1 for on-call and emergency HVAC services, effective November 9, 2015, and extended through June 30, 2022; and

WHEREAS, on May 31, 2022, Council authorized Resolution No. 70,393-N.S. to increase the contract by $50,000 for a new not to exceed amount of $130,000 and extend the contract term to June 30, 2024; and

WHEREAS, on October 10, 2023, Council authorized Resolution No. 71,075-N.S. to increase the contract by $350,000 for a new not to exceed amount of $480,000 and extend the contract term to June 30, 2025; and

WHEREAS, on May 20, 2025, City Manager authorized an extension to contract 108037-1 from an expiration date of June 30, 2025 to December 31, 2025; and

WHEREAS, on December 1, 2025, City Manager authorized an extension to contract 108037-1 from an expiration date of December 31, 2025, to March 31, 2026; and

WHEREAS, funding is available in the adopted FY2026 Public Works Budget (Fund 673) for HVAC maintenance and repairs services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment with MSR Mechanical, LLC to provide on-call and emergency HVAC services for the City’s HVAC systems, increasing the Contract amount by $50,000 for a total contract not to exceed amount of $530,000.

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Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Contract No. 32500124 Amendment: Buhler Commercial for FY 2023 Retaining Wall and Storm Drain Improvement Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32500124 with Buhler Commercial for work on the FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C, increasing the contract amount by $250,000 for an amended total not to exceed $2,224,009.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available in the State Transportation Tax Fund (Fund 127).

State Transportation Tax (Fund 127)	$250,000
Total construction amendment amount	$250,000

No other funding is required, and no other projects will be delayed due to this expenditure.

Original Authorized Contract Amount (NTE)	$1,974,009
This Amendment Amount	$250,000
Amended Contract amount (New NTE)	$2,224,009

CURRENT SITUATION AND ITS EFFECTS

The FY 2023 Retaining Wall and Storm Drain Improvement Project (the Project), Specification Nos. 23-11616-C & 23-11614-C, is currently under construction by Buhler Commercial. The Project is approximately 75 percent complete but has encountered unforeseen conditions that require additional work and funding.

Two significant site conditions were discovered during construction that were not apparent during the design phase:

- Subsurface groundwater was encountered at a shallower depth than anticipated during drilling of the cast-in-place pier foundations along Hilgard Avenue. The

presence of groundwater required the contractor to implement temporary steel casings to maintain hole stability, prevent soil caving, and safely complete the drilled pier installations. Although construction of the retaining wall has been successfully completed, the additional casing and drilling measures required to address the unexpected groundwater condition resulted in a substantial increase in construction costs.

- During excavation for the Upper Columbia Path staircase installation, the contractor exposed portions of an irregular rock outcrop that were not fully visible during design investigations. Once uncovered, it became clear that adjustments to the staircase profile were required to ensure a stable and constructible installation that accounts for existing geological features. These refinements reflect appropriate adjustments based on field-verified site conditions. This work is currently on hold, pending the Council approval of this contract amendment.

The Project requires $250,000 in additional funds to cover the costs associated with addressing these unforeseen site conditions. The work is critical to complete the Project safely and in accordance with current engineering standards.

BACKGROUND

On July 23, 2024, Council authorized Contract No. 32500124 with Buhler Commercial, the lowest responsive and responsible bidder, to construct the FY 2023 Retaining Wall and Storm Drain Improvement Project for a not-to-exceed amount of $1,974,009, which included a 10% contingency.

The Project includes several infrastructure repairs and improvements throughout various locations in the City, including storm drain maintenance hole upgrades, retaining wall replacements on Hilgard Avenue and La Loma Avenue, bridge abutment repairs at La Loma Bridge, pedestrian safety improvements at the Piedmont Avenue and Channing Way traffic circle, a new staircase at Upper Columbia Path, traffic calming improvements at the Woolsey Street and Eton Avenue intersection, and repairs to five existing concrete paths.

Prior to construction, the design team completed extensive due-diligence investigations at the project sites, including utility verification and exploratory borings to assess soil characteristics and the potential for groundwater. While these efforts provided critical baseline information, certain subsurface and geologic features such as the unexpectedly shallow groundwater encountered at Hilgard Avenue and the detailed configuration of the rock outcrop at the Upper Columbia Path staircase, could only be fully understood once excavation began. These field-verified conditions necessitated refinements to the planned construction approach.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
This contract amendment will help ensure the successful completion of infrastructure repair and pedestrian improvement projects. The retaining wall and pathway improvements support the City's commitment to maintaining safe, accessible infrastructure that encourages walking and reduces reliance on vehicle transportation.

RATIONALE FOR RECOMMENDATION
The additional funding is necessary to address critical safety and structural requirements that emerged during construction and could not have been anticipated during the design phase.

ALTERNATIVE ACTIONS CONSIDERED
No alternative action was considered for this project. If the proposed contract amendment is not approved, the completion of these infrastructure improvements would be delayed, potentially creating safety hazards at the construction sites. The state funding is readily available for project completion in the appropriate fund, and is meant to cover this exact type of situation.

CONTACT PERSON
Wahid Amiri, Deputy Director, Public Works, (510) 981-6396
Terrence Salonga, Interim Supervising Civil Engineer, Department of Public Works, (510) 981-6447

Attachments:
1: Resolution

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

CONTRACT NO. 32500124 AMENDMENT: BUHLER COMMERCIAL FOR FY 2023 RETAINING WALL AND STORM DRAIN IMPROVEMENT PROJECT

WHEREAS, on July 23, 2024, by Resolution No. 71,455-N.S., the City Council authorized Contract No. 32500124 with Buhler Commercial for the FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C, in an amount not to exceed $1,974,009; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this FY 2023 Retaining Wall and Storm Drain Improvement Project; and

WHEREAS, unforeseen conditions were encountered during construction, including the discovery of groundwater during the installation of the Hilgard Avenue retaining wall piers requiring temporary steel casings and additional drilling to prevent soil collapse; and

WHEREAS, field conditions at the Upper Columbia Path staircase revealed variations in the existing rock outcrop that required design modifications during construction to ensure proper integration with existing terrain; and

WHEREAS, this Contract has insufficient budget to complete the aforementioned additional work required to address these unforeseen site conditions; and

WHEREAS, funding of $250,000 is available in the State Transportation Tax Fund (Fund 127).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32500124 with Buhler Commercial for work on the FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C, increasing the contract amount by $250,000 for an amended total not to exceed $2,224,009. A record signature copy of said contract and any amendments will be on file in the Office of the City Clerk.

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Office of the City Manager

CONSENT CALENDAR
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: goBerkeley Parking Management Program Recommended Adjustments to Address a Forecasted Deficit in the Off-Street and Parking Meter Funds

RECOMMENDATION

Adopt a Resolution concurring with the Public Works Department's proposed strategies to implement near-term adjustments consistent with the goBerkeley Parking Management Program's (Parking Program) goals to improve parking management and lessen traffic congestion and vehicle emissions; and to authorize the City Manager to proceed with public outreach and data collection for long-term strategies to address a declining fund balance in the Off-Street and Parking Meter funds.

SUMMARY

The Public Works Department has conducted a review of the Parking Program's operational and financial status to address ongoing budgetary challenges and align with the City's strategic goals. This report provides:

1) Off-Street and Parking Meter Fund revenues and expenses;
2) Near-term planned adjustments to the Parking Program; and
3) A roadmap for long-term changes to the Parking Program that may be presented for Council's consideration in the future.

These strategies aim to strengthen the City's financial position, optimize resource allocation, and support the City's commitment to fiscal responsibility.

Near-Term Strategies

The near-term planned adjustments herein are consistent with the defined rate setting authority given to staff by Council in 2013 (Ordinance No. 7,305-N.S. Repeal and Re-enact Berkeley Municipal Code Chapter 14.52 to Establish Policies and Fee Schedule for On-Street Parking Meters to Enable the goBerkeley Pilot Program, adopted July 22, 2013). This authority provides a more responsive and flexible process by which staff may adjust parking rates to achieve optimal parking availability based on observed behavior. Near-term planned adjustments scheduled to go into effect on March 1, 2026, include:

- Parking meter rates for select parking meters will increase by $.50/hour to address parking demand (see Attachment 3);

- The minimum rate for parking meters Citywide will increase from $.50-.75/hour to $1.50/hour, which was the minimum rate for parking meters prior to the COVID-19 Pandemic;
- Parking meters closest to California Memorial Stadium will have special event surcharge pricing of about 50% higher rates on Cal Football home game days (see Attachment 4);
- The hourly rate at the Telegraph-Channing Garage will increase by $1 for vehicles parked up to 4 hours, including replacing free parking for the first hour with a $1 fee; and increasing by $2 for vehicles parked more than 4 hours. In addition, the Early Bird, Evening, Overnight, and Lost Ticket rates will increase by $2-$4 (see Attachment 2, Table 3).
- The monthly rate for parking permits in the three City garages will increase by $20/month (see Attachment 5); and
- Having exhausted the monthly permit request backlog, increasing the number of monthly parking permits issued in all three City garages by a total of 31 permits.

Long-Term Strategies

This report also provides a road map for long-term changes to the Parking Program. Long-term changes could include, but are not limited to, the following:

- Extend parking meter operating hours from 6 p.m. up to 8 p.m. Citywide;
- Operating parking meters and parking enforcement on Sundays;
- Installing parking meters in commercial areas where they currently do not exist;
- Replacing existing pay stations that accept coins or cards with newer versions that accept tap-to-pay (or mobile) payment options only; and
- Update the Schedule of Parking Violations and Fines.
- Increase advertising efforts to surrounding businesses and educational institutions to attract additional users.

This resolution does not seek City Council's approval to implement any of the above long-term strategies. Instead, these long-term strategies are introduced to inform Council of the intention to proceed with data collection and public outreach to inform the potential for these changes.

The long-term strategies would subsequently be considered by Council prior to implementation; they require amendments to the Berkeley Municipal Code.

FISCAL IMPACTS OF RECOMMENDATION

As shown in Figure 5 under "Combined Parking Fund Financial Status and Outlook," below, the combined parking fund balance is projected to be negative by the end of Fiscal Year (FY) 2026. The near-term strategies included in this report are expected to increase annual revenue starting in FY 2027, by approximately $660,000; however, even with implementation of these near-term strategies, the combined parking fund balance is projected to be over $2,000,000 in deficit by the end of FY 2027. Therefore,

implementation of some or all long-term strategies is also needed, which could increase annual revenue by up to $2,000,000 and would set the parking funds on a path to fiscal sustainability.

Cost reduction strategies implemented in mid-2025 are anticipated to save the City about $195,000 starting in FY 2026.

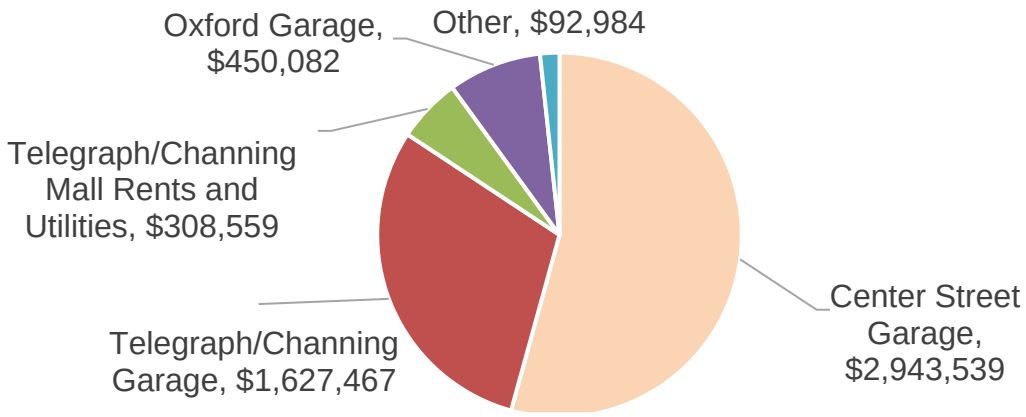
CURRENT SITUATION AND ITS EFFECTS

The "Parking Funds" consist of two enterprise funds, the Off-Street Parking Fund (Fund 627) and the Parking Meter Fund (Fund 631). Enterprise funds are used to finance and account for the operation and maintenance of parking facilities and services that are predominately self-supported by user charges.

Off-Street Parking Fund Revenue

The City owns three garages (Center Street Garage, Oxford Garage, and Telegraph Channing Garage). In FY 2025, total revenue from the garages was $5,422,631, up 1% from FY 2024, with parking revenue from the Center Street and Telegraph Channing garages comprising 84% of the total revenue (see Figure 1). The remaining 16% of revenue was rent from retail spaces in the Telegraph Channing Garage, parking fees from the Oxford Garage, and electric vehicle charging. Revenue is expected to slightly increase each year through FY 2028.

Figure 1: Off-Street Parking Fund Revenue in FY 2025 (Total = $5,422,631)

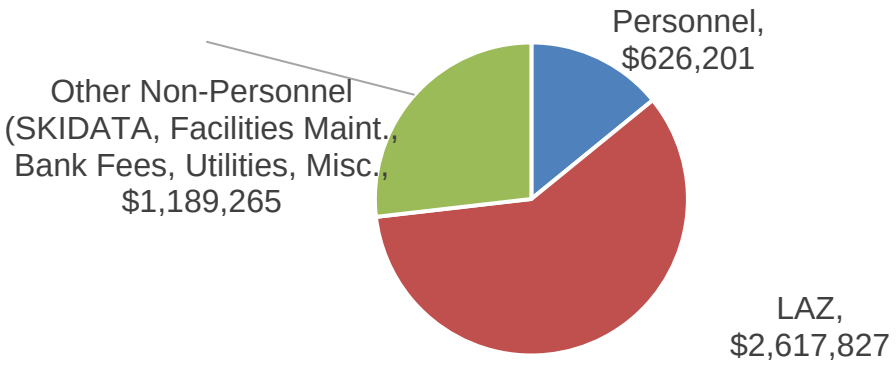


Off-Street Parking Fund Expenses

As shown in Figure 2, expenses in the Off-Street Parking Fund include payments to vendors such as LAZ Parking ($2,617,827 in FY 2025) who operates the three garages, and SKIDATA ($544,299 in FY 2025), who provides and maintains the software, hardware, and associated IT support for tracking and managing vehicle entry, exit, payment, and the display of available parking spaces. Other expenses paid out of the Off-Street Parking Fund include utilities, maintenance, bank fees, and other miscellaneous fees. Note that debt service payments for the 2016 Revenue Bond to

fund replacement of the Center Street Garage are about $1,911,050 annually ($870,000 for principal and $1,041,050 for interest) and are typically paid out of the Off-Street Parking Fund. However, debt service obligations are a financing cost and reported separately in financial statements from operating costs. Therefore, for the purposes of this report they are not included in Figure 2. Annual bond payments will occur until 2046.

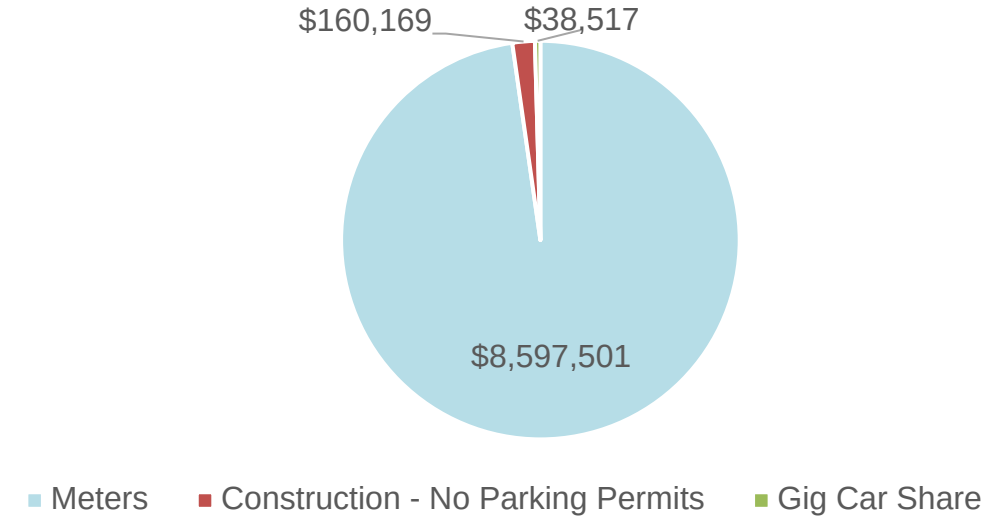
Figure 2: Off-Street Parking Fund Operating and Maintenance Expenses in FY 2025 (Total = $4,433,293)



Parking Meter Fund Revenues

Parking Meter revenue is generated through payments made by hourly parkers using "pay and display" or "pay by plate" parking meters, as well as single space parking meters or the ParkMobile App. This enterprise fund pays for the maintenance, collection, capital, and enforcement of parking meters. The Parking Meter Fund is the secondary surety for the 2016 Revenue Bond for the Center Street Garage Reconstruction Project. Total parking meter revenue in FY 2025, was $8,460,385, down 5% from FY 2024, due to lost revenue from Gig Car Share ceasing operations in FY 2025, and a lower number of paid parking spaces overall. Paid parking spaces are declining due to the implementation of safety improvements and multimodal corridor projects that use parking spaces for other purposes, such as bike lanes or bus-only lanes. As shown in Figure 3, parking meters and pay stations comprise the vast majority of Parking Meter Fund revenue (about 99%), with other revenues coming from Gig Car Share (referred to as One-Way Car Share in Figure 3) before they ceased operations, and fees from contractors who purchase no parking permits for construction staging.

Figure 3: Parking Meter Fund Revenues in FY 2025 (Total = $8,796,188)



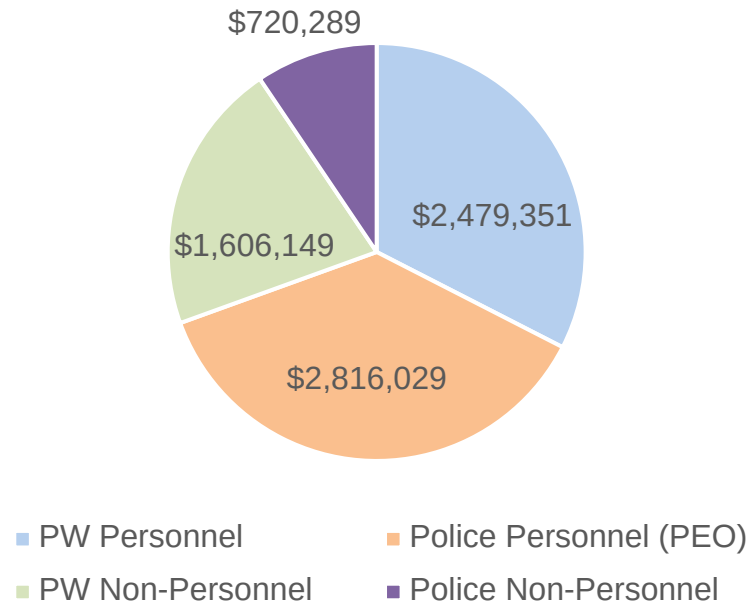
Parking Meter Fund Expenses

Expenses paid out of the Parking Meter Fund generally include four categories of expenses: Public Works parking personnel, Public Works non-personnel parking costs, Police Department parking personnel, and Police Department non-personnel (see Figure 4). As shown in the chart, personnel expenses (Public Works and Police Department) comprise two-thirds of total expenses and non-personnel expenses are about one-third. Large non-personnel expenses include payments to IPS, the City's parking meter and pay station supplier and operator, Route 1, the City's automated license plate reader vendor, Turnstone Data, Inc., who provides occupancy information for on-street meters and pay stations, and Dixon Resources Unlimited, who provides parking policy consulting services to the City.

Parking Meter Fund Capital Renewal

In FY 2024-FY 2025, the City purchased 50 new pay stations for approximately $380,000 and automated license plate readers for approximately $42,000 to replace failing equipment. The remaining 175 pay stations and approximately 2,000 parking meters are also past their useful lifespan and are in need of replacement, which would cost about $2,300,000. Deferring replacement could lead to meters out of service and potential revenue loss. Like debt service payments for the Center Street Garage, these capital renewal costs should be paid from the fund. However, existing fund projections for the Parking Funds will make future debt service and deferred maintenance payments challenging.

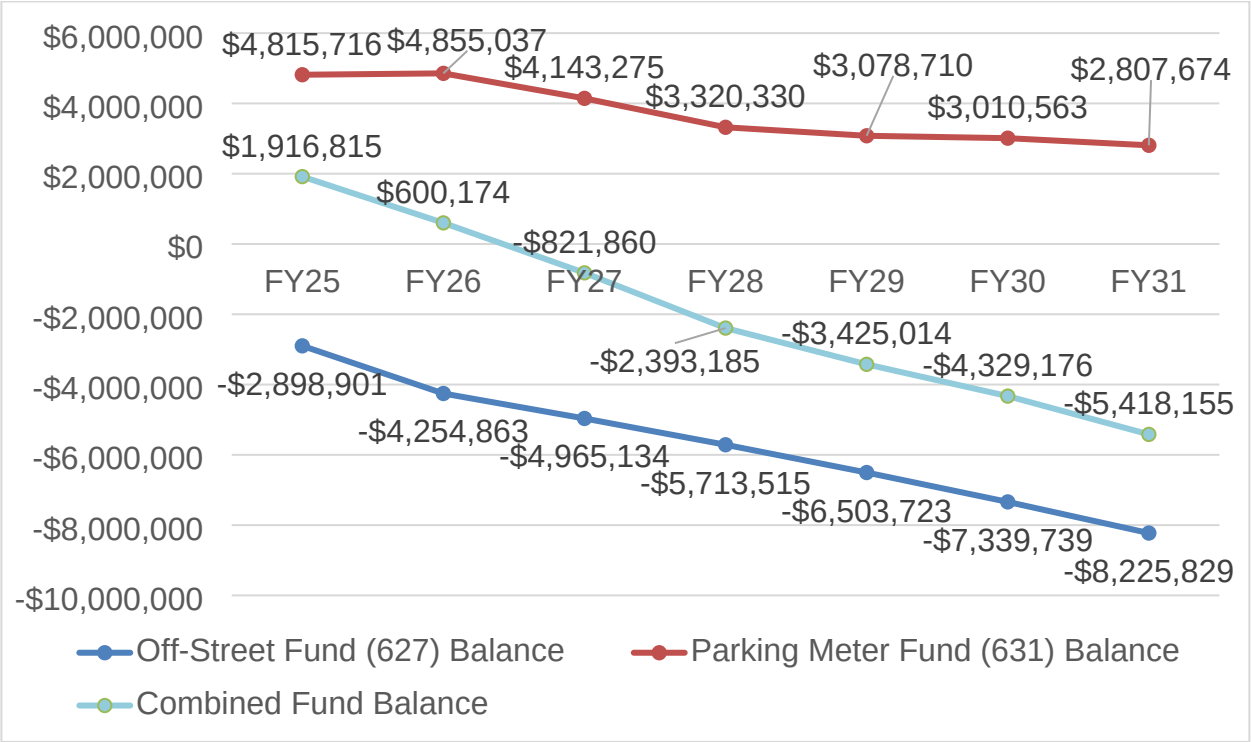
Figure 4: Parking Meter Fund Operating and Maintenance Expenses in FY 2025 (Total = $7,621,818)



Combined Parking Fund Financial Status and Outlook

As stated above, the Off-Street Parking Fund pays the 2016 Revenue Bond for the debt incurred to construct the Center Street Garage, and the Parking Meter Fund is the backstop for bond-related payments. Therefore, both parking fund revenues and expenses are combined for the purposes of determining the "health" of the parking fund. As shown in Figure 5, while annual operating revenues exceed operating expenses for both parking funds, the combined parking fund balance is declining due to capital expenses, loss of meters due to streetscape projects, debt payments, and annual transfers; and is projected to be negative in FY 2026. It should be noted that the combined balance includes capital expenses to replace approximately 175 pay stations and 2,000 single space meters that are past their useful lifespan; as well as debt service payments for the 2016 Revenue Bond and annual transfers. Figure 5 includes the near-term revenue enhancement and cost reduction strategies introduced above and detailed below. As shown in Figure 5, the strategies are necessary to avoid completely depleting the fund balance by the end of FY 2026, which is needed to cover operational and maintenance costs, ongoing bond payments and capital renewal needs.

Figure 5: Combined Parking Fund Balance with Implementation of Near-Term Strategies (FY25-31)



Near-Term Strategies to Address a Forecasted Deficit

Near-term strategies partially address ongoing budgetary challenges and align with the goals of the Parking Program; however, these strategies do not completely close the budget shortfall and implementation of some or all long-term strategies below are necessary. While near-term strategies are anticipated to go into effect March 1, 2026, long-term strategies would not be implemented until FY 2027.

Near- and long-term strategies include a combination of changes to the on-street paid parking program (meters) and the off-street facilities (garages) and include:

- **Increase parking meter rates for select parking meters to address high parking demand:** consistent with the defined rate setting authority given to staff by Council in 2013, staff may adjust parking rates to achieve optimal parking availability based on observed behavior (Ordinance No. 7,305-N.S. Repeal and Re-enact Berkeley Municipal Code Chapter 14.52 to Establish Policies and Fee Schedule for On-Street Parking Meters to Enable the goBerkeley Pilot Program, adopted July 22, 2013). There are 29 blocks in the Parking Program whose

average occupancy exceeded 85% from August 1, 2025-October 31, 2025. Rates on these blocks will increase by $.50/hour. These adjustments are estimated to generate $70,000 in additional annual revenue (refer to Attachment 3 for rate increases by block)

- **Increasing base hourly fee for parking meters citywide to pre-COVID-19 levels:** increasing the minimum hourly rate from $.50/hour or $.75/hour to $1.50/hour, or to pre-COVID-19 levels is estimated to generate $210,000 in additional annual revenue.
- **Special event rates:** charging a 50% surcharge for meters near California Memorial Stadium on Cal Football game days would generate an estimated $80,000 in additional annual revenue (see Attachment 4).

- **Increase hourly rates for the Telegraph-Channing Garage:** the hourly rate at the Telegraph-Channing Garage will increase by between $1-$4, including replacing the first hour free parking with a $1 fee (see Attachment 2, Table 4). These changes are estimated to generate $150,000 in additional annual revenue.

- **Increase number and price for monthly parking permits in the three garages**: Estimated to generate $150,000 in additional annual revenue (see Attachment 5).

Long-Term Strategies

Long-term strategies require subsequent Council approval because they would amend the Berkeley Municipal Code and would be implemented in FY 2027 or later, if adopted by the Council. Staff intend to proceed with data collection and public outreach for the strategies below during the second half of FY 2026, and, if feasible, some or all of these strategies would be brought to Council for consideration in early FY 2027.

- **Extend meter operating hours from 6 p.m. up to 8 p.m.:** data collected on September 4, 2025, between the hours of 6-8 p.m. shows that many blocks in the Parking Program exceed the target occupancy range of 65%-85%. When parking occupancy exceeds 85%, other negative externalities are experienced such as increased emissions and traffic congestion from cars circling looking for parking. Therefore, extending meter operating hours would help achieve the goals of the Parking Program, including increasing parking availability, reducing traffic congestion and air pollution, and improving the safety of those who walk, bike, and drive. This strategy is estimated to generate $1,300,000 in additional annual revenue.

- **Operating meters and parking enforcement on Sundays:** This approach is estimated to generate $1,250,000 in additional annual revenue, or a net increase of about $350,000 after subtracting additional parking enforcement costs.

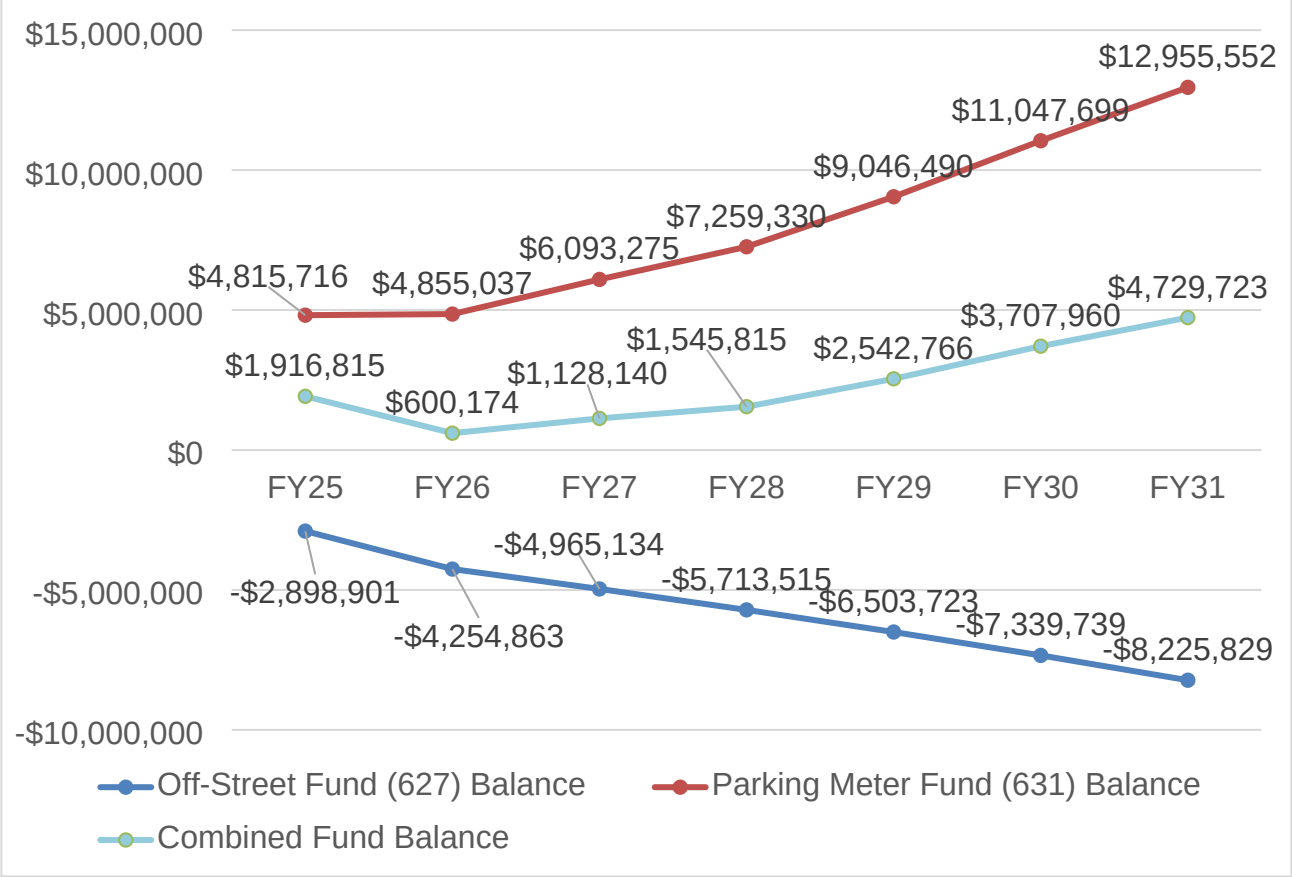
- **Installing meters in commercial areas where they currently do not exist:** Assuming only half of the identified blocks would ultimately have meters installed (about 12 out of 25 block faces identified for further study), this strategy would yield about $300,000 in additional net annual revenue.

- **Replacing existing pay stations that accept coins or cards with newer versions that accept tap-to-pay (or mobile) payment options only:** this strategy would result in labor cost reductions as fewer meter collectors and mechanics would be needed to service machines that have fewer parts and no coins, but these cost savings are too speculative to estimate at this time.

- **Update the Schedule of Fines and Late Payment Penalties for Parking Violations:** this strategy does not directly affect either the Off-Street or Parking Meter Funds because parking citation revenue is deposited into the General Fund; however, parking enforcement is a critical component of the overall Parking Program and thus modernizing the schedule supports a healthy parking program.

Implementation of long-term strategies in FY 2027, in addition to near-term strategies in FY 2026, would improve the health of the parking funds substantially. As shown in Figure 6, implementation of all near- and long-term strategies quantified above would result in a positive combined balance starting in FY 2026 through FY 2031.

Figure 6: Combined Parking Fund Balance with Implementation of Near- and Long-Term Strategies (FY25-31)



Comparison to Other Cities

A comparison to other Bay Area city's meter operating hours is included below in response to a question from a Councilmember during the Budget & Finance Committee Meeting on October 28, 2025.

Oakland operates meters from 8 a.m. to 6 p.m. Monday to Saturday, and on Sundays from noon to 6 p.m. In San Francisco, meters operate from 9 a.m. to 6 p.m. Monday to Saturday, except near Fisherman's Wharf, Embarcadero, and around Chase Center/Oracle Park where they operate on Sunday's and until 10 p.m. when there are events. In Emeryville, meters operate from 9 a.m. to 5 p.m. Monday to Friday.

Cost Reduction Measures

Cost reduction measures listed below were implemented in Fall 2025. These include:

- **Hiring freeze:** Parking Services has a vacant Administrative Office Specialist II position, which saves the city about $105,000 per year if it were to remain vacant.

- **Reduce garage staffing expenses:** reduce vendor expenses related to security staffing at the Center Street Garage. Security staffing will be reduced from two shifts to one shift per day and additional shifts will be added on an as-needed basis to support scheduled events. Staff from LAZ, the City's garage operator, will support their subcontractor's security staff when needed to provide an acceptable level of service. This measure is anticipated to result in approximately $90,000 annual savings.

Ensuring the parking funds have a positive balance is consistent with the City's Strategic Plan, advancing our goals to

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities; and
- provide an efficient and financially-health City government.

BACKGROUND

As shown in Figure 5 above, the combined parking fund balance is declining and is projected to be negative in FY 2026. Therefore, a combination of additional revenues and cost reduction measures are needed to increase net operating cash flow which increases the fund balance. Fund balance is used to cover capital expenditures and ongoing debt service payments for the 2016 Revenue Bond which funded the reconstruction of the Center Street Garage.

GoBerkeley Parking Program

The city uses paid on-street and garage parking spaces to serve and manage parking demand, particularly in commercial areas where parking availability and turnover are critical for visitor access and convenience. The City's demand-responsive paid parking program is referred to as the "goBerkeley Parking Program". The goBerkeley Parking Program consists of about 230 pay stations, 2,540 parking meters, and three City-owned garages. Total revenue under the program was about $14,000,000 in FY 2024, with about $9,000,000 deposited into the Parking Meter Fund (631) and approximately $5,423,000 deposited into the Off-Street Parking Fund. As shown in Figures 2 and 4, above, total Off-Street Parking Fund operating and maintenance expenses in FY 2025 were $4,433,293 and total Parking Meter Fund expenses of $7,621,818 in FY 2025. Combined goBerkeley Parking Program operating and maintenance expenses were $12,055,111 in FY 2025, excluding debt service payments.

Residential Preferential Parking (RPP) Program

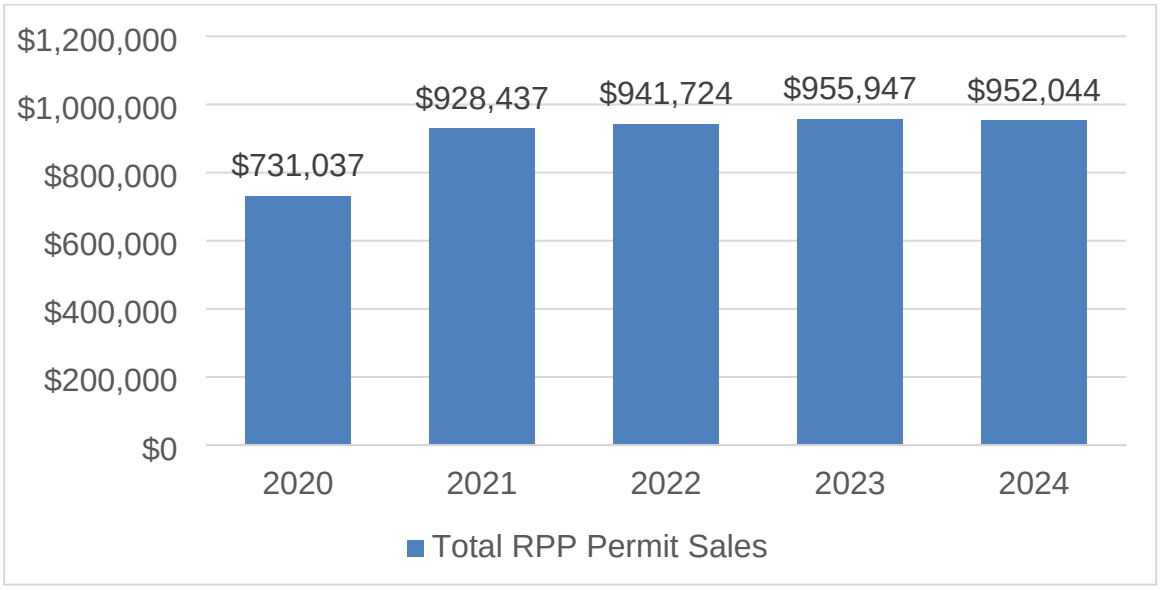
The RPP Program was instituted in 1980 to accomplish the following:

1) protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic;

2) assure continued quality of life for residents; and
3) provide neighborhood parking for residents. In most areas, RPP limits parking for vehicles not displaying an RPP permit to two hours, and reserves available daytime parking for residents, from 8 a.m.-7 p.m. Monday through Friday, and on some blocks, Saturdays.

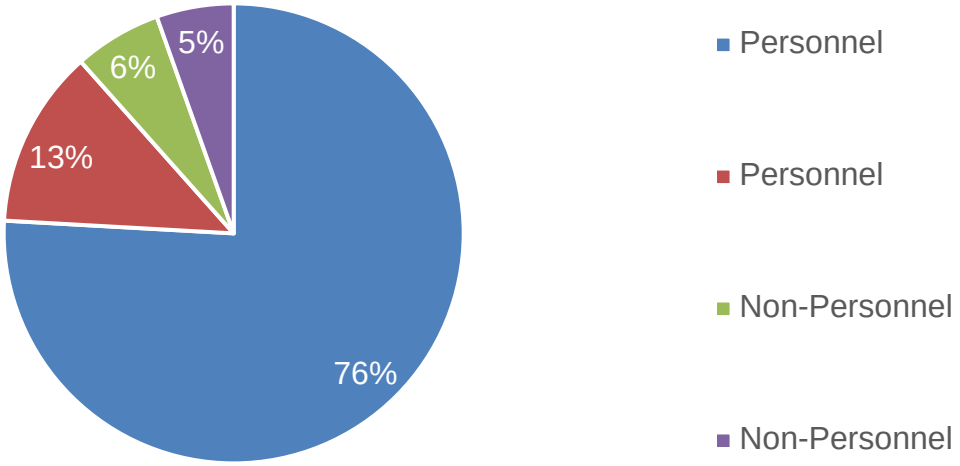
The RPP Program is not established as a separate "enterprise fund," however, it does provide services that are expected to be self-supported by user charges. The RPP Program revenues are currently deposited into the General Fund while the costs are paid from a combination of primarily the Parking Meter Fund and the General Fund. Figure 7 below shows Program revenues from permit sales over the past five years. Permit sales increased from about $730,000 in 2020 to about $930,000 in 2021 and have been relatively stable between $940,000-$955,000 from 2022-2024.

Figure 7: Total RPP Permit Sales (2020-2024 Average = $901,838)



As shown in Figure 8, Program costs are predominantly personnel costs (89% of total Program costs) across multiple City departments or divisions, including the Police Department (76%) and Public Works (13%). The remaining 11% of costs are vendor costs related to the parking management system and parking enforcement vehicles used by the Police Department's 21 Parking Enforcement Officers.

Figure 8: Total RPP Program Estimated Expenses (Total = $4,120,000)



On June 24, 2025, City Council approved increasing RPP Program fees for the FY 2027 permit year to make progress in addressing the gap between RPP Program revenue and expenses (Resolution No. 71,839-N.S. Regarding Preferential Parking Program Permit Fees, June 24, 2025). The FY 2027 fee increase is expected to bring in about $300,000 in additional revenue in FY 2027. Staff anticipate returning to Council with another RPP Program permit fee increase in 2026 for FY 2028 permits that would include a modified fee structure whereby the first residential permit at a particular address is the least expensive and the third permit (or fourth, if granted a waiver), is the most expensive.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

In general, parking supports driving by dedicating curb space to car storage rather than alternative modes such as transit, walking, or biking. Free parking encourages overuse, but charging fees for parking can manage demand and reduce fuel consumption and congestion caused by drivers circling the block searching for parking.

RATIONALE FOR RECOMMENDATION

This recommendation would increase revenue streams and implement cost-saving measures without significant new investments or reductions in service quality. These strategies would strengthen the City's financial position with respect to the "health" of the parking funds, helping to enhance parking revenues to cover all program costs including capital renewal and debt service. Without these measures, there is potential for the combined parking fund balance to be negative requiring a monetary transfer from the General Fund to the Parking Meter Fund.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered other strategies such as advertising opportunities and reusing garages for other uses besides parking but determined these strategies would require additional personnel or capital investment and will be explored further in the future. Staff continue to evaluate the parking programs and their assets and expect to bring periodic recommendations to Council in the future.

CONTACT PERSON

Wahid Amiri, Deputy Director, Public Works, (510) 919-4502
Mark Helmbrecht, Transportation Manager, Public Works, (510) 981-6403
Scott Artis, Parking Services Manager, Public Works, (510) 981-7786
Elliott Schwimmer, Senior Planner, Public Works, (510) 981-7066

Attachments:
1: Resolution
2: City Council Notification Report
3: Planned Rate Changes for goBerkeley Parking Program Areas/Blocks
4: Cal Football Game Day Surcharge Meter Map
5: Proposed Changes to Monthly Garage Parking Permits

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

PARKING FUNDS: REVENUE ENHANCEMENT AND COST REDUCTION STRATEGIES TO ADDRESS A FORECASTED DEFICIT

WHEREAS the Off-Street Parking Fund (627) is an Enterprise Fund used for capital, operation, and maintenance of off-street parking facilities (garages); and

WHEREAS the Parking Meter Fund (631) is an Enterprise Fund that earns revenue through parking meter or mobile application payments made by parkers to provide the funding for the maintenance, collection, capital, and enforcement of parking meters; and

WHEREAS, the City issued a revenue bond in 2016 to fund the replacement of the Center Street Garage, which requires City repayment of about $1,911,050 annually ($870,000 for principal and $1,041,050 for interest) until 2046; and

WHEREAS the Off-Street and Parking Meter funds have historically paid the annual debt service payments for the Center Street Garage dating back to issuance of the bond in 2016; and

WHEREAS, prior to the COVID-19 Pandemic, the combined parking funds maintained a positive fund balance; and

WHEREAS, parking meter rates and garage rates are authorized to change periodically based on demand under the goBerkeley Program Guidelines which includes defined rate setting authority given to staff by Council in 2013 (Ordinance No. 7,305-N.S. Repeal and Re-enact Berkeley Municipal Code Chapter 14.52 to Establish Policies and Fee Schedule for On-Street Parking Meters to Enable the goBerkeley Pilot Program, adopted July 22, 2013, and while parking meter rates were last changed in summer 2025, garage rates have not changed since 2018; and

WHEREAS, overall parking revenue declined between FY 2024 and FY 2025 due to Gig Car Share ceasing operations in FY 2025; a lower number of paid parking spaces overall due to implementation of the Assembly Bill 413, California’s Daylighting Law; and multimodal corridor projects such as Southside Complete Streets that use parking spaces for other purposes, such as bike lanes or bus-only lanes; and

WHEREAS, since the COVID-19 Pandemic, excluding one-time American Rescue Plan Act of 2021 budget transfers, the combined balance of the Off-Street Parking Fund and Parking Meter Fund is declining and is projected to be negative in FY 2026; and

WHEREAS a combination of additional revenues and cost reduction measures are needed to create a positive fund balance in the future to cover capital expenditures, rising

operational and maintenance costs, and ongoing debt service payments for the 2016 Revenue Bond which funded the reconstruction of the Center Street Garage.

NOW THEREFORE, BE IT RESOLVED, that the City Manager is directed to proceed with near-term revenue enhancement and cost reduction strategies that align with the goBerkeley Parking Program Guidelines, including increasing parking meter rates for select parking meters to address parking demand; increasing the minimum rate for parking meters Citywide from $.50-.75/hour to $1.50/hour, the minimum rate prior to the COVID-19 Pandemic; implementing surcharge pricing for parking meters closest to California Memorial Stadium on Cal Football home game days; increasing the rates at the Telegraph-Channing Garage by $1-$4; increasing the monthly rate for parking permits in the three City garages by $20/month; and increasing the number of monthly parking permits issued in all three City garages will increase by a total of 31 permits, consistent with the defined rate setting authority given to staff by Council in 2013, (Ordinance No. 7,305-N.S. Repeal and Re-enact Berkeley Municipal Code Chapter 14.52 to Establish Policies and Fee Schedule for On-Street Parking Meters to Enable the goBerkeley Pilot Program, adopted July 22, 2013).

BE IT FURTHER RESOLVED that the City Manager is authorized to proceed with data collection and public outreach for long-term strategies that align with the goBerkeley Parking Program Guidelines, including extending meter operating hours from 6 p.m. to 8 p.m. citywide; extending meter operating hours and parking enforcement to Sundays; installing meters in select commercial areas where they currently do not exist; replacing existing pay stations that accept coins or cards with newer versions that accept tap-to-pay (or mobile) payment options only; and updating the Schedule of Fines and Late Payment Penalties for Parking Violations.

Attachment 2: City Council Notification Report

PARKING CHANGES
The following seven tables represent the standard notification requirement for each goBerkeley Parking Program change.

1. Types of Parking Affected

[X] ON-STREET METERS	[X] GARAGES	[ ] LOTS

2. Dates

Date of Proposed Change	Date of Previous Change	Days/Years Between Change
March 1, 2026	July 20, 2025 (meters only)	Approximately 8 months

3. Areas Affected

Area Name
Garages
Center Street Garage
Telegraph-Channing Garage
Oxford Garage
Meters
4th Street Premium
Alta Bates
Downtown Premium
North Shattuck Premium
Rockridge Premium
San Pablo South Value
Solano Premium
Southside/Telegraph Premium
Southside/Telegraph Value

4. Rate Changes

Area Name	Area Zone	Time of Day	Existing Rate	Proposed Rate	Change
Garages					
Center Street Garage	N/A	Monthly	$250	$270	+ $20/month
Telegraph-Channing Garage	N/A	Up to 1 hour	Free	$1	+ $1
	N/A	1-3 hours	$1/hr	$3/hr	Up to + $6
	N/A	4+ hours	$16	$20	+ $2
	N/A	Early bird rate (Weekdays, enter by 9am, exit by 6pm)	$9	$11	+ $2
	N/A	Evening flat rate (Enter after 8pm and exit by closing)	$4	$5	+ $1
	N/A	Overnight	$16/night	$20	+ $4
	N/A	Lost ticket	$16	$20	+ $4
	N/A	Special event	$55	$60	N/A
	N/A	Disabled parking	Free	Free	N/A
	N/A	Monthly	$170	$190	+ $20/month
Oxford Garage	N/A	Monthly	$170	$190	+ $20/month
Meters					
See Attachment 3					

5. Time Limit Changes

Area Name	Area Zone	Existing	Proposed
No changes recommended			

6. Hours of Operation

Area Name	Area Zone	Existing	Change
No changes recommended			

7a. Parking Meter Occupancy

See Attachment 3

7b. Parking Garage Occupancy

Figure 1: Center Street Garage Average Occupancy, August 1-October 31, 2025

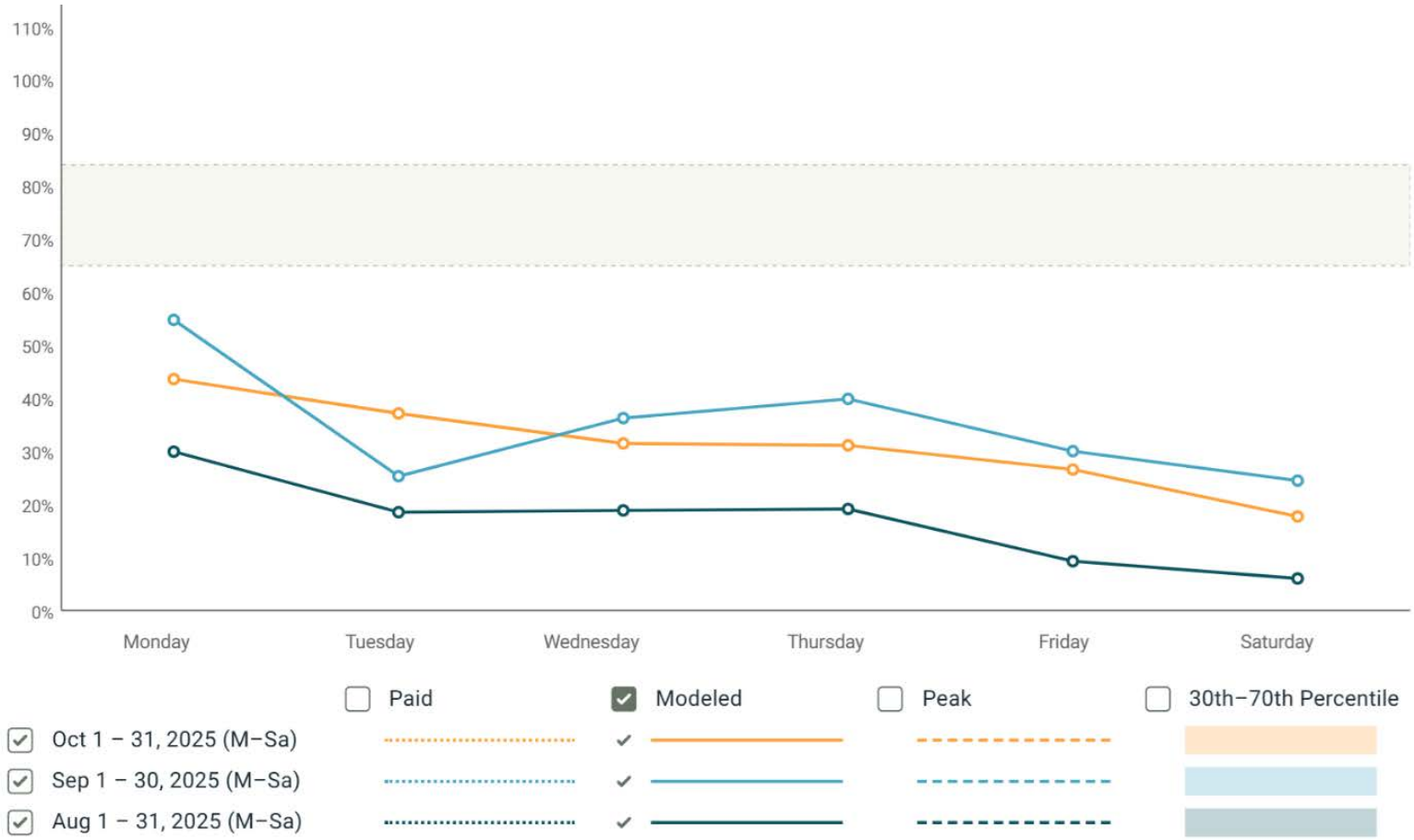


Figure 2: Telegraph-Channing Garage Average Daily Occupancy, August 1-October 31, 2025

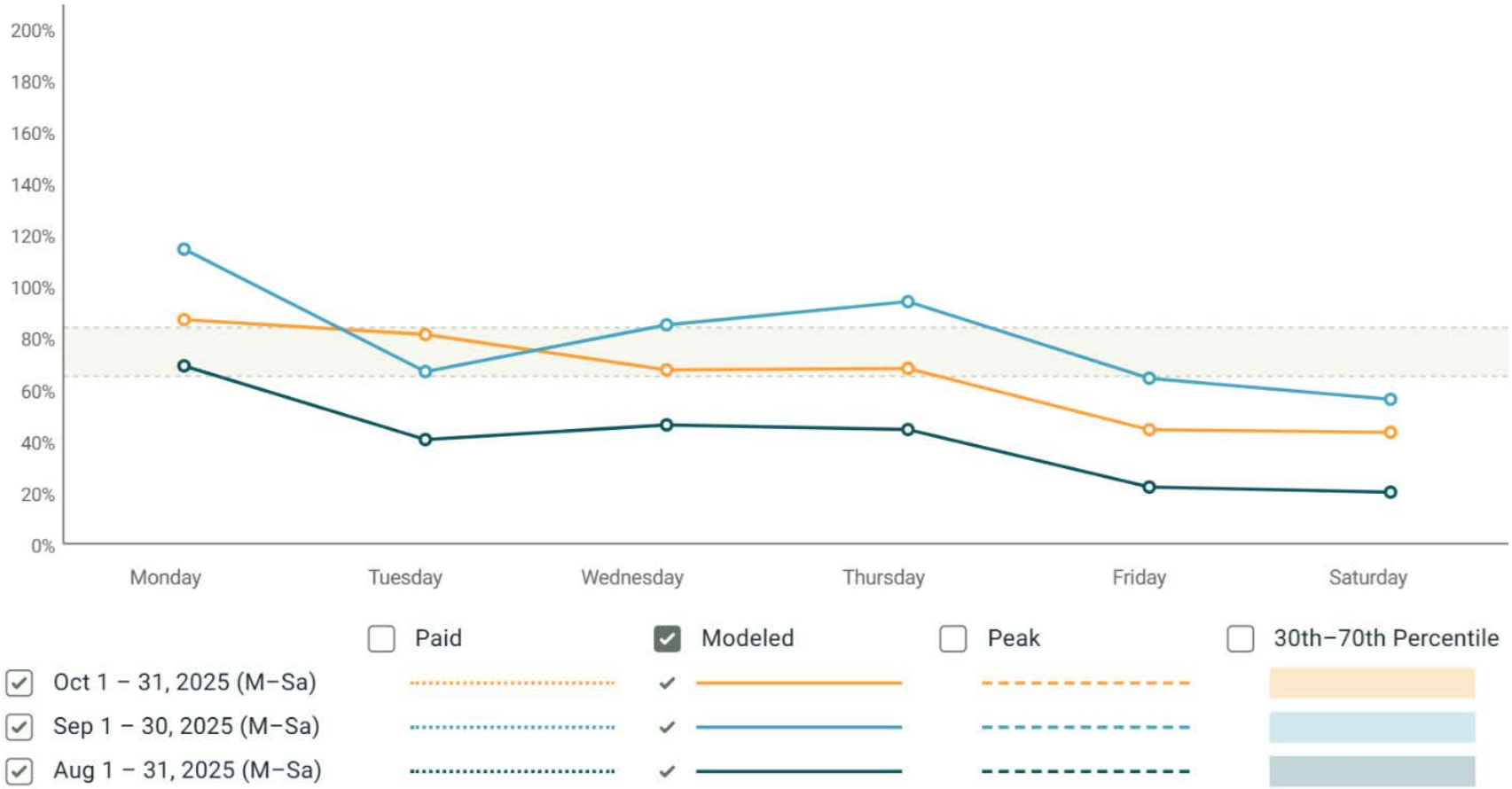
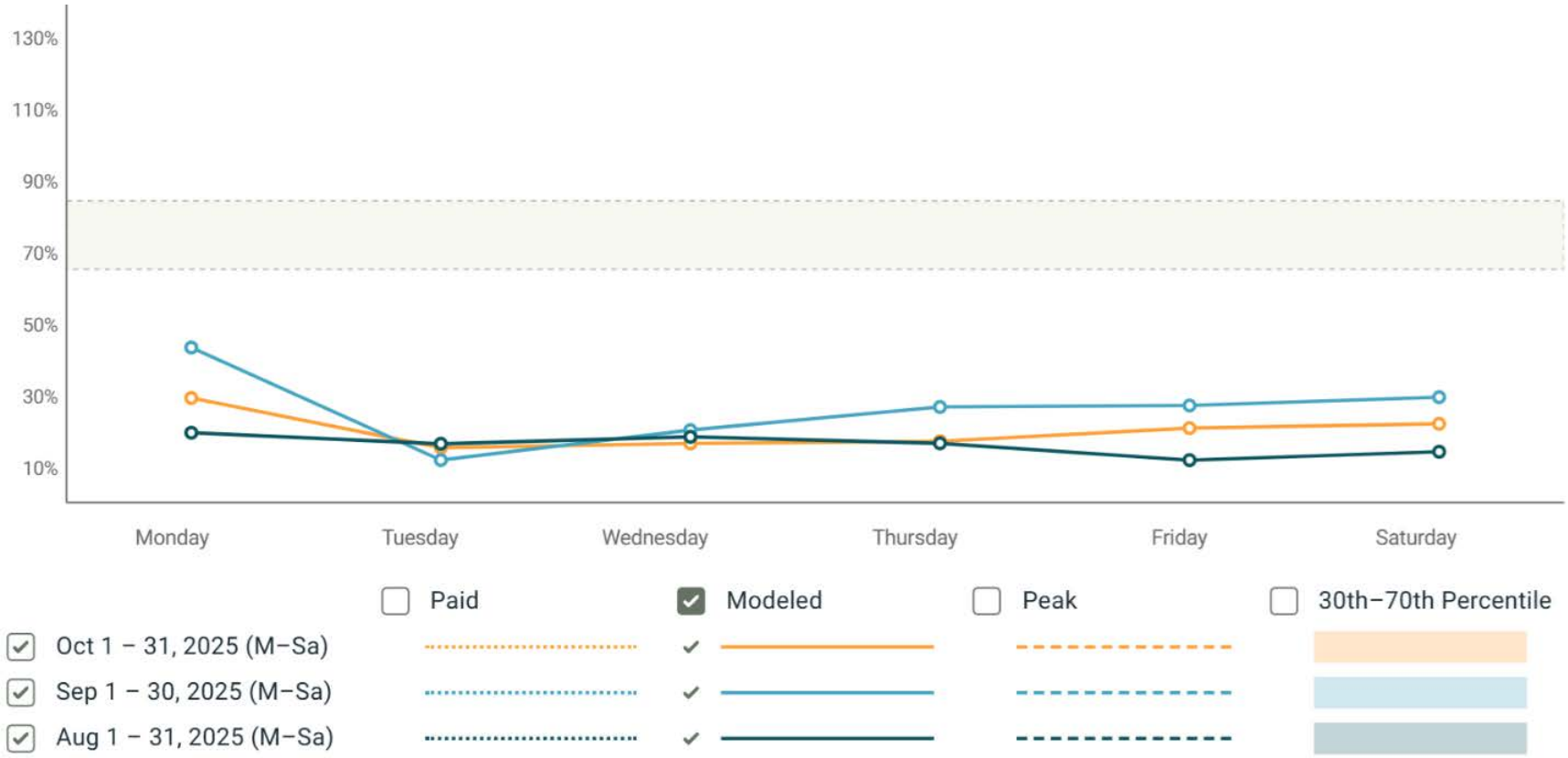


Figure 3: Oxford Garage Average Daily Occupancy, August 1-October 31, 2025



Attachment 3: Planned Rate Changes for goBerkeley Parking Program Areas/Blocks

Note: the goBerkeley Parking Program's target parking occupancy on each block is 65%-85%. In the table below, rates will be increased by $.50 per hour for blocks that exceed 85% occupancy between August 1, 2025 to October 31, 2025. In the column "Occupancy Target," "Under" = 0%-64%; "Target" = 65%-84%; and "Above" = 85%+.

Zone/Block	Occupancy	Occupancy Target	Existing Rate ($)	Proposed Rate ($)
4th Street Premium	**87%**	Above	**3.5**	4
Fourth Street, between Hearst Avenue and Virginia Street	89%	Above	3.5	4
Fourth Street, between University Avenue and Hearst Avenue	51%	Under	3.5	4
Fourth Street, between Virginia Street and Hearst Avenue	89%	Above	3.5	4
Hearst Avenue, between Fifth Street and Fourth Street	105%	Above	3.5	4
Hearst Avenue, between Fourth Street and Fifth Street	105%	Above	3.5	4
Hearst Avenue, between Fourth Street and Second Street	78%	Target	3.5	4
Hearst Avenue, between Second Street and Fourth Street	89%	Above	3.5	4
4th Street Value	**35%**	Under	**0.5**	**1.5**
Addison Street, between Fifth Street and Fourth Street	55%	Under	0.5	1.5
Addison Street, between Fourth Street and Second Street	20%	Under	0.5	1.5
Amtrak-Under University Ave Overpass	45%	Under	0.5	1.5
Eighth Street, between Hearst Avenue and University Avenue	42%	Under	0.5	1.5
Eighth Street, between University Avenue and Addison Street	18%	Under	0.5	1.5
Fifth Street, starting at University Avenue	20%	Under	0.5	1.5
Fourth Street, between Addison Street and University Avenue	30%	Under	0.5	1.5
Fourth Street, between University Avenue and Addison Street	24%	Under	0.5	1.5
Seventh Street, between Addison Street and University Avenue	29%	Under	0.5	1.5
Sixth Street, between Addison Street and University Avenue	45%	Under	0.5	1.5
University Avenue, between Eighth Street and Seventh Street	41%	Under	0.5	1.5
University Avenue, between Fifth Street and Fourth Street	60%	Under	0.5	1.5
University Avenue, between Fourth Street and Fifth Street	15%	Under	0.5	1.5
University Avenue, between Seventh Street and Eighth Street	21%	Under	0.5	1.5
University Avenue, between Sixth Street and Seventh Street	18%	Under	0.5	1.5
University Avenue, ending at Fifth Street	44%	Under	0.5	1.5
University Avenue, ending at Sixth Street	32%	Under	0.5	1.5
University Avenue, starting at Fifth Street	36%	Under	0.5	1.5

Adeline/Shattuck Premium	**29%**	Under	**1.5**	**1.5**
Oregon Street, between Adeline Street and Shattuck Avenue	37%	Under	1.5	1.5
Oregon Street, between Shattuck Avenue and Adeline Street	46%	Under	1.5	1.5
Shattuck Avenue, between Ashby Avenue and Russell Street	43%	Under	1.5	1.5
Shattuck Avenue, between Oregon Street and Russell Street	41%	Under	1.5	1.5
Shattuck Avenue, between Oregon Street and Stuart Street	47%	Under	1.5	1.5
Shattuck Avenue, between Russell Street and Ashby Avenue	35%	Under	1.5	1.5
Shattuck Avenue, between Russell Street and Oregon Street	47%	Under	1.5	1.5
Shattuck Avenue, between Stuart Street and Oregon Street	19%	Under	1.5	1.5
Shattuck Avenue, between Ward Street and Derby Street	7%	Under	1.5	1.5
Shattuck Avenue, ending at Stuart Street	16%	Under	1.5	1.5
Shattuck Avenue, ending at Ward Street	31%	Under	1.5	1.5
Shattuck Avenue, starting at Stuart Street	29%	Under	1.5	1.5
Stuart Street, between Adeline Street and Shattuck Avenue	13%	Under	1.5	1.5
Stuart Street, between Shattuck Avenue and Adeline Street	17%	Under	1.5	1.5
Stuart Street, ending at Shattuck Avenue	30%	Under	1.5	1.5
Stuart Street, starting at Shattuck Avenue	13%	Under	1.5	1.5
Adeline/Shattuck Value	**39%**	Under	**1**	**1**
Adeline St	59%	Under	1	1
Adeline St, Between Stuart St and Oregon St	40%	Under	1	1
Adeline St, Between Stuart St and Shattuck Ave	6%	Under	1	1
Adeline Street, between Emerson Street and Ashby Avenue	34%	Under	1	1
Adeline Street, between Essex Street and Emerson Street	43%	Under	1	1
Adeline Street, between Russell Street and Ashby Avenue	68%	Target	1	1
Adeline Street, between Russell Street and Oregon Street	37%	Under	1	1
Adeline Street, ending at Russell Street	27%	Under	1	1
Alta Bates	**119%**	Above	**1.5**	**2**
Regent Street, between Webster Street and Ashby Avenue	124%	Above	1.5	2
Regent Street, ending at Webster Street	111%	Above	1.5	2
Regent Street, starting at Ashby Avenue	123%	Above	1.5	2
Center Street Garage	**27%**	Under	**3**	**3**
Center Street Garage Zone	27%	Under	3	3
Claremont Premium	**55%**	Under	**2.5**	**2.5**
Ashby Avenue, between Claremont Avenue and Domingo Avenue	54%	Under	2.5	2.5

Claremont Avenue, between Russell Street and Claremont Boulevard	52%	Under	2.5	2.5
Claremont Avenue, ending at Russell Street	54%	Under	2.5	2.5
Domingo Avenue, ending at Tunnel Road	54%	Under	2.5	2.5
Domingo Avenue, starting at Tunnel Road	62%	Under	2.5	2.5
Downtown Premium	**63%**	Under	**3.5**	**3.5**
2200 Harold Way	73%	Target	3.5	3.5
Addison Street, between Kala Bagai Way and Oxford Street	55%	Under	3.5	3.5
Addison Street, between Martin Luther King Junior Way and Milvia Street	64%	Under	3.5	3.5
Addison Street, between Milvia Street and Shattuck Avenue	60%	Under	3.5	3.5
Addison Street, between Oxford Street and Kala Bagai Way	65%	Under	3.5	3.5
Addison Street, between Shattuck Avenue and Milvia Street	63%	Under	3.5	3.5
Addison Street, starting at Martin Luther King Junior Way	59%	Under	3.5	3.5
Addison Street, starting at Milvia Street	64%	Under	3.5	3.5
Allston Way, between Harold Way and Shattuck Avenue	77%	Target	3.5	3.5
Allston Way, between Martin Luther King Junior Way and Milvia Street	64%	Under	3.5	3.5
Allston Way, between Milvia Street and Harold Way	70%	Target	3.5	3.5
Allston Way, between Milvia Street and Martin Luther King Junior Way	60%	Under	3.5	3.5
Allston Way, between Oxford Street and Shattuck Avenue	63%	Under	3.5	3.5
Allston Way, between Shattuck Avenue and Milvia Street	63%	Under	3.5	3.5
Allston Way, between Shattuck Avenue and Oxford Street	62%	Under	3.5	3.5
Bancroft Way, starting at Shattuck Avenue	66%	Target	3.5	3.5
Berkeley Way, between Milvia Street and Shattuck Avenue	62%	Under	3.5	3.5
Berkeley Way, between Oxford Street and Shattuck Avenue	63%	Under	3.5	3.5
Berkeley Way, between Shattuck Avenue and Henry Street	61%	Under	3.5	3.5
Berkeley Way, between Shattuck Avenue and Walnut Street	70%	Target	3.5	3.5
Bonita Avenue, starting at University Avenue	77%	Target	3.5	3.5
Center Street, between Kala Bagai Way and Oxford Street	65%	Under	3.5	3.5
Center Street, between Milvia Street and Martin Luther King Junior Way	61%	Under	3.5	3.5
Center Street, between Milvia Street and Shattuck Avenue	84%	Target	3.5	3.5
Center Street, between Shattuck Avenue and Milvia Street	64%	Under	3.5	3.5
Center Street, ending at Milvia Street	64%	Under	3.5	3.5
Harold Way, between Allston Way and Kittredge Street	74%	Target	3.5	3.5
Hearst Avenue, between Oxford Street and Walnut Street	49%	Under	3.5	3.5

Kala Bagai Way, between Addison Street and Center Street	56%	Under	3.5	3.5
Kala Bagai Way, Between University Ave and Addison St	66%	Target	3.5	3.5
Kittredge Street, between Fulton Street and Shattuck Avenue	39%	Under	3.5	3.5
Kittredge Street, between Harold Way and Milvia Street	63%	Under	3.5	3.5
Kittredge Street, between Shattuck Avenue and Fulton Street	69%	Target	3.5	3.5
Kittredge Street, ending at Shattuck Avenue	62%	Under	3.5	3.5
Martin Luther King Junior Way, Between Addison St and Center St	53%	Under	3.5	3.5
Martin Luther King Junior Way, Between Center St Allston Way	52%	Under	3.5	3.5
Milvia Street, between Addison Street and Center Street	62%	Under	3.5	3.5
Milvia Street, between University Avenue and Addison Street	77%	Target	3.5	3.5
Oxford Street, between Allston Way and Kittredge Street	69%	Target	3.5	3.5
Oxford Street, between Center Street and Allston Way	52%	Under	3.5	3.5
Oxford Street, between Hearst Avenue and Berkeley Way	68%	Target	3.5	3.5
Oxford Street, between The Crescent and University Avenue	51%	Under	3.5	3.5
Oxford Street, between University Avenue and Addison Street	25%	Under	3.5	3.5
Oxford Street, between University Avenue and Hearst Avenue	55%	Under	3.5	3.5
Oxford Street, ending at The Crescent	52%	Under	3.5	3.5
Shattuck Avenue, between Allston Way and Kittredge Street	67%	Target	3.5	3.5
Shattuck Avenue, between Bancroft Way and Kittredge Street	64%	Under	3.5	3.5
Shattuck Avenue, between Berkeley Way and Hearst Avenue	81%	Target	3.5	3.5
Shattuck Avenue, between Berkeley Way and University Avenue	85%	Target	3.5	3.5
Shattuck Avenue, between Hearst Avenue and Berkeley Way	86%	Above	3.5	4
Shattuck Avenue, between Kittredge Street and Allston Way	69%	Target	3.5	3.5
Shattuck Avenue, between Kittredge Street and Bancroft Way	61%	Under	3.5	3.5
Shattuck Avenue, between University Avenue and Addison Street	67%	Target	3.5	3.5
Shattuck Avenue, between University Avenue and Berkeley Way	86%	Above	3.5	4
University Avenue, between Bonita Avenue and Martin Luther King Junior Way	64%	Under	3.5	3.5
University Avenue, between Bonita Avenue and Milvia Street	127%	Above	3.5	4
University Avenue, between Kala Bagai Way and Oxford Street	42%	Under	3.5	3.5
University Avenue, between Martin Luther King Junior Way and Bonita Avenue	48%	Under	3.5	3.5
University Avenue, between Milvia Street and Bonita Avenue	66%	Target	3.5	3.5
University Avenue, between Milvia Street and Shattuck Avenue	64%	Under	3.5	3.5
University Avenue, between Shattuck Avenue and Milvia Street	60%	Under	3.5	3.5

University Avenue, between Walnut Street and Shattuck Avenue	73%	Target	3.5	3.5
Walnut Street, between Berkeley Way and University Avenue	20%	Under	3.5	3.5
Walnut Street, starting at University Avenue	25%	Under	3.5	3.5
Downtown Value	**51%**	Under	**3.5**	**3.5**
Channing Way, between Shattuck Avenue and Milvia Street	57%	Under	3.5	3.5
Durant Avenue, between Fulton Street and Shattuck Avenue	66%	Target	3.5	3.5
Durant Avenue, between Shattuck Avenue and Fulton Street	68%	Target	3.5	3.5
Durant Avenue, between Shattuck Avenue and Milvia Street	59%	Under	3.5	3.5
Durant Avenue, ending at Shattuck Avenue	51%	Under	3.5	3.5
Dwight Way, between Fulton Street and Shattuck Avenue	43%	Under	3.5	3.5
Dwight Way, between Milvia Street and Shattuck Avenue	52%	Under	3.5	3.5
Dwight Way, between Shattuck Avenue and Fulton Street	59%	Under	3.5	3.5
Dwight Way, between Shattuck Avenue and Milvia Street	49%	Under	3.5	3.5
Haste Street, between Fulton Street and Shattuck Avenue	62%	Under	3.5	3.5
Haste Street, between Milvia Street and Shattuck Avenue	41%	Under	3.5	3.5
Haste Street, between Shattuck Avenue and Fulton Street	57%	Under	3.5	3.5
Haste Street, between Shattuck Avenue and Milvia Street	42%	Under	3.5	3.5
Shattuck Avenue, between Bancroft Way and Durant Avenue	47%	Under	3.5	3.5
Shattuck Avenue, between Channing Way and Durant Avenue	58%	Under	3.5	3.5
Shattuck Avenue, between Channing Way and Haste Street	49%	Under	3.5	3.5
Shattuck Avenue, between Durant Avenue and Bancroft Way	49%	Under	3.5	3.5
Shattuck Avenue, between Durant Avenue and Channing Way	43%	Under	3.5	3.5
Shattuck Avenue, between Dwight Way and Haste Street	42%	Under	3.5	3.5
Shattuck Avenue, between Haste Street and Channing Way	45%	Under	3.5	3.5
Shattuck Avenue, between Haste Street and Dwight Way	36%	Under	3.5	3.5
Elmwood Lot Value	**54%**	Under	**2.25**	**2.25**
Elmwood Lot	54%	Under	2.25	2.25
Elmwood Premium	**61%**	Under	**2.75**	**2.75**
2700 WEBSTER ST - GB	59%	Under	2.75	2.75
Ashby Avenue, between Benvenue Avenue and College Avenue	46%	Under	2.75	2.75
Ashby Avenue, between College Avenue and Benvenue Avenue	59%	Under	2.75	2.75
Ashby Avenue, between College Avenue and Elmwood Avenue	59%	Under	2.75	2.75
Ashby Place, between Ashby Avenue and Elmwood Avenue	55%	Under	2.75	2.75
College Avenue, between Ashby Avenue and Russell Street	58%	Under	2.75	2.75

College Avenue, between Ashby Avenue and Webster Street	59%	Under	2.75	2.75
College Avenue, between Prince Street and Webster Street	59%	Under	2.75	2.75
College Avenue, between Russell Street and Ashby Avenue	56%	Under	2.75	2.75
College Avenue, between Russell Street and Stuart Street	55%	Under	2.75	2.75
College Avenue, between Stuart Street and Russell Street	56%	Under	2.75	2.75
College Avenue, between Webster Street and Ashby Avenue	59%	Under	2.75	2.75
Russell Street, between Cherry Street and College Avenue	59%	Under	2.75	2.75
Russell Street, starting at College Avenue	75%	Target	2.75	2.75
Webster Street, between College Avenue and Benvenue Avenue	77%	Target	2.75	2.75
Webster Street, starting at Benvenue Avenue	69%	Target	2.75	2.75
Euclid/Hearst Premium	**0%**	Under	**3.25**	**3.25**
Hearst Ave	0%	Under	3.25	3.25
Hearst 2200 Block Premium	**0%**	Under	**3.25**	**3.25**
Hearst Avenue, between Oxford Street and Le Conte Avenue	0%	Under	3.25	3.25
North San Pablo/Gilman Premium	**28%**	Under	**1**	**1.5**
Camelia Street, between Tenth Street and Ninth Street	28%	Under	1	1.5
Ninth Street, between Gilman Street and Harrison Street	23%	Under	1	1.5
Tenth Street, between Camelia Street and Gilman Street	30%	Under	1	1.5
Tenth Street, between Gilman Street and Camelia Street	31%	Under	1	1.5
Tenth Street, between Harrison Street and Gilman Street	27%	Under	1	1.5
North San Pablo/Gilman Value	**32%**	Under	**0.75**	**1.5**
San Pablo Avenue, between Camelia Street and Gilman Street	36%	Under	0.75	1.5
San Pablo Avenue, between Gilman Street and Harrison Street	32%	Under	0.75	1.5
San Pablo Avenue, between Harrison Street and Gilman Street	27%	Under	0.75	1.5
North Shattuck Premium	**73%**	Target	**2.5**	
Delaware Street, starting at Shattuck Avenue	78%	Target	2.5	2.5
Lincoln Street, ending at Shattuck Avenue	61%	Under	2.5	2.5
Rose Street, between Henry Street and Shattuck Avenue	85%	Target	2.5	2.5
Rose Street, between Shattuck Avenue and Henry Street	73%	Target	2.5	2.5
Rose Street, between Shattuck Avenue and Walnut Street	69%	Target	2.5	2.5
Shattuck Avenue, between Berryman Street and Rose Street	65%	Under	2.5	2.5
Shattuck Avenue, between Cedar Street and Lincoln Street	74%	Target	2.5	2.5
Shattuck Avenue, between Cedar Street and Vine Street	91%	Above	2.5	3
Shattuck Avenue, between Delaware Street and Hearst Avenue	78%	Target	2.5	2.5

Shattuck Avenue, between Delaware Street and Virginia Street	73%	Target	2.5	2.5
Shattuck Avenue, between Francisco Street and Delaware Street	75%	Target	2.5	2.5
Shattuck Avenue, between Hearst Avenue and Delaware Street	65%	Under	2.5	2.5
Shattuck Avenue, between Lincoln Street and Virginia Street	76%	Target	2.5	2.5
Shattuck Avenue, between Rose Street and Shattuck Place	0%	Under	2.5	2.5
Shattuck Avenue, between Shattuck Place and Vine Street	90%	Above	2.5	3
Shattuck Avenue, between Vine Street and Cedar Street	87%	Above	2.5	3
Shattuck Avenue, between Vine Street and Rose Street	35%	Under	2.5	2.5
Shattuck Avenue, between Virginia Street and Cedar Street	74%	Target	2.5	2.5
Shattuck Avenue, between Virginia Street and Francisco Street	61%	Under	2.5	2.5
Shattuck Place, between Shattuck Avenue and Rose Street	66%	Target	2.5	2.5
Shattuck Place, starting at Rose Street	75%	Target	2.5	2.5
Vine Street, between Henry Street and Shattuck Avenue	94%	Above	2.5	3
Vine Street, between Oxford Street and Walnut Street	84%	Target	2.5	2.5
Vine Street, between Shattuck Avenue and Henry Street	90%	Above	2.5	3
Vine Street, between Shattuck Avenue and Walnut Street	95%	Above	2.5	3
Vine Street, between Walnut Street and Oxford Street	85%	Target	2.5	2.5
Vine Street, between Walnut Street and Shattuck Avenue	83%	Target	2.5	2.5
Virginia Street, between Milvia Street and Shattuck Avenue	72%	Target	2.5	2.5
Virginia Street, between Shattuck Avenue and Milvia Street	70%	Target	2.5	2.5
Virginia Street, between Walnut Street and Shattuck Avenue	74%	Target	2.5	2.5
Walnut Street, between Cedar Street and Vine Street	86%	Above	2.5	3
Walnut Street, between Rose Street and Vine Street	76%	Target	2.5	2.5
Walnut Street, between Vine Street and Cedar Street	89%	Above	2.5	3
Walnut Street, between Vine Street and Rose Street	82%	Target	2.5	2.5
Northside Premium	**40%**	Under	**3.5**	**3.5**
Euclid Avenue, between Le Conte Avenue and Ridge Road	76%	Target	3.5	3.5
Euclid Avenue, between Ridge Road and Hearst Avenue	65%	Target	3.5	3.5
Euclid Avenue, between Ridge Road and Le Conte Avenue	56%	Under	3.5	3.5
Euclid Avenue, ending at Ridge Road	48%	Under	3.5	3.5
Hearst Avenue, between Le Roy Avenue and Euclid Avenue	50%	Under	3.5	3.5
Hearst Avenue, ending at La Loma Avenue	52%	Under	3.5	3.5
Hearst Avenue, ending at Scenic Avenue	54%	Under	3.5	3.5
Le Roy Ave, Between Ridge Rd and Hearst Ave	0%	Under	3.5	3.5

Ridge Road, between Euclid Avenue and Le Roy Avenue	42%	Under	3.5	3.5
Ridge Road, between Euclid Avenue and Scenic Avenue	0%	Under	3.5	3.5
Ridge Road, between Le Roy Avenue and Euclid Avenue	76%	Target	3.5	3.5
Ridge Road, ending at Euclid Avenue	0%	Under	3.5	3.5
Northside Value	**0%**	Under	**3.25**	**3.25**
Scenic Avenue, between Hearst Avenue and Ridge Road	0%	Under	3.25	3.25
Oxford Garage	**20%**	Under	**3**	**3**
Oxford Garage Zone	20%	Under	3	3
Rockridge Premium	**78%**	Target	**2.5**	**2.5**
Alcatraz Avenue, between Hillegass Avenue and College Avenue	94%	Above	2.5	3
Alcatraz Avenue, starting at College Avenue	84%	Target	2.5	2.5
College Avenue, between Alcatraz Avenue and 63rd Street	58%	Under	2.5	2.5
College Avenue, between Alcatraz Avenue and Woolsey Street	86%	Above	2.5	3
College Avenue, between Florio Street and Alcatraz Avenue	60%	Under	2.5	2.5
College Avenue, between Woolsey Street and Alcatraz Avenue	84%	Target	2.5	2.5
San Pablo North Value	**42%**	Under	**0.5**	**1.5**
San Pablo Avenue, between Allston Way and Bancroft Way	65%	Under	0.5	1.5
San Pablo Avenue, between Bancroft Way and Allston Way	54%	Under	0.5	1.5
San Pablo Avenue, between Bancroft Way and Channing Way	25%	Under	0.5	1.5
San Pablo Avenue, between Channing Way and Chaucer Street	37%	Under	0.5	1.5
San Pablo Avenue, between Channing Way and Dwight Way	40%	Under	0.5	1.5
San Pablo Avenue, between Chaucer Street and Bancroft Way	34%	Under	0.5	1.5
San Pablo North/Gilman Premium	**18%**	Under	**1**	**1**
San Pablo Avenue, between Delaware Street and Hearst Avenue	18%	Under	1	1
San Pablo Avenue, between Hearst Avenue and Delaware Street	18%	Under	1	1
San Pablo North/Gilman Value	**24%**	Under	**0.75**	**1.5**
San Pablo Avenue, between Camelia Street and Page Street	20%	Under	0.75	1.5
San Pablo Avenue, between Cedar Street and Virginia Street	24%	Under	0.75	1.5
San Pablo Avenue, between Hopkins Street and Jones Street	21%	Under	0.75	1.5
San Pablo Avenue, between Jones Street and Cedar Street	18%	Under	0.75	1.5
San Pablo Avenue, between Jones Street and Page Street	34%	Under	0.75	1.5
San Pablo Avenue, between Page Street and Camelia Street	18%	Under	0.75	1.5
San Pablo Avenue, between Page Street and Jones Street	23%	Under	0.75	1.5
San Pablo Avenue, between Virginia Street and Delaware Street	30%	Under	0.75	1.5

San Pablo Avenue, between Virginia Street and Hopkins Street	27%	Under	0.75	1.5
San Pablo South Premium	**58%**	Under	**1**	**1**
San Pablo Avenue, between Dwight Way and Parker Street	58%	Under	1	1
San Pablo South Value	**51%**	Under	**0.5**	**1.5**
San Pablo Avenue, between Burnett Street and Russell Street	20%	Under	0.5	1.5
San Pablo Avenue, between Carleton Street and Parker Street	37%	Under	0.5	1.5
San Pablo Avenue, between Derby Street and Carleton Street	31%	Under	0.5	1.5
San Pablo Avenue, between Dwight Way and Parker Street	60%	Under	0.5	1.5
San Pablo Avenue, between Grayson Street and Heinz Avenue	36%	Under	0.5	1.5
San Pablo Avenue, between Oregon Street and Ward Street	111%	Above	0.5	1.5
San Pablo Avenue, between Pardee Street and Grayson Street	46%	Under	0.5	1.5
San Pablo Avenue, between Parker Street and Carleton Street	46%	Under	0.5	1.5
San Pablo Avenue, between Ward Street and Derby Street	71%	Target	0.5	1.5
Solano East Value	**39%**	Under	**1.5**	**1.5**
The Alameda, between Solano Avenue and Marin Avenue	77%	Target	1.5	1.5
The Alameda, starting at Los Angeles Avenue	0%	Under	1.5	1.5
Solano Premium	**42%**	Under	**2.5**	**2.5**
900 FRESNO	62%	Under	2.5	2.5
Colusa Avenue, between Tacoma Avenue and Solano Avenue	11%	Under	2.5	2.5
Colusa Avenue, ending at Catalina Avenue	68%	Target	2.5	2.5
Colusa Avenue, starting at Marin Avenue	83%	Target	2.5	2.5
Colusa Avenue, starting at Solano Avenue	85%	Target	2.5	2.5
Ensenada Ave, Between Solano Ave and Marin Ave	33%	Under	2.5	2.5
Ensenada Avenue, between Solano Avenue and Tacoma Avenue	50%	Under	2.5	2.5
Modoc Street, ending at Marin Avenue	118%	Above	2.5	2.5
Modoc Street, ending at Solano Avenue	0%	Under	2.5	2.5
Solano Avenue, between Colusa Avenue and Ensenada Avenue	25%	Under	2.5	2.5
Solano Avenue, between Colusa Avenue and Fresno Avenue	0%	Under	2.5	2.5
Solano Avenue, between Ensenada Avenue and Modoc Street	0%	Under	2.5	2.5
Solano Avenue, between Ensenada Avenue and Tacoma Avenue	14%	Under	2.5	2.5
Solano Avenue, between Fresno Avenue and The Alameda	0%	Under	2.5	2.5
Solano Avenue, between Modoc Street and Colusa Avenue	93%	Above	2.5	2.5
Solano Avenue, between The Alameda and Colusa Avenue	76%	Target	2.5	2.5
Solano Avenue, between Tulare Avenue and Ensenada Avenue	0%	Under	2.5	2.5

The Alameda, between Catalina Avenue and Solano Avenue	46%	Under	2.5	2.5
Tulare Avenue, starting at Marin Avenue	26%	Under	2.5	2.5
Solano West Value	**30%**	Under	**1.5**	**1.5**
Tacoma Avenue, between Ensenada Avenue and Solano Avenue	32%	Under	1.5	1.5
Tacoma Avenue, ending at Ensenada Avenue	27%	Under	1.5	1.5
South Shattuck	**19%**	Under	**1.5**	**1.5**
Shattuck Avenue, between Blake Street and Dwight Way	36%	Under	1.5	1.5
Shattuck Avenue, between Blake Street and Parker Street	25%	Under	1.5	1.5
Shattuck Avenue, between Carleton Street and Derby Street	12%	Under	1.5	1.5
Shattuck Avenue, between Carleton Street and Parker Street	2%	Under	1.5	1.5
Shattuck Avenue, between Derby Street and Carleton Street	0%	Under	1.5	1.5
Shattuck Avenue, between Dwight Way and Blake Street	35%	Under	1.5	1.5
Shattuck Avenue, between Parker Street and Blake Street	21%	Under	1.5	1.5
Shattuck Avenue, between Parker Street and Carleton Street	25%	Under	1.5	1.5
South Telegraph	**51%**	Under	**1.5**	**1.5**
Blake Street, between Telegraph Avenue and Dana Street	70%	Target	1.5	1.5
Blake Street, starting at Chilton Way	61%	Under	1.5	1.5
Derby Street, between Regent Street and Telegraph Avenue	28%	Under	1.5	1.5
Derby Street, between Telegraph Avenue and Hillegass Avenue	45%	Under	1.5	1.5
Dowling Place, starting at Telegraph Avenue	62%	Under	1.5	1.5
Oregon Street, between Regent Street and Telegraph Avenue	44%	Under	1.5	1.5
Oregon Street, between Telegraph Avenue and Ellsworth Street	59%	Under	1.5	1.5
Oregon Street, starting at Telegraph Avenue	48%	Under	1.5	1.5
Parker Street, between Dana Street and Telegraph Avenue	59%	Under	1.5	1.5
Parker Street, between Regent Street and Telegraph Avenue	63%	Under	1.5	1.5
Parker Street, between Telegraph Avenue and Chilton Way	65%	Target	1.5	1.5
Parker Street, between Telegraph Avenue and Regent Street	60%	Under	1.5	1.5
Russell Street, between Telegraph Avenue and Florence Street	46%	Under	1.5	1.5
Russell Street, ending at Telegraph Avenue	42%	Under	1.5	1.5
Stuart Street, between Telegraph Avenue and Regent Street	54%	Under	1.5	1.5
Telegraph Avenue, between Ashby Avenue and Russell Street	58%	Under	1.5	1.5
Telegraph Avenue, between Ashby Avenue and Webster Street	54%	Under	1.5	1.5
Telegraph Avenue, between Blake Street and Parker Street	64%	Under	1.5	1.5
Telegraph Avenue, between Carleton Street and Derby Street	61%	Under	1.5	1.5

Telegraph Avenue, between Carleton Street and Parker Street	45%	Under	1.5	1.5
Telegraph Avenue, between Derby Street and Carleton Street	45%	Under	1.5	1.5
Telegraph Avenue, between Derby Street and Ward Street	44%	Under	1.5	1.5
Telegraph Avenue, between Dowling Place and Webster Street	56%	Under	1.5	1.5
Telegraph Avenue, between Howe Street and Ashby Avenue	58%	Under	1.5	1.5
Telegraph Avenue, between Oregon Street and Russell Street	53%	Under	1.5	1.5
Telegraph Avenue, between Oregon Street and Stuart Street	61%	Under	1.5	1.5
Telegraph Avenue, between Parker Street and Carleton Street	49%	Under	1.5	1.5
Telegraph Avenue, between Prince Street and Dowling Place	57%	Under	1.5	1.5
Telegraph Avenue, between Russell Street and Howe Street	50%	Under	1.5	1.5
Telegraph Avenue, between Russell Street and Oregon Street	54%	Under	1.5	1.5
Telegraph Avenue, between Stuart Street and Derby Street	36%	Under	1.5	1.5
Telegraph Avenue, between Stuart Street and Oregon Street	62%	Under	1.5	1.5
Telegraph Avenue, between Ward Street and Stuart Street	42%	Under	1.5	1.5
Telegraph Avenue, between Webster Street and Ashby Avenue	59%	Under	1.5	1.5
Telegraph Avenue, between Webster Street and Prince Street	55%	Under	1.5	1.5
Telegraph Avenue, between Woolsey Street and Prince Street	58%	Under	1.5	1.5
Telegraph Avenue, ending at Blake Street	68%	Target	1.5	1.5
Telegraph Avenue, ending at Dwight Way	71%	Target	1.5	1.5
Telegraph Avenue, starting at Parker Street	2%	Under	1.5	1.5
Webster Street, between Colby Street and Telegraph Avenue	67%	Target	1.5	1.5
Webster Street, between Halcyon Court and Telegraph Avenue	0%	Under	1.5	1.5
Webster Street, starting at Telegraph Avenue	34%	Under	1.5	1.5
Southside Visitor Parking Pilot	**38%**	Under	**2.5**	**2.5**
Channing Way, ending at College Avenue	45%	Under	2.5	2.5
Durant Avenue, between College Avenue and Piedmont Avenue	39%	Under	2.5	2.5
Durant Avenue, between Piedmont Avenue and College Avenue	43%	Under	2.5	2.5
Haste Street, between College Avenue and Piedmont Avenue	36%	Under	2.5	2.5
Haste Street, between Piedmont Avenue and College Avenue	46%	Under	2.5	2.5
Piedmont Avenue, between Bancroft Way and Durant Avenue	46%	Under	2.5	2.5
Piedmont Avenue, between Haste Street and Piedmont Crescent	21%	Under	2.5	2.5
Piedmont Avenue, ending at Bancroft Way	44%	Under	2.5	2.5
Piedmont Avenue, ending at Haste Street	24%	Under	2.5	2.5
Piedmont Avenue, starting at Durant Avenue	39%	Under	2.5	2.5

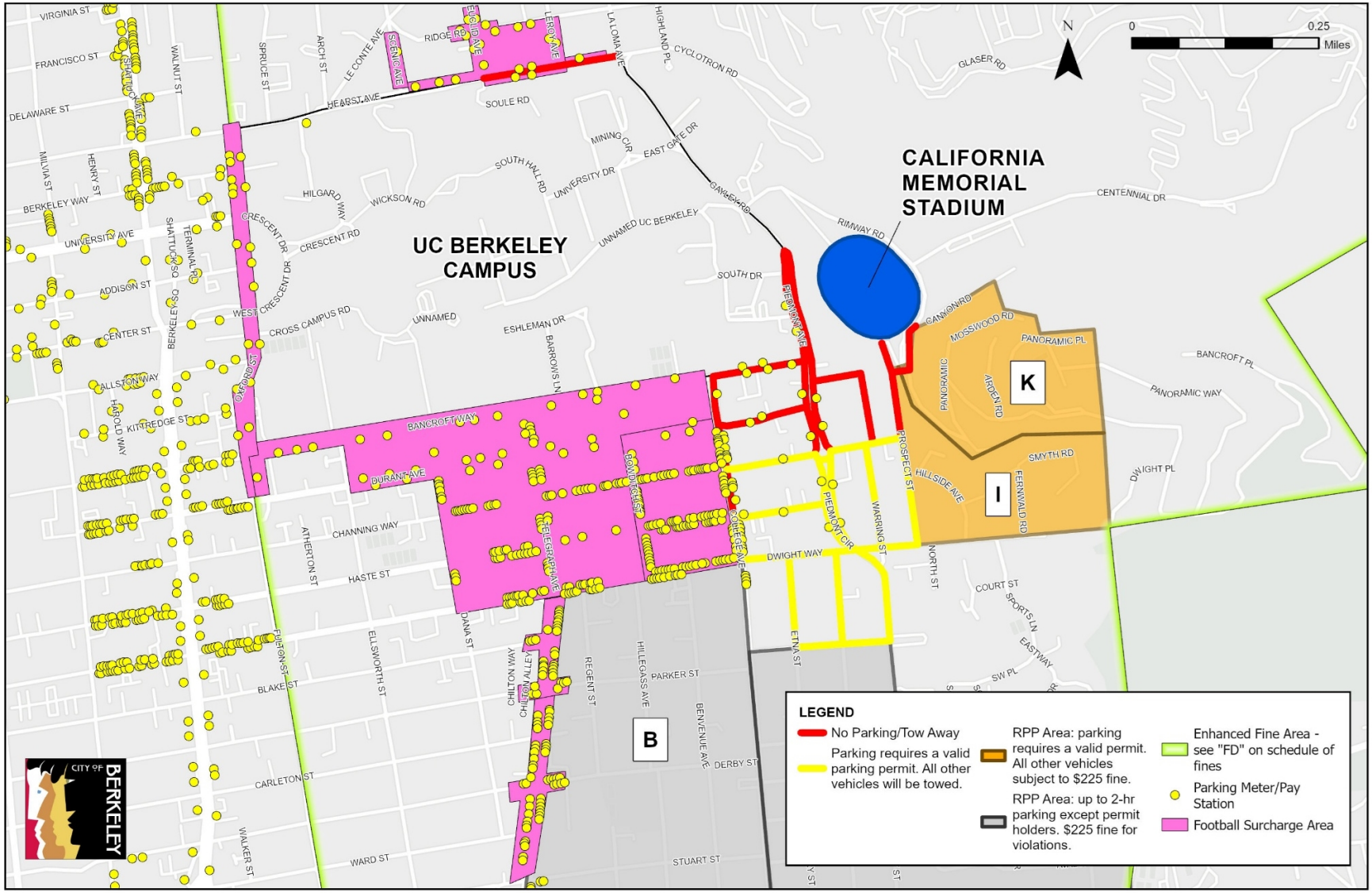
Piedmont Avenue, starting at Piedmont Crescent	39%	Under	2.5	2.5
Southside/Telegraph Premium	**43%**	Under	**3.5**	**3.5**
Bancroft Way, between Bowditch Street and College Avenue	9%	Under	3.5	3.5
Bancroft Way, between Dana Street and Telegraph Avenue	11%	Under	3.5	3.5
Bancroft Way, between Ellsworth Street and Dana Street	19%	Under	3.5	3.5
Bancroft Way, between Fulton Street and Ellsworth Street	10%	Under	3.5	3.5
Bancroft Way, between Piedmont Avenue and Fulton Street	16%	Under	3.5	3.5
Bancroft Way, between Telegraph Avenue and Bowditch Street	21%	Under	3.5	3.5
Bowditch Street, between Durant Avenue and Bancroft Way	50%	Under	3.5	3.5
Channing Way, between Bowditch Street and Telegraph Avenue	136%	Above	3.5	4
Channing Way, between Telegraph Avenue and Dana Street	67%	Target	3.5	3.5
College Avenue, starting at Durant Avenue	41%	Under	3.5	3.5
Dana Street, between Channing Way and Durant Avenue	19%	Under	3.5	3.5
Dana Street, between Durant Avenue and Bancroft Way	17%	Under	3.5	3.5
Dana Street, ending at Durant Avenue	0%	Under	3.5	3.5
Durant Avenue, between Bowditch Street and Telegraph Avenue	47%	Under	3.5	3.5
Durant Avenue, between Dana Street and Ellsworth Street	50%	Under	3.5	3.5
Durant Avenue, between Dana Street and Telegraph Avenue	40%	Under	3.5	3.5
Durant Avenue, between Ellsworth Street and Dana Street	41%	Under	3.5	3.5
Durant Avenue, between Telegraph Avenue and Bowditch Street	34%	Under	3.5	3.5
Durant Avenue, between Telegraph Avenue and Dana Street	55%	Under	3.5	3.5
Dwight Way, between Bowditch Street and Regent Street	0%	Under	3.5	3.5
Dwight Way, between Dana Street and Telegraph Avenue	77%	Target	3.5	3.5
Dwight Way, between Regent Street and Hillegass Avenue	0%	Under	3.5	3.5
Dwight Way, between Regent Street and Telegraph Avenue	67%	Target	3.5	3.5
Dwight Way, between Telegraph Avenue and Dana Street	74%	Target	3.5	3.5
Dwight Way, between Telegraph Avenue and Regent Street	0%	Under	3.5	3.5
Fulton Street, between Bancroft Way and Durant Avenue	23%	Under	3.5	3.5
Haste Street, between Dana Street and Telegraph Avenue	70%	Target	3.5	3.5
Haste Street, between Telegraph Avenue and Dana Street	71%	Target	3.5	3.5
Piedmont Avenue, ending at Bancroft Way	41%	Under	3.5	3.5
Telegraph Avenue, between Bancroft Way and Durant Avenue	85%	Target	3.5	3.5
Telegraph Avenue, between Channing Way and Durant Avenue	54%	Under	3.5	3.5
Telegraph Avenue, between Channing Way and Haste Street	66%	Target	3.5	3.5

Telegraph Avenue, between Durant Avenue and Channing Way	50%	Under	3.5	3.5
Telegraph Avenue, between Haste Street and Channing Way	87%	Above	3.5	4
Telegraph Avenue, between Haste Street and Dwight Way	70%	Target	3.5	3.5
Telegraph Avenue, starting at Durant Avenue	65%	Under	3.5	3.5
Southside/Telegraph Value	**39%**	Under	**3.25**	**3.25**
Bowditch Street, between Channing Way and Durant Avenue	90%	Above	3.25	3.75
Bowditch Street, between Haste Street and Channing Way	35%	Under	3.25	3.25
Bowditch Street, ending at Haste Street	0%	Under	3.25	3.25
Channing Way, between College Avenue and Bowditch Street	70%	Target	3.25	3.25
College Avenue, between Channing Way and Durant Avenue	76%	Target	3.25	3.25
College Avenue, between Channing Way and Haste Street	27%	Under	3.25	3.25
College Avenue, between Durant Avenue and Channing Way	64%	Under	3.25	3.25
College Avenue, between Dwight Way and Haste Street	26%	Under	3.25	3.25
College Avenue, between Haste Street and Channing Way	28%	Under	3.25	3.25
College Avenue, between Haste Street and Dwight Way	24%	Under	3.25	3.25
College Avenue, between Parker Street and Dwight Way	32%	Under	3.25	3.25
Durant Avenue, between Bowditch Street and College Avenue	28%	Under	3.25	3.25
Durant Avenue, between College Avenue and Bowditch Street	33%	Under	3.25	3.25
Dwight Way, between College Avenue and Bowditch Street	46%	Under	3.25	3.25
Dwight Way, between Hillegass Avenue and Benvenue Avenue	29%	Under	3.25	3.25
Haste Street, between Bowditch Street and College Avenue	22%	Under	3.25	3.25
Haste Street, between College Avenue and Bowditch Street	28%	Under	3.25	3.25
Sports Basement Value	**42%**	Under	**0.5**	**1.5**
Derby Street, between Milvia Street and Shattuck Avenue	41%	Under	0.5	1.5
Milvia Street, between Ward Street and Derby Street	45%	Under	0.5	1.5
Ward Street, between Adeline Street and Milvia Street	41%	Under	0.5	1.5
Telegraph Channing Garage	**58%**	Under	**1**	**1**
Telegraph Channing Garage Zone	58%	Under	1	1
University Ave Value	**40%**	Under		
Acton Street, between Berkeley Way and University Avenue	26%	Under	0.5	1.5
Acton Street, between University Avenue and Berkeley Way	3%	Under	0.5	1.5
Bonar Street, between Addison Street and University Avenue	52%	Under	0.5	1.5
Bonar Street, between University Avenue and Addison Street	50%	Under	0.5	1.5
California Street, between Berkeley Way and University Avenue	44%	Under	0.5	1.5

California Street, between University Avenue and Berkeley Way	51%	Under	0.5	1.5
California Street, ending at University Avenue	31%	Under	2	2
California Street, starting at University Avenue	0%	Under	0.5	1.5
Curtis Street, between Hearst Avenue and University Avenue	19%	Under	0.5	1.5
Curtis Street, between University Avenue and Hearst Avenue	35%	Under	0.5	1.5
Grant Street, ending at University Avenue	43%	Under	0.5	1.5
Grant Street, starting at University Avenue	53%	Under	0.5	1.5
University Avenue, between Acton Street and Chestnut Street	32%	Under	0.5	1.5
University Avenue, between Acton Street and Sacramento Street	36%	Under	0.5	1.5
University Avenue, between Bonar Street and Acton Street	38%	Under	0.5	1.5
University Avenue, between California Street and Jefferson Avenue	60%	Under	0.5	1.5
University Avenue, between California Street and Sacramento Street	40%	Under	0.5	1.5
University Avenue, between Chestnut Street and Curtis Street	33%	Under	0.5	1.5
University Avenue, between Curtis Street and Bonar Street	32%	Under	0.5	1.5
University Avenue, between Curtis Street and San Pablo Avenue	49%	Under	0.5	1.5
University Avenue, between Grant Street and Martin Luther King Junior Way	61%	Under	0.5	1.5
University Avenue, between Grant Street and McGee Avenue	54%	Under	0.5	1.5
University Avenue, between Jefferson Avenue and McGee Avenue	46%	Under	0.5	1.5
University Avenue, between Martin Luther King Junior Way and Grant Street	64%	Under	0.5	1.5
University Avenue, between McGee Avenue and California Street	50%	Under	0.5	1.5
University Avenue, between McGee Avenue and Grant Street	51%	Under	0.5	1.5
University Avenue, between Sacramento Street and Acton Street	30%	Under	0.5	1.5
University Avenue, between Sacramento Street and California Street	28%	Under	0.5	1.5
University Avenue, between San Pablo Avenue and Curtis Street	44%	Under	1	1.5
University/San Pablo Premium	**50%**	Under	**1**	**1.5**
Ninth Street, ending at University Avenue	34%	Under	1	1.5
Ninth Street, starting at University Avenue	61%	Under	1	1.5
San Pablo Avenue, between Addison Street and Allston Way	59%	Under	1	1.5
San Pablo Avenue, between Addison Street and University Avenue	70%	Target	1	1.5
San Pablo Avenue, between Allston Way and Cowper Street	47%	Under	1	1.5
San Pablo Avenue, between Cowper Street and Addison Street	75%	Target	1	1.5
San Pablo Avenue, between Hearst Avenue and University Avenue	58%	Under	1	1.5
San Pablo Avenue, between University Avenue and Addison Street	77%	Target	1	1.5

San Pablo Avenue, between University Avenue and Hearst Avenue	38%	Under	1	1.5
Tenth Street, between Addison Street and University Avenue	57%	Under	1	1.5
Tenth Street, between University Avenue and Hearst Avenue	32%	Under	1	1.5
University Avenue, between Eighth Street and Ninth Street	36%	Under	1	1.5
University Avenue, between Ninth Street and Eighth Street	36%	Under	1	1.5
University Avenue, between Ninth Street and Tenth Street	43%	Under	1	1.5
University Avenue, between San Pablo Avenue and Tenth Street	34%	Under	1	1.5
University Avenue, between Tenth Street and Ninth Street	32%	Under	1	1.5
University Avenue, between Tenth Street and San Pablo Avenue	62%	Under	1	1.5
Source: Turnstone Data Analytics, August 1, 2025 - October 31, 2025				

Attachment 4: Cal Football Game Day Surcharge Meter Map



Attachment 5: Proposed Changes to Monthly Garage Parking Permits

Location	Existing No. Monthly Permits	Projected No. Monthly Permits	Total Spaces	Existing Cost of Monthly Permit	Projected Cost of Monthly Permit	Existing Annual Revenue	Projected Annual Revenue	Total Additional Annual Revenue
Center Street Garage	123	134	720	$250	$270	$369,000	$434,160	$65,160
Telegraph Channing Garage	139	150	420	$170	$190	$283,560	$342,000	$58,440
Oxford Garage	40	49	99	$170	$190	$81,600	$111,720	$30,120
TOTAL	**333**	**1,239**	**1,239**			**$734,160**	**$887,880**	**$153,720**

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ADENA ISHII
MAYOR OF BERKELEY

CONSENT CALENDAR
January 27, 2026

To: Honorable Members of the City Council

From: Mayor Adena Ishii

Subject: AC Transit Berkeley Emeryville Inter-Agency Liaison Committee Appointments

RECOMMENDATION

Adopt a resolution appointing Councilmembers Terry Taplin and Cecilia Lunaparra as the liaisons and Councilmember Mark Humbert as the alternate, to the consolidated AC Transit Berkeley Emeryville Inter-Agency Liaison Committee.

BACKGROUND

On October 22, 2025, AC Transit Board of Directors approved the Charter for the Inter-Agency Liaison Committees (ILC), combining Berkeley and Emeryville into one committee. The Mayor's office received a request from the AC Transit Board of Directors on December 12, 2025 to appoint two Councilmembers and an alternate by the end of January to serve as liaisons on the Berkeley Emeryville ILC.

AC Transit District's efforts to consolidate the Berkeley and Emeryville Inter-Agency Liaison Committee will set a strong example of how cities and transit agencies can work together to deliver coordinated and responsive public transit. This consolidated committee will reduce duplication, save staff time, and better align our priorities, strengthening communication and problem-solving to benefit residents across the corridor. The attached ILC Charter provides details on the committee's purpose, structure, roles, and meetings.

FINANCIAL IMPLICATIONS

There are no financial implications to the City of Berkeley.

ENVIRONMENTAL SUSTAINABILITY

There are no adverse effects to the environment.

CONTACT PERSON

Mayor Adena Ishii
510-981-7100

Attachments:
1. Resolution

2. AC Transit Charter for Inter-Agency Liaison Committee

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

APPOINTING COUNCILMEMBERS TERRY TAPLIN AND CECILIA LUNAPARRA AS THE LIAISONS AND COUNCILMEMBER MARK HUMBERT AS AN ALTERNATE TO THE ALAMEDA CONTRA COSTA TRANSIT DISTRICT BERKELEY EMERYVILLE INTER-AGENCY LIAISON COMMITTEE (ILC)

WHEREAS, on October 22, 2025, AC Transit Board of Directors approved the Charter for the Inter-Agency Liaison Committees (ILC), combining Berkeley and Emeryville into one committee.

WHEREAS, the Mayor's office received a request from the AC Transit Board of Directors on December 12, 2025 to appoint two Councilmembers and an alternate by the end of January to serve as liaisons on the Berkeley Emeryville ILC; and

WHEREAS, the AC Transit District Board of Directors' effort to consolidate the Berkeley and Emeryville Inter-agency Liaison Committee will set a strong example of how cities and transit agencies can work together to deliver coordinated and responsive public transit. This consolidated committee will reduce duplication, save staff time, and better align our priorities, strengthening communication and problem-solving to benefit residents across the corridor. The attached ILC Charter provides details on the committee's purpose, structure, roles, and meetings.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Councilmembers Terry Taplin and Cecilia Lunaparra are hereby appointed as the City of Berkeley's liaisons, and Councilmember Mark Humbert as the alternate to the AC Transit Berkeley Emeryville Inter-Agency Liaison Committee for a the term commencing on January 27, 2026 ending January 1, 2027.

Alameda-Contra Costa Transit District

Board of Directors

Diane Shaw, President
Ward 5

Murphy McCalley, Vice President
Ward 4

Harpreet S. Sandhu
Ward 1

Jean Walsh
Ward 2

Sarah Syed
Ward 3

Anthony C. Silva
Ward 6

Joel B. Young,
Director at Large

Board Officers

Salvador Llamas
General Manager/
Chief Executive Officer

Aimee L. Steele
General Counsel/
Chief Legal Officer

Linda A. Nemeroff
Board Administrative Officer/
District Secretary

VIA EMAIL

December 12, 2025

Honorable Sukhdeep Kaur, Mayor
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Honorable Adena Ishii, Mayor
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Dear Mayors Kaur and Ishii,

On behalf of the AC Transit Board of Directors, I want to thank you for supporting the District's efforts to consolidate the Berkeley and Emeryville Inter-agency Liaison Committees. Your commitment to collaboration sets a strong example of how cities and transit agencies can work together to deliver coordinated and responsive public transit.

This consolidated committee will reduce duplication, save staff time, and better align our priorities, strengthening communication and problem-solving to benefit residents across the corridor. We respectfully request that the Cities of Berkeley and Emeryville each appoint two liaisons from your city councils by January 2026. Once appointments are made, please notify AC Transit's District Secretary, Linda Nemeroff, at lnemeroff@actransit.org so we can coordinate the committee's first meeting. The attached ILC Charter provides details on the committee's purpose, structure, roles, and meetings. The Charter was approved by the AC Transit Board of Directors on October 22, 2025.

Your willingness to work collaboratively with AC Transit and with one another demonstrates a proactive vision for public governance. We are grateful for your engagement and trust, and we look forward to advancing our shared goals for the communities we serve.

Thank you again for your partnership. Please contact me at (510) 891-7171 or dshaw@actransit.org with any questions.

Sincerely,

Diane Shaw
President, Board of Directors

Enclosure

cc:
Director Jean Walsh, Ward 2, AC Transit
Director Joel Young, At-Large, AC Transit
Salvador Llamas, General Manager, AC Transit
Paul Buddenhagen, City Manager City of Berkeley
LaTanya Bellow, City Manager, City of Berkeley
Mark Helmbrecht, Transportation Manager, City of Berkeley
Mohamed Alaoui, Public Works Director, City of Emeryville
Ramakrishna Pochiraju, Exec. Director of Planning & Engineering, AC Transit
Robert del Rosario, Director of Planning & Service Development, AC Transit

AC Transit Inter-agency Liaison Committee (ILC) Charter

1. Overview

The AC Transit Inter-agency Liaison Committees (ILCs) are formal Brown Act committees established by the AC Transit Board of Directors to promote collaborative planning and coordination between AC Transit and its partner jurisdictions or agencies. Each ILC includes elected representatives from AC Transit and the respective partner city or agency.

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2. Purpose

The purpose of the ILCs is to improve service planning coordination and strengthen partnerships between AC Transit and partner cities or agencies. The ILCs provide a forum for discussion and collaboration on a range of transit-related topics, including:

- New residential and commercial developments
- Roadway and right-of-way projects
- Service planning, including routes, schedules, and bus stops
- Service partnerships (e.g., service to a new development)
- Transit corridor projects (e.g., Rapid Bus, Bus Rapid Transit)
- Area Service Plans or Comprehensive Operations Analyses
- Intermodal connections between transit systems

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3. Scope and Authority

ILCs are formed for collaborative purposes only and do not possess decision-making authority, nor can they bind respective partner city or agency to any particular course of action. Their primary function is to facilitate dialogue, coordination, and alignment on mutual interests and initiatives.

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4. Committee Structure

4.1 Participating Committees (Effective January 1, 2026)

- City of Berkeley – City of Emeryville / AC Transit ILC
- City of Fremont – City of Newark / AC Transit ILC
- BART / AC Transit ILC
- City of Hayward / AC Transit ILC
- City of Alameda / AC Transit ILC

- City of Oakland / AC Transit ILC

4.2 Membership

- **BART and Oakland ILCs**:
    - 3 elected representatives from AC Transit
    - 3 elected representatives from the partner agency or local jurisdiction
- **All Other ILCs**:
    - 2 elected representatives from AC Transit
    - 2 elected representatives from each city or partner agency

4.3 Alternates

- Each city or partner agency may appoint at least one (1) and no more than two (2) alternate members.

The appointments outlined in Sections 4.2 and 4.3 shall be selected in accordance with each jurisdiction's internal rules and procedures concerning appointments.

4.3 Notification

Each partner city or agency shall provide notice to the AC Transit District Secretary's Office whenever changes in appointments occur.

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5. Meetings

5.1 Frequency

- Each ILC shall meet no fewer than two (2) times and no more than three (3) times per calendar year.
- Meetings shall not be held in January, to accommodate appointment cycles.
- Additional meetings may be scheduled for urgent or emergency issues if there is consensus from the ILC.
- Staff-level coordination meetings may occur more frequently between formal ILC meetings.

5.2 Duration

- Meetings shall not exceed 90 minutes; however, this time limitation shall not preclude the public from offering public comment at meetings.

5.3 Location

AC Transit Inter-agency Liaison Committee (ILC) Charter

- Meetings will be held in the jurisdiction of the partner city or agency, to encourage local public participation.
- Meeting venues shall be accessible to the public and ideally reachable via public transit.
- Remote meetings may be held in compliance with the Brown Act, provided there is a physical location available for public access within the partner city or agency's jurisdiction.

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6. Agenda Planning and Management

- Agenda items may be proposed by committee members at prior meetings.
- A draft agenda is prepared by staff, with input from both agencies.
- Final approval of the agenda rests with the AC Transit General Manager and the AC Transit ILC members.
- The partner city or agency shall approve agenda items following its own internal procedures.

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7. Governance and Joint Meetings

- ILCs are Brown Act Committees formed solely for collaborative purposes.
- ILCs do not have authority to make binding decisions on behalf of AC Transit or any partner jurisdiction.
- Joint meetings may be scheduled when two ILCs have overlapping concerns or regional alignment.

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8. Staff Responsibilities

AC Transit's Service Development and Planning Department shall coordinate staff support for all ILC meetings. Key responsibilities include:

- Administrative and logistical coordination
- Taking and maintaining action minutes
- Convening internal staff preparation meetings one month prior to ILC meetings
- Collaborating with partner city or agency staff to develop briefings and agenda materials
- Reviewing draft agendas with partner agency staff

AC Transit Inter-agency Liaison Committee (ILC) Charter

- Publishing agendas through the AC Transit District Secretary's Office, unless otherwise arranged
- Ensuring compliance with all Brown Act posting and notification requirements

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9. Staff Participation

- The AC Transit General Manager and the counterpart executive at the partner agency, or their designees, are encouraged to attend all ILC meetings.
- Departmental staff shall attend as needed based on the agenda.
- Meeting administration is the responsibility of the Service Development and Planning Department.

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10. Public Notification and Compliance

- In compliance with the Brown Act, AC Transit will publish:
    - Regular meeting agendas and materials at least 72 hours in advance
    - Special meeting notices at least 24 hours in advance
- If the partner agency has stricter posting requirements, those timelines will be honored.
- Agendas shall be posted:
    - At the physical location of the meeting
    - In the lobby of AC Transit's General Office in Oakland
    - At applicable teleconference locations

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11. Amendments

This Charter may be amended by action of the AC Transit Board of Directors.

17

Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR
January 27, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Mayor Adena Ishii (Co-Sponsor)

SUBJECT: Refer to the City Manager to include in the Community Survey a Poll Question about Increasing Sales Tax in the City of Berkeley

RECOMMENDATION

Refer to the City Manager to include in the upcoming community survey for the November 2026 election a question about increasing the sales tax in the City of Berkeley from 10.25 percent to the maximum of 10.75 percent to help address the City's projected budget deficit of $27 million.

CURRENT SITUATION AND ITS EFFECTS

Currently, the total sales tax rate in the City is 10.25 percent and consists of a combination of state, county, and special district sales tax rates as follows:

- State of California: 6.00%
- Alameda County: 0.25%
- District/Special: 4.00%
- City of Berkeley: 0%

According to our Finance Director Henry Oyekanmi, if Berkeley were to raise its tax rate from 10.25 percent to 10.75 percent, as many other cities in Alameda County have already done, the City would see additional annual sales tax revenue anywhere from $9.3 million (on the conservative end) to as much as $10.3 million–the more likely figure. This additional revenue could be used for general fund purposes, such as retaining staff in our Police and Fire Departments.

Currently, eight cities in Alameda County have a tax rate higher than Berkeley's 10.25 percent, as shown in Exhibit 1 below.

Exhibit 1: Alameda County Cities with a Higher Sales Tax Rate Than Berkeley

City	Sales Tax Rate
City of Alameda	10.75%
City of Albany	10.75%
City of Emeryville	10.50%
City of Hayward	10.75%
City of Newark	10.75%
City of Oakland	10.75%
City of San Leandro	10.75%
City of Union City	10.75%

Source: California Department of Tax and Fee Administration[1]

BACKGROUND

During the April 24, 2025 Budget and Finance Committee, City staff gave a presentation and reported on a projected General Fund deficit of roughly $27 million for the upcoming fiscal year.[2] Since that time, the City Council has had several discussions related to the City's fiscal condition. On June 17, 2025 and September 30, 2025, the City Council referred to the City Manager items to assess the potential for a 2026 ballot measure to help fund capital improvements to our Fire Department facilities and improvements to our recreation and community facilities[3] that would address the City's infrastructure needs. During the December 2, 2025 City Council meeting, the Council provided input and direction to staff on project priorities for a

[1] California Department of Tax and Fee Administration: California Sales and Use Tax Rates by City and County, updated as of January 1, 2026: https://cdtfa.ca.gov/formspubs/cdtfa95.pdf

[2] April 24, 2025 Budget and Finance Committee, presentation on FY Mid-Biennial Update Preliminary Budget Status: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-24%20Item%2002%20Presentation%20Preliminary%20FY26%20MB%20Update.pdf

[3] June 17, 2025 City Council agenda item #28: "Fire Facility Revenue Measures": https://berkeleyca.gov/sites/default/files/documents/2025-06-17%20Item%2028%20Fire%20Facility%20Revenue%20Measures.pdf, and September 30, 2025 City Council agenda item #11: "Recreation and Community Facility Improvement Measures": https://berkeleyca.gov/sites/default/files/documents/2025-09-30%20Item%2011%20Recreation%20and%20Community%20Facility%20Improvement%20Measures.pdf

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7110 ● Fax: (510) 981-7111
E-Mail: rkesarwani@cityofberkeley.info

potential revenue measure in preparation for a community survey to gauge residents' interest in such a bond measure.[4]

RATIONALE FOR RECOMMENDATION

This referral is requesting questions be added to the upcoming community survey related to raising the City's sales tax as a way of increasing revenue to partially address the City's significant projected budget deficit. Understanding residents' interest in a potential sales tax increase will provide needed direction for City Council.

FISCAL IMPACT

The fiscal impact of the referral is minimal and would include only staff time. The community survey has been approved and the City Manager's office is already in the process of soliciting proposals from qualified firms to execute the survey. This referral is requesting additional questions be added that would gauge residents' interest in raising the City's sales tax. The impact of the additional revenue, were a sales tax increase approved by the voters during the November 2026 election, is considerable, as noted above.

ENVIRONMENTAL SUSTAINABILITY

This referral has no significant impact on environmental sustainability.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1 (510) 981-7110

[4] December 2, 2025 Special City Council meeting, agenda item #2: "Discussion Regarding Potential Ballot Measures for the November 3, 2026, General Municipal Election: https://berkeleyca.gov/sites/default/files/documents/2025-12-02%20Special%20Item%2002%20Discussion%20Regarding%20Potential%20Ballot.pdf

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Office of the City Manager

PUBLIC HEARING
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Implement Residential Preferential Parking (RPP) Program on the 1700 Block of Cedar Street

RECOMMENDATION

Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25P by adding a subsection to implement Residential Preferential Parking (RPP) on the north side of Cedar Street, between McGee Avenue and Edith Street (1701-1721 Cedar Street) in RPP Area E.

FISCAL IMPACTS OF RECOMMENDATION

Implementing RPP on this block would require installation of two signs, costing the City approximately $730, including labor.

CURRENT SITUATION AND ITS EFFECTS

Residents of 1701-1721 Cedar Street have submitted a petition to join the RPP Program in RPP Area E. As shown in Attachment 3, the block requesting to opt into the RPP Program is the north side of Cedar Street between McGee Avenue and Edith Street.

In accordance with Berkeley Municipal Code (BMC) Section 14.72.050(A)(1), staff verified that residents submitted signatures on a qualifying petition representing a numerical majority of residentially zoned parcels wishing to “opt-in” to the RPP Program for the street section listed above and in the attached Resolution. Staff verified that at least 75% of the curb parking spaces were occupied during either mid-morning or mid-afternoon observation periods at the location.

The addition of the north side of one block in Area E should have a minimal impact on enforcement capabilities, as RPP restrictions are already in place on the block of Cedar to the east. Each new addition to the RPP Program, however, tends to result in slightly diminished enforcement for all other existing permit areas, due to parking enforcement officers having slightly larger areas to patrol.

BACKGROUND

The RPP Program was instituted in 1980 to:

- Protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic;
- To assure continued quality of life for residents; and
- To provide neighborhood parking for residents.

In most areas, the Program limits parking for vehicles not displaying an RPP permit to two hours, and reserves available daytime parking for residents, from 8:00 a.m.-7:00 p.m. Monday through Friday, and on some blocks, Saturday.

The RPP Program allows residents within RPP Program boundaries to petition the City to “opt-in” or “opt-out” of the Program. The process to install RPP controls requires submittal of a petition signed by residents (including tenants of rental properties) of at least 51% of dwellings sited along the affected block, and a parking survey of those blocks that shows at least 75% of available on-street parking spaces are occupied during the mid-morning and mid-afternoon time periods.

The RPP Program is in alignment with Strategic Plan Priorities, advancing our goal to be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Expansion of the RPP Program to include additional blocks is expected to have minimal net environmental impact. While RPP controls may discourage some non-residents from driving to certain blocks to park, they also make parking more convenient for elderly and/or disabled residents.

RATIONALE FOR RECOMMENDATION

Households on the subject block overwhelmingly support including the north side of Cedar Street between McGee Avenue and Edith Street in the RPP Program. Further, residents have met all requirements as set forth in BMC Section 14.72.050(A)(1) to opt this block into the RPP Program.

ALTERNATIVE ACTIONS CONSIDERED

Council may allow unrestricted parking to remain on these streets. However, Council has previously approved the “opting in” of blocks where the requisite number of households signed a petition requesting RPP control, and where the parking utilization exceeds 75%.

CONTACT PERSON

Wahid Amiri, Deputy Director, Public Works, (510) 981-6396
Mark Helmbrecht, Transportation Manager, Public Works, (510) 981-6403
Scott Artis, Parking Services Manager, Public Works, (510) 981-7786

Elliott Schwimmer, Senior Planner, Public Works, (510) 981-7066
Joshua Brett, Assistant Planner, Public Works (510) 981-7064

Attachments:
1. Resolution
2. Map of Street Section Opting Into the RPP Program
3. Public Hearing Notice

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

IMPLEMENT RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM ON CEDAR STREET BETWEEN MCGEE AVENUE AND EDITH STREET

WHEREAS, Berkeley Municipal Code Section 14.72.050.A.1, Designation of a Residential Preferential Parking (RPP) Area, allows residents to petition the City to "opt-in" or "opt-out" of the program and requires submittal of a petition containing signatures of residents of at least 51% of residentially zoned parcels on the affected block; and

WHEREAS, residents of at least 51% of the dwellings on the following block has petitioned to “opt-in” to the RPP Program:

1. North side of Cedar Street between McGee Avenue and Edith Street (1701-1721 Cedar Street);

WHEREAS, staff has conducted field observations and determined at least 75% of available on-street parking spaces are occupied during the mid-morning and mid-afternoon time periods; and

WHEREAS, the designation of these blocks as a residential permit parking area will not be detrimental to the peace, morals, comfort and general welfare of persons residing in the area designated; and

WHEREAS, the $730 implementation cost is subject to appropriation in the FY 2026 budget in the General Fund 011 for Transportation Traffic Maintenance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following subsection of Section 25 of Resolution No. 56,508-N.S. are hereby added to read as follows:

Section 25P CEDAR STREET, north side between McGee Avenue and Edith Street

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL

EXTEND RESIDENTIAL PREFERENTIAL PARKING PROGRAM TO 1700 BLOCK OF CEDAR STREET BETWEEN MCGEE AVENUE AND EDITH STREET

The Department of Public Works is proposing to conduct a public hearing and, if recommendations are approved, adopt a Resolution amending Section 25P of Resolution No. 56,508-N.S. by adding a subsection to extend residential preferential parking on the north side of the 1700 block of Cedar Street between McGee Avenue and Edith Street.

The Residential Preferential Parking (RPP) Program allows for residents to petition the City to "opt-in" or "opt-out" of the Program. Complying with program requirements, residents of the block under consideration for opting into the RPP Program have submitted the qualifying signatures on a petition and also have at least 75% of the curb spaces occupied during the morning and mid-afternoon observation periods. Adding a block within the existing residential study area boundaries through evaluations by an EIR study certified on September 27, 1988, and in accordance with California Environment Quality Act (CEQA) guidelines, are categorically exempt as defined by Section 15.162(c).

The hearing will be held on January 27, 2026, at 6:00 p.m. in the School District Board Room located at 1231 Addison Street, Berkeley, CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of 5 p.m. on January 15, 2026. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Joshua Brett, Assistant Planner at (510) 981-7064. 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.

Posted by: January 17, 2026 - Pursuant to Berkeley Municipal Code Chapter 14.72

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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 January 15, 2026.

_____

Mark Numainville, City Clerk
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Petition Area Map



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Office of the City Manager

PUBLIC HEARING
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Selected Marina Fee Increases

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Marina fees; and rescinding Resolution No. 71,840-N.S. and all amendatory resolutions.

FISCAL IMPACTS OF RECOMMENDATION

The cumulative impact of these fee increases is estimated to add $247,500 in annual revenue to the Marina Fund (Fund 608), which supports Waterfront operations including the Marina, facilities, roads, recreation programs and special events, (see Table 1). These increases are needed to offset the costs of providing these services and to help ensure the long-term financial sustainability of the Waterfront. As discussed at the Council Budget & Finance Policy Committee meeting on October 28, 2025, the Marina Fund has had operating deficits for several years, and the Council has had to address these shortfalls with a variety of General Fund balancing measures.[1] The Marina Fund was buoyed by the passage of the 2024 Parks Tax increase, which shifted more than $1.5M in costs for Waterfront parks and landscaped areas off the Marina Fund. However, the weak recovery of the regional hotel market since COVID has created significant uncertainty for the Marina Fund's single largest revenue source, the Doubletree Hotel.

These fee increases are needed as one part of the City's strategy to balance the Marina Fund in the next budget cycle. Other measures include Waterfront recreation fee increases[2], revenue from updated Waterfront leases, and increased berth occupancy at the Marina. If these fees are not adopted, the Marina Fund is likely to generate deficits which will either require additional reductions to address any shortfall or additional General Fund subsidy which may not be feasible given the projected fiscal constraints of the General Fund.

[1] See https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-10-28%20Item%2003%20Marina%20Fund%20Update%20Presentation.pdf

[2] See Council report on Recreation Fee Increases, 1/20/26.

Table 1 - Summary of Estimated Annual Increase in Revenue

Fee increases	Marina Fund (608)
Berth Fee increase	$148,000
Power Surcharge	$43,000
Liveaboard	$27,000
Launch Ramp fees	$10,000
Waterfront Parking Passes	$19,500
TOTAL	**$247,500**

CURRENT SITUATION AND ITS EFFECTS

On June 24, 2025, Council adopted an updated Marina fee (Resolution No. 71,840-N.S.). The City regularly reviews all Marina fees in an effort to keep facilities and infrastructure accessible to the public while accounting for increased costs to deliver those services. Proposed fee changes described below are proposed to go into effect January 28, 2026, unless otherwise noted.

- **Berth Fees** are the monthly slip fee for slipholders with a permit to berth. Fees are proposed to increase by 3% for each of the next two years: a 3% increase in FY27, and a 3% increase in FY28. This is to better recover operational costs, while staying competitive with the local market for slips, (see Tables 2 and 3).

Table 2 – Proposed Berth Fees

Length of boat (in feet)	Current FY26 $/ft	Proposed FY27 +3%	Proposed FY28 +3%
20' -21'	$8.96	$9.23	$9.51
22' -24'	$9.48	$9.76	$10.05
25' -29'	$10.66	$10.98	$11.31
30' -39'	$11.30	$11.64	$11.99
40' -49'	$11.97	$12.33	$12.70
50' -59'	$12.69	$13.07	$13.46
60' -69'	$13.47	$13.87	$14.29
70' -79'	$14.24	$14.67	$15.11
80' -89'	$15.09	$15.54	$16.01
90'+	$18.04	$18.58	$19.14

Table 3 - Berth Fee Comparisons (shown for 30' and 50' length boats)

Marina - 30'	Double Finger
San Francisco Marina Small Craft Harbor - West	$21.80
Clipper Yacht Harbor (Sausalito)	$20.00
Blue Water Yacht Harbor (Sausalito)	$19.00
South Beach Harbor (San Francisco)	$15.46
San Francisco Marina Small Craft Harbor -EAST	$14.00
Emery Cove Yacht Harbor (Emeryville)	$13.50

Marina - 30'	Double Finger
Berkeley Marina (FY28)	**$13.19**
Berkeley Marina (FY27)	**$12.80**
Berkeley Marina (current)	**$12.43**
AVERAGE	$12.42
Safe Harbor Marina Bay Yacht Harbor (Richmond)	$12.42
MEDIAN	$11.90
Pillar Point Harbor (Half Moon Bay)	$11.90
Union Point (Oakland)	$11.05
Oyster Point Marina (South San Francisco)	$10.57
Grand Marina (Alameda)	$10.37
Oakland Yacht Club	$10.00
Brisbane Marina	$9.52
Coyote Point Marina (San Mateo)	$9.30
Vallejo Municipal Marina	$8.62

Marina - 50'	Double Finger
Blue Water Yacht Harbor (Sausalito)	$35.30
Clipper Yacht Harbor (Sausalito)	$30.46
San Francisco Marina Small Craft Harbor - West	$23.09
South Beach Harbor (San Francisco)	$21.76
AVERAGE	$16.27
Berkeley Marina (FY28)	**$14.81**
Safe Harbor Marina Bay Yacht Harbor (Richmond)	$14.80
Union Point (Oakland)	$14.54
Berkeley Marina (FY27)	**$14.38**
MEDIAN	$14.32
Emery Cove Yacht Harbor (Emeryville)	$14.25
Grand Marina (Alameda)	$14.11
Oakland Yacht Club	$14.05
Westpoint Harbor (Redwood City)	$14.03
Berkeley Marina (current)	**$13.96**
Pillar Point Harbor (Half Moon Bay)	$11.56
Oyster Point Marina (South San Francisco)	$10.88
Brisbane Marina	$9.52
Vallejo Municipal Marina	$8.62

- **Power Surcharge:** All slip holders on unmetered slips (slips that are not separately metered for power by Pacific Gas and Electric Company) currently pay an additional 0-12% on top of their monthly dockage to partially offset the costs of the electric bills paid by the City for various docks. This fee would add an additional 40% per month to the existing power surcharges for unmetered slips to offset the cost of power.

  Slipholders with unmetered power have not been subject to a power fee increase since 2015. This fee would account for a portion of the increased cost of power paid for by the Marina for these unmetered slips. Since the time this fee was established, power costs for the Marina have increased by over 100%. Raising the fee by this much would cause a significant increase to slip fees for unmetered slips, so a 40% increase is being proposed, (see Table 4).

Table 4 – Proposed Power Surcharge

Vessel Length	Current Surcharge per foot, per month	Proposed Surcharge +40%
20-21	$0.00	
22-24	$0.20	$0.28
25-29	$0.40	$0.56
30-39	$0.60	$0.84
40-49	$0.80	$1.12
50-59	$1.00	$1.40
60-69	$1.20	$1.68
70-79	$1.40	$1.96
80-89	$1.60	$2.24
90+	$1.60	$2.24

- **Liveaboard Fees** are applied to permits for cruising vessels used as a residence, and thirteen floating homes in the Berkeley Marina. This fee is proposed to increase from $220/month to $270/month. This liveaboard fee increase is in place to offset staff costs of administering this permit, including the liveaboard waitlist. The fee also offsets the additional usage of Marina facilities by a full-time resident at an otherwise recreational facility. Even with the proposed fee increase, Berkeley's fees are the lowest among neighboring marinas, (see Table 5).

Table 5 – Liveaboard fee comparisons *Source: 2025 Bay Area Marina Survey*

Marina	Rate
Blue Water Yacht Harbor (Sausalito)	$600 1st person/month, $450 2nd person/month
Clipper Yacht Harbor (Sausalito)	$594 1st person/month, $297 2nd person/month
Westpoint Harbor (Redwood City)	$465/month
Oyster Point Marina (S. San Francisco)	$473/month
Emery Cove Marina (Emeryville)	$440/month
Grand Marina (Alameda)	$400/month
Brisbane Marina	$400/month

Marina	Rate
Oakland Yacht Club	$301.25/month
Marina Bay Yacht Harbor (Richmond)	$275/month
Berkeley (proposed)	**$270/month**
Berkeley (current)	**$220/month**

- **Launch ramp fees** are charged for access to the Marina launch ramp and parking lot. The fees are proposed to increase from $17 to $20/day; from $95 to $120/month; and $310 to $400 for a seasonal pass. This fee has not been increased since 2019 and is needed to help offset the costs of maintenance and management of the Launch Ramp facilities. This fee is consistent with local Marinas, (see Table 6).

Table 6 – Launch ramp fee comparisons

Source: 2025 Bay Area Marina Survey

Marina	Rate	Notes
Loch Lomond Marina (San Rafael)	$20/launch	$500 annual pass
Pillar Point Marina (Half Moon Bay)	$20/launch	$269 annual pass
Berkeley (Proposed)	$20/day	$120/month $400/seasonal
Santa Cruz Harbor	$18/launch	
Marina Bay Yacht Harbor (Richmond)	$17/launch	$350/year
Berkeley (Current)	$17/day	$105/month $350/seasonal
Oyster Point Marina (San Mateo)	$13/launch	$213/year
Coyote Point (San Mateo)	$12/launch	

- **New Customer Discount.** Currently, new customers who sign up before September receive two months of free dockage (slip fees) in December and January, along with a $75 gift card to a Berkeley Waterfront business. To improve marketing and simplify implementation of the incentive, this discount is proposed to change to: two months free after the initial two months are paid. This has no fiscal impact but may help recruit new boaters.
- **Waterfront Special Event Fees** established in 2020 are working well for non-ticketed events. In 2025, $28,722 in fees was received from 11 special events. The fees and process help external event producers clearly understand the costs of producing events at the Waterfront, facilitate fair and consistent application of the fees, and offset the impact of these events. There are two changes proposed to the existing fees outlined in Table 7 below.

- Ticket fees for gated events would remain at 10% of gross ticket sales, but the calculation would change to match San Francisco's recently updated method of assessing the fee on gross ticket sales less special event fees.

- Concession fees would be reduced from 10% to 3% of gross concession sales, to remain competitive with our neighboring jurisdictions. San Francisco charges

5% of concessions. East Bay Regional Park District charges the greater of $75 or 10% of vendor sales at the event but does not charge ticket fees. Oakland does not charge for ticket or concession fees.

Table 7 – Updates to Select Waterfront Special Event Fees

Fee Description	Cost
Ticket Fee, for ticket sales at gated events	10% of gross ticket sales less other special event fees (Venue Fees, Additional Fees, and Pass-Through Fees) or $0, whichever is greater.
Concession Fee, for concessions sold on site at the event	3% of gross sales for concessions sold on site at the event

- **Additional Waterfront Parking Passes.** A new fee of $200 is proposed for additional boater and tenant parking passes to park in Waterfront lots. Each Waterfront business will receive a predetermined number of free passes based on annual revenue and employee need. Additional passes for tenant staff and slipholders may be purchased for $200/pass. The fee is needed to offset costs to maintain Waterfront parking lots and infrastructure.

BACKGROUND

The Marina Fund covers all Waterfront operations including the Marina, landscaping, facilities, parks, roads, recreation programs and special events. Specific examples include the daily maintenance of over 1,000 berths, repairs to docks, pilings and buildings, staffing in Shorebird Nature Center and Adventure playground and the daily administration of what essentially is a “small city”. These costs are paid via revenues from berth fees, special fees, and commercial leases and licenses. Berth fees comprise 46% of all Marina Fund revenue, while all other marina fees combined comprise approximately 9% of Marina Fund revenue.

The proposed fees were brought before the Parks, Recreation & Waterfront Commission on November 12, 2025 at their regular meeting. These fees along with a range of financial alternatives to fiscally stabilize the Marina Fund were presented to the Council Budget & Finance Policy Committee on October 28, 2025.[3]

ENVIRONMENTAL SUSTAINABILITY

The proposed fee increases will improve the City’s ability to manage and operate the Berkeley Waterfront, where the City provides unique recreational and educational opportunities for the community to engage with and learn about the Bay and local marine environment.

[3] See https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-10-28%20Item%2003%20Marina%20Fund%20Update%20Presentation.pdf

CONTACT PERSON
Scott Ferris, Director, Parks, Recreation & Waterfront 510-981-6711

Attachments:
1. Resolution
    Exhibit A: Fee Schedule
2. Notice of Public Hearing

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

ESTABLISHING FEES FOR GOODS AND SERVICES PROVIDED AT THE BERKELEY MARINA AND RESCINDING RESOLUTION NO. 71,840-N.S.

WHEREAS, on June 24, 2025, Council adopted the new Marina Fee Schedule (Resolution No. 71,840-N.S.); and

WHEREAS, the City's costs to operate facilities, provide services and undertake capital improvements at the Berkeley Marina have increased with inflation, rising staff costs, and aging infrastructure; and

WHEREAS, Marina fees are required to offset those costs and the additional revenue will be deposited in the Marina Fund (608); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the attached rate structure (Exhibit A) is hereby established for use by the general public for facilities and services at the Berkeley Marina, effective January 28, 2026.

BE IT FURTHER RESOLVED that Resolution No. 71,840-N.S. and all amendatory resolutions are hereby rescinded effective January 27, 2026.

Exhibit A: Fee Schedule

Exhibit A: Fee Schedule

Marina Rate Schedule
(effective January 28, 2026, unless otherwise noted)

Length of boat (in feet)	**Berth fee** (per foot/month)			**Surcharge for Unmetered Power** (per foot/month)	
		Effective 7/1/26	**Effective 7/1/27**		**Effective 7/1/26**
20' -21'	$8.96	$9.23	$9.51	$0.00	$0.00
22' -24'	$9.48	$9.76	$10.05	$0.20	$0.28
25' -29'	$10.66	$10.98	$11.31	$0.40	$0.56
30' -39'	$11.30	$11.64	$11.99	$0.60	$0.84
40' -49'	$11.97	$12.33	$12.70	$0.80	$1.12
50' -59'	$12.69	$13.07	$13.46	$1.00	$1.40
60' -69'	$13.47	$13.87	$14.29	$1.20	$1.68
70' -79'	$14.24	$14.67	$15.11	$1.40	$1.96
80' -89'	$15.09	$15.54	$16.01	$1.60	$2.24
90'+	$18.04	$18.58	$19.14	$1.60	$2.24

Surcharges	**Base Rate Per Foot**
Upwind Berth*	10% added to the base rate
Single Berth (Double Finger Berth)	10% added to the base rate
Upwind & Single Berth	20% added to the base rate
Catamaran/ Trimaran/ or End Tie Fees	20% added to the base rate

Discounts	**Base Rate Per Foot**
Multiple Berth Discount > 20	30% off Base Berth Rent
Multiple Berth Discount 11-20	20% off Base Berth Rent
Multiple Berth Discount 5-10	10% off Base Berth Rent
Incentive: Referral Discount **	$250 off first month of berth fees
Incentive: New Slip Holders***	2 months free after initial 2 months are paid
New Customer Discount	No slip fees December & January plus $75 gift card

Other Fees	**Amount**
Abandoned Vessel Fee	$1,000
Commercial Business Fee - Docks	$25/year
Chaining Fee (per occurrence)	$120/occurrence
Charter Boat Fee	$35/event + $1/person
Dry Storage (22' length or less)	$200/month
Dry Storage (23-27' length)	$220/month
Dry Storage (28-40' length)	$240/month
Dry Storage (40' length or more)	$280/month
Electronic key pass (initial 1-2 keys)	$15/key
Electronic key pass (additional keys)	$75/key
Group key fee (Organizations)	$15/key
Floating Home Sewer Charge – monthly	$25/month

Other Fees	Amount
Food Booth Fee	$500/event
Impound Fee	$55/day
Insurance – Outdated / Inadequate	$75/month
Labor Fees	$75/hour
Launch Ramp – Monthly	$105/month
Launch Ramp – Seasonal	$350 per 6-month period
Launch Ramp – Daily	$20/day
Lien Fee	$100/occurrence
Limited Access Berth	Vessel Length x Rate
Liveaboard Fee – boat (monthly) ++	$270/month
Liveaboard Fee – floating home (monthly) ++	$270/month
Locker Fee	$30/month
Merchandise Booth Fee	$100/event
Organized Group Use Fees	See table below
Registration/Documentation – Outdated/Inadequate	$75/month
Skiff <20’ length	$140/month
Slip Transfer Fee	$30/occurrence
Small Scale Ferry Service Fee	See table below
Visitor Berth Fees (11 – 30 nights) up to 29’	$.50/ft/night
Visitor Berth Fees (11 – 30 nights) 30’-49’	$.60/ft/night
Visitor Berth Fees (11 – 30 nights) 50’ or more	$.70/ft/night
Visitor Berth Fees (10 nights or less)	$1/foot/night
Waterfront Parking Fee Hourly	$1/hour
Waterfront Parking Fee Daily	$6/day
Waterfront Parking Pass Yearly	$500/year
Additional Waterfront Parking Pass (Boaters/Tenants)+	$200/year
Waterfront Rental Areas	See table below
Waterfront Special Event Fees	See table below.

*Houseboats excepted
**Fee credit offered on first month of slip fees to both a new slip holder (that has not previously held a slip at the Berkeley Marina) and an existing customer who made the referral.
***One time 100% off of two monthly slip fees for a new slip holder (that has not held a slip at the Berkeley Marina in the past 5 years), redeemable after initial 2 months of berth fees paid on time and in full.
+ Additional passes for tenant staff and slipholders beyond baseline allocation.
++ Boaters may apply for a refund of any Liveaboard fee increase that takes effect from FY 2016 onward through the City’s Very Low-Income Refund policy.

Organized Group Use Fees

Annual Fee	$250/year
Attendance Fee (up to 50 people)	$50/day

Small-Scale Ferry Service Fee

Landings Per Day	Daily Landing Fee		Landings per Day	Daily Landing Fee
1	$14.34		11	$68.83
2	$25.80		12	$70.27
3	$35.84		13	$71.70
4	$44.44		14	$73.15
5	$51.61		15	$74.58
6	$57.35		16	$76.02
7	$61.65		17	$77.46
8	$64.52		18	$78.89
9	$65.96		19	$80.33
10	$67.40		20	$81.77
For each additional SSFS landing in excess of 20 landings, the daily landing fee would increase by $2.88.				

Waterfront Rental Areas

Location	Fee
Gateway Pier (16,000 sq. ft)	$150/4 hours
South Cove Eastern Shoreline (5,000 sq. ft)	$150/4 hours
Marina Mall (10,500 sq. ft)	$150/4 hours
South Cesar Chavez Peninsula (27,000 sq. ft)	$150/4 hours

Waterfront Special Event Fees

Venue Fee	
- 1-99 attendees	$350/day
- 100-249 attendees	$500/day
- 250-499 attendees	$700/day
- 500-999 attendees	$1,000/day
- 1000-4999 attendees	$5,000/day
- 5000-9999 attendees	$10,000/day
- 10,000-14,999 attendees	$15,000/day
- Over 15,000 attendees	$20,000/day
Additional fees	
- Road closure request	$500
- Road closure	$2,000
- Participant fee (for event w/alcohol)	$5/person or $1,000/day*
- Exclusive Use Parking	$10/space/day
- Attended Parking	$20/vehicle less than 17'; $50/vehicle for vehicles and trailers in excess of 17'
- Ticket Fee	10% of gross ticket sales less other special event fees (venue fee, additional fees, and pass-through fees) or $0.*
- Concession Fee	3% of gross sales for concessions sold on site at the event
- Event clean up deposit	$1,000
Pass-Through Costs	
- Operations staff to plan & monitor event	Actual costs
- Parking attendants	
- Parks staff to prepare site, inspect after event, and make any necessary repairs	
- Custodial staff	
- Signage, rentals, equipment, green waste, and other goods or services required for the event.	

*Whichever is higher.

ATTACHMENT 2

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL

Marina Fee Increases

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Parks, Recreation & Waterfront is proposing to increase selected Marina fees, as contained in the attached Marina Fee Schedule and summarized below:

Table 1 - Current vs. Proposed Fees

1.Berth Fees

Length of boat (in feet)	**Berth fee** (per foot/month)
20' -21'	$8.96
22' -24'	$9.48
25' -29'	$10.66
30' -39'	$11.30
40' -49'	$11.97
50' -59'	$12.69
60' -69'	$13.47
70' -79'	$14.24
80' -89'	$15.09
90'+	$18.04

Length of boat (in feet)	**Berth fee** (per foot/month)	
	Effective 7/1/26	*Effective 7/1/27*
20' -21'	$9.23	$9.51
22' -24'	$9.76	$10.05
25' -29'	$10.98	$11.31
30' -39'	$11.64	$11.99
40' -49'	$12.33	$12.70
50' -59'	$13.07	$13.46
60' -69'	$13.87	$14.29
70' -79'	$14.67	$15.11
80' -89'	$15.54	$16.01
90'+	$18.58	$19.14

2. Surcharge for Unmetered Power

Length of boat (feet)	**Surcharge** (per ft/mo)
20-21	$0.00
22-24	$0.20
25-29	$0.40
30-39	$0.60
40-49	$0.80
50-59	$1.00
60-69	$1.20
70-79	$1.40

Length of boat (feet)	**Surcharge** (per ft/mo)
20-21	$0.00
22-24	$0.28
25-29	$0.56
30-39	$0.84
40-49	$1.12
50-59	$1.40
60-69	$1.68
70-79	$1.96

	80-89 | $1.60 90+ | $1.60	80-89 | $2.24 90+ | $2.24
3. Liveaboard Fees (boat and floating home)	$220/month	$270/month
4. Launch Ramp Fees	$17/day $105/month $350/seasonal	$20/day $120/month $400/seasonal
5. New Customer Discount	100% off of monthly slip fees for the first December and January	2 months free after initial 2 months are paid
6. Waterfront Special Event Fees	Concession fee | 10% of gross sales including ticket sales	Ticket fee | 10% of gross ticket sales, less other special event fees or $0, whichever is greater. Concession fee | 3% of gross sales for concessions sold on site at the event

The hearing will be held January 27, 2026. in the School District Board Room, 1231 Addison Street.

For further information, please contact Scott Ferris at 510-981-6711.

A copy of the agenda material for this hearing will be available on the City's website at www.berkeleyca.gov as of **January 15, 2026. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, 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 981-6900 or clerk@cityofberkeley.info for further information.

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 12 days prior to the public hearing.

Published: January 9 and January 16, 2026 – The Berkeley Voice
Published pursuant to Government Code 6062a

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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 January 15, 2026.

Mark Numainville, City Clerk
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Office of the City Manager

PUBLIC HEARING
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

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

RECOMMENDATION

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

SUMMARY

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

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

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

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

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

On July 3, 2024 the application was deemed complete.

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

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

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

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

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

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

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

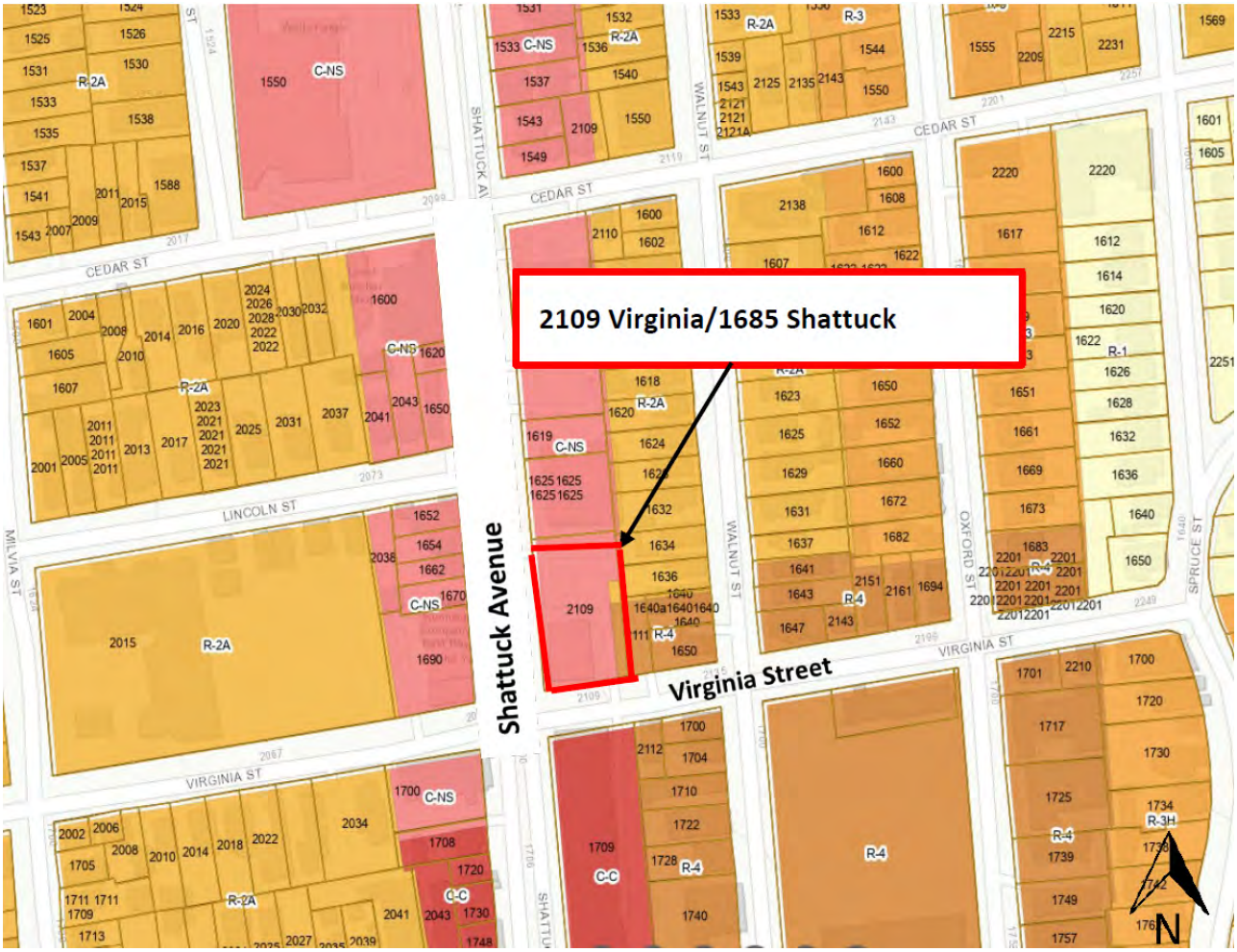
On September 30, 2025, neighboring residents filed an appeal of the ZAB’s decision.

BACKGROUND

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

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

Figure 1. Zoning



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

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

Figure 2: Street View



Figure 3: Site Plan/Ground Floor Plan

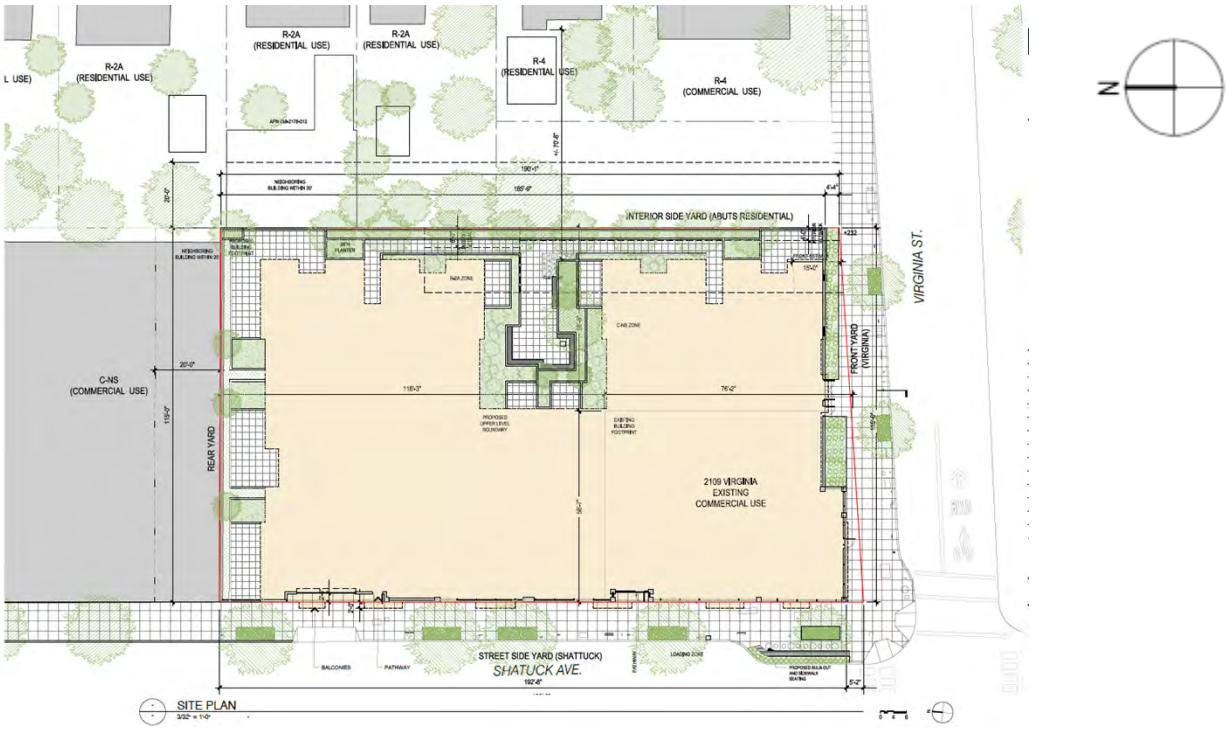


Figure 4: Shattuck Avenue Rendering Looking Northeast



Figure 5: South Elevation Facing Virginia Street



Figure 6: West Elevation Facing Shattuck Avenue

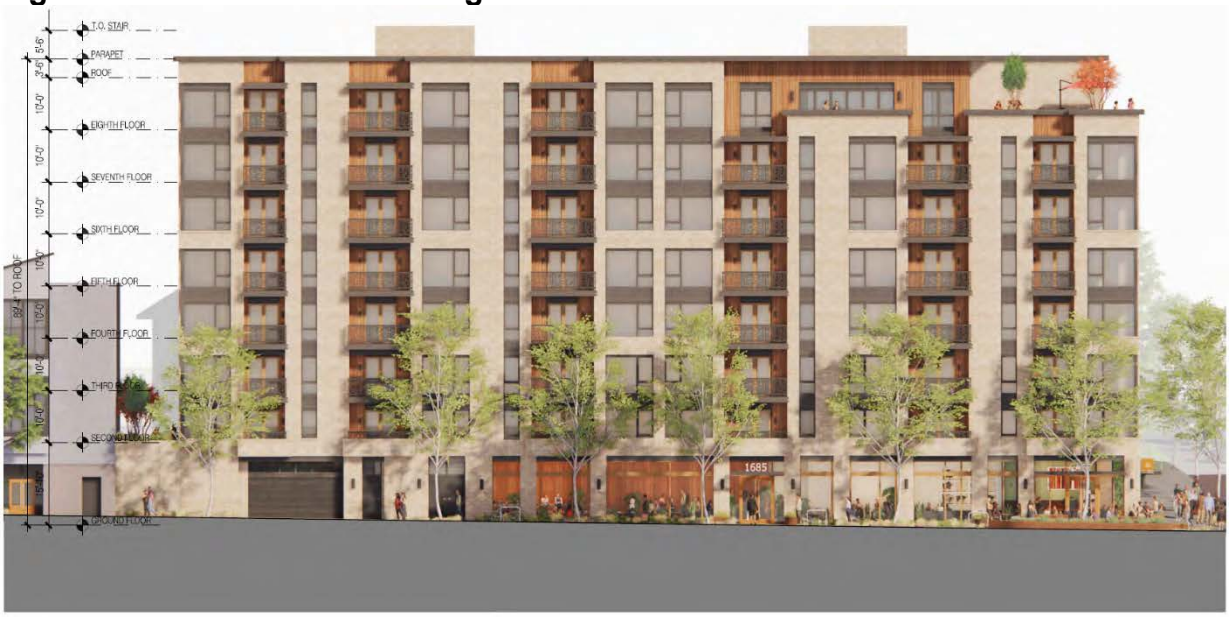


Figure 7: East (Interior Side) Elevation Facing Existing Residential



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

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

Table 1: Density Bonus

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

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

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

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

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

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

North Shattuck Commercial District (C-NS):

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

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

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

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

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

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

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

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

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

Multi-Family Residential District (R-4):

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

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

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

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

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

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

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

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

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

RATIONALE FOR RECOMMENDATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ALTERNATIVE ACTIONS CONSIDERED

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

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

CONTACT PERSON

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Zoning Adjustments Board Findings

App # ZP2024-0066

Use Permit for a Project at 2109 Virginia Street

Sept 11, 2025

Project Facts

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

Property Owner: American Commonwealth Associates

Project Address: 2109 Virginia Street/1685 Shattuck Avenue

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

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

Site Size: .51 acres

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

Vesting Date: December 27, 2023

Date Deemed Complete: July 23, 2024

Project Planner: Singeh Saliki

Project Description:

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

Permits Requested:

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

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

Staff Recommendation

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

CEQA

Qualified Infill Checklist

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

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

FINDINGS FOR APPROVAL

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

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

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

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

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

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

b) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

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

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

DEMOLITION

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

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

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

DENSITY BONUS

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

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

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

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

North Shattuck Commercial District (C-NS)

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

Restricted Multiple Family Residential District (R-2A)

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

Multi-Family Residential District (R-4)

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

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

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

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

HOUSING ACCOUNTABILITY ACT

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

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

PERMIT FINDINGS FOR THE C-NS ZONING DISTRICT

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

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

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

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

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

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

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

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

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

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

(a) The proposed land use; and

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

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

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

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

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

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

PLANNING AND DEVELOPMENT

USE PERMIT ZP2024-0066 CONDITIONS OF APPROVAL

September 11, 2025

2109 Virginia Street

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

I. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

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

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

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

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

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

II. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

    ☐ **Project Liaison** _____

    Name Phone #

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

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

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

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

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

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

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

E. Prohibit unnecessary idling of internal combustion engines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prior to Issuance of Any Building (Construction) Permit

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

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

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

28. **Interior Noise Levels.** Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
29. **Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS).** A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)
30. **Electric Vehicle (EV) Charging.** At least 10 percent of the project parking spaces for residential parking shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations~~,~~ and at least 40 percent shall have installed low power Level 2 EV charging receptacles (20 amp), or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Required Level 2 charging stations and low power Level 2 EV charging receptacles shall be installed, maintained, and made available for building resident use. EV charging station installations, EV charging receptacles, and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions. (Project required to meet applicable code at time of building permit application, if different from above.)
31. **Water Efficient Landscaping.** Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ETo) for Berkeley is 41.8.
32. **Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division at RecyclingProgram@berkeleyca.gov.
33. **Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

AFFORDABLE HOUSING REQUIREMENTS – RESIDENTIAL PROJECTS

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

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

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

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

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

Prior to Demolition or Start of Construction:

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

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

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

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

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

    D. Significant truck activity.

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

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

During Construction:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prior to Final Inspection or Issuance of Occupancy Permit:

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

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

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

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

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

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

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

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

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

At All Times:

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

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

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

Mitigation Monitoring and Reporting Program

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

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

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

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

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

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

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

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

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

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

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

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

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

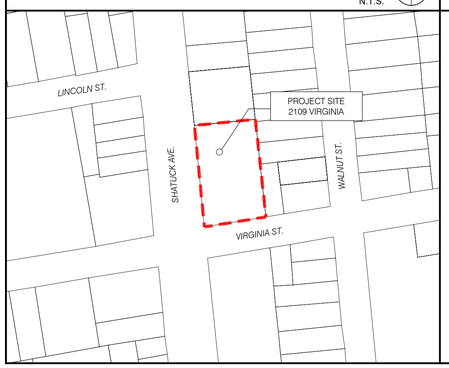
VIEW ALONG SHATTUCK LOOKING NORTHEAST



VICINITY MAP

N

N.T.S.



PROJECT DIRECTORY

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

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

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

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

PROJECT DESCRIPTION

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

SCOPE OF WORK:

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

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-NS, R2A, R4

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

SHEET NO. & TITLE

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

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Berkeley, CA

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

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JOB: 2341

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GENERAL INFORMATION

A0.0

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ZONING TABLES

CITY OF BERKELEY ZONING TABULATIONS

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

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

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

UNIT COUNTS

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

OPEN SPACE TABLE

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

BICYCLE PARKING CALCULATIONS

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

PARKING TABLE

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

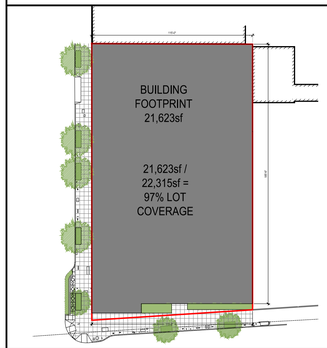
ROOFTOP ARCHITECTURAL ELEMENTS CALCS

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

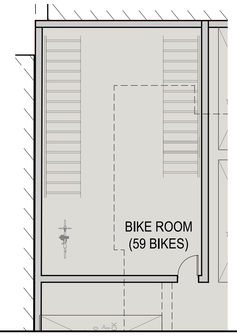
PROPOSED FLOOR AREA WITH DENSITY BONUS

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

LOT COVERAGE DIAGRAM

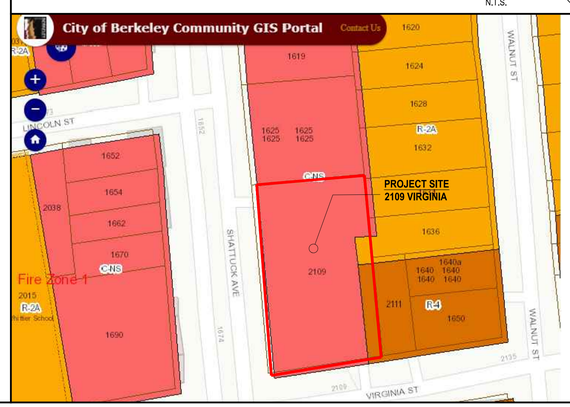


BIKE PARKING

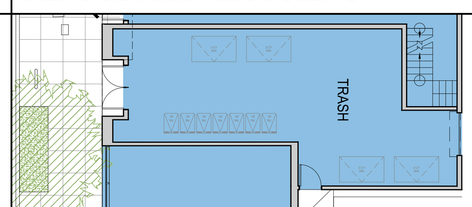


ZONING MAP

N.T.S.



REFUSE AND RECYCLING



Waste and Recycling Calculation

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

OPEN SPACE DIAGRAMS



LEVEL 2
USABLE OPEN SPACE 4,912SF

LEVEL 8
USABLE OPEN SPACE 1,030SF

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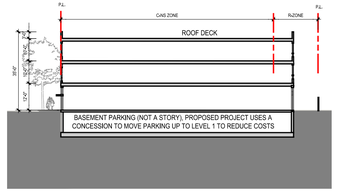
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ZONING DATA

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BASE PROJECT AREAS

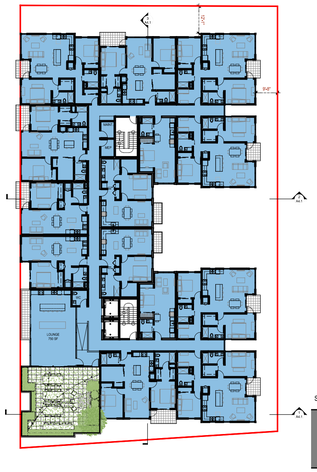
	RETAIL	MEP	RESIDENTIAL FLOOR AEA				TOTAL PROJECT
			C-NS	R-4	R-2A	TOTAL RES.	
SITE AREA			19,788	1,970	584		22,342
ALLOWABLE DENSITY (UNITS/SF)			NA	NA	1650		
ALLOWABLE UNITS (ROUNDS UP)			NA	NA	1		
ALLOWABLE FAR (1.0 FOR COMM. AREA)			NA	**NA**	**NA**		
ALLOWABLE HEIGHT (BASE)			35'	35'	28'		
ALLOWABLE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



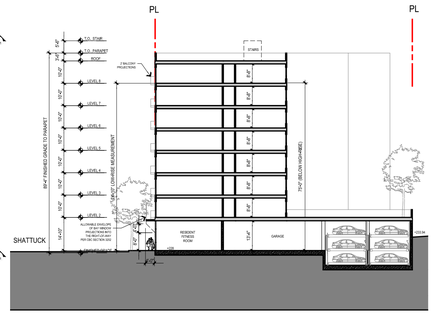
SECTION



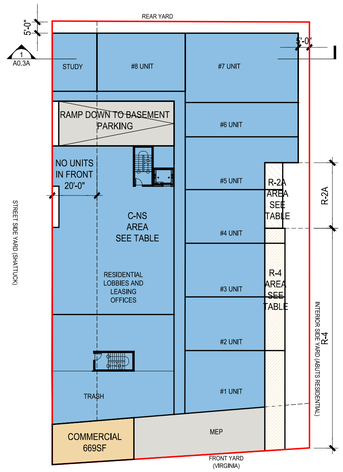
PLAN AT 2ND LEVEL



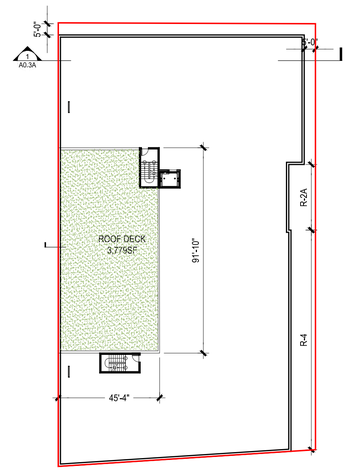
PLAN AT LEVEL 8



SECTION



PLAN AT GROUND LEVEL



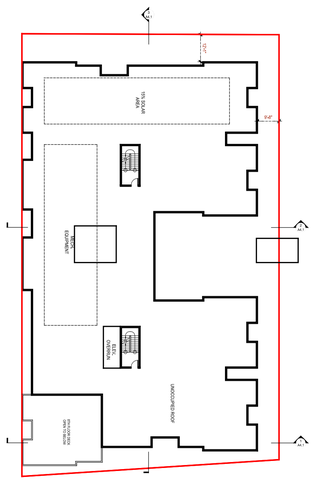
PLAN AT ROOF



PLAN AT GROUND LEVEL

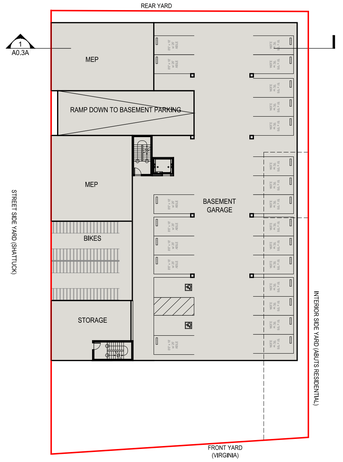


PLAN AT LEVELS 3-7

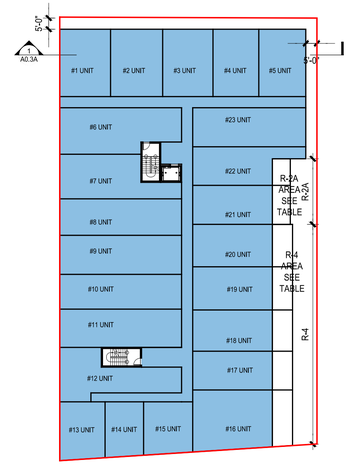


PLAN AT ROOF LEVEL

PROPOSED DENSITY BONUS PROJECT



PLAN AT BASEMENT



PLAN AT 2ND-3RD LEVEL

BASE PROJECT

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DENSITY BONUS DIAGRAMS

A0.3A

DENSITY BONUS TABLE

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

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

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

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

Avg. Unit Size: 1032 sf

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

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - Open Space

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

Base Project - FAR

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

Base Project - Parking

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

Base Project -Bicycle Parking

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

Base Project - Stormwater

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

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DENSITY BONUS CALCULATIONS

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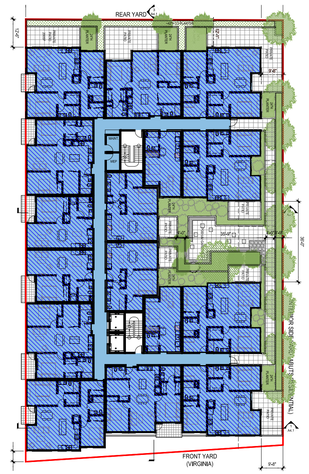
PROPOSED PROJECT RESIDENTIAL UNIT FLOOR AREA DIAGRAM

LEGEND

- DWELLING UNIT RUFA
- RESIDENTIAL AMENITY AREA
- COMMERCIAL AREA



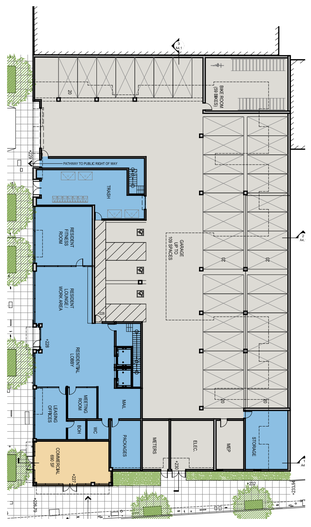
PLAN AT LEVEL 8



PLAN AT LEVEL 2



PLAN AT LEVELS 3-7



PLAN AT GROUND

PROPOSED PROJECT AREA AND UNIT CALCULATIONS

Calculation of the Final Proposed Residential Unit Floor Area:

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

Calculation of Base Project Residential Floor Area:

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

Calculation of the Affordable Housing Fee:

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

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PRELIMINARY AFFORDABLE HOUSING CALCULATIONS

A0.3C

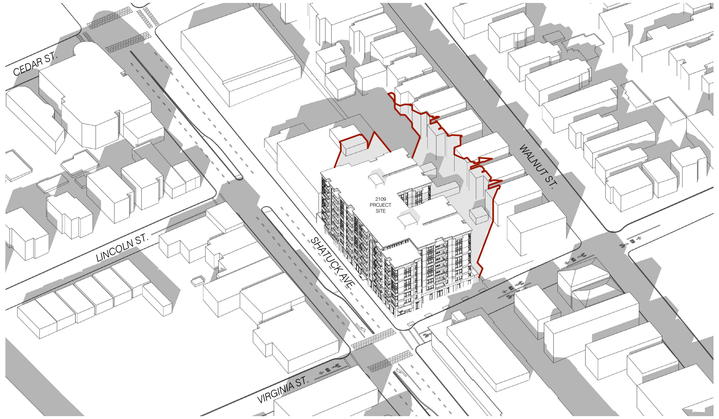
WINTER SOLSTICE
DEC 21ST:
2-HRS BEFORE SUNSET (PM)

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
1:240 @ 11X17 1:120 @ 24X36

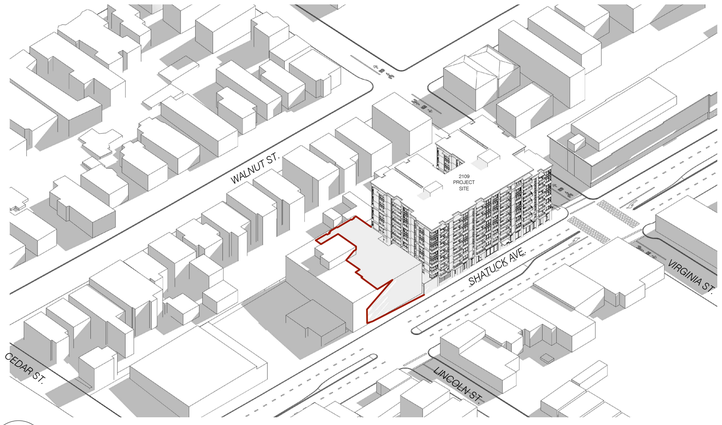
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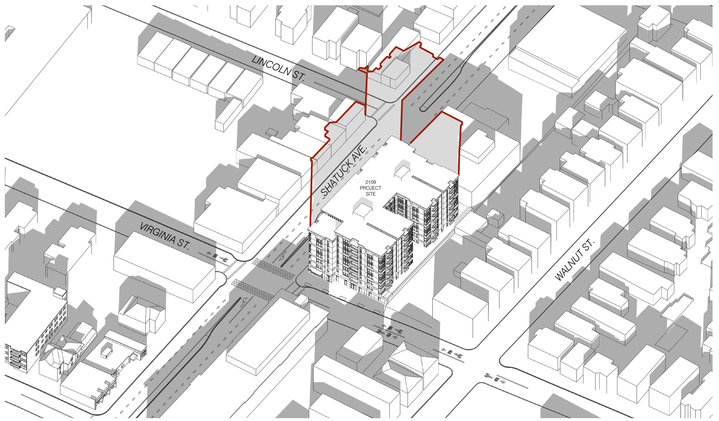
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JOB: 2341

SHEET:

SHADOW STUDIES
DECEMBER 21ST

A0.4A

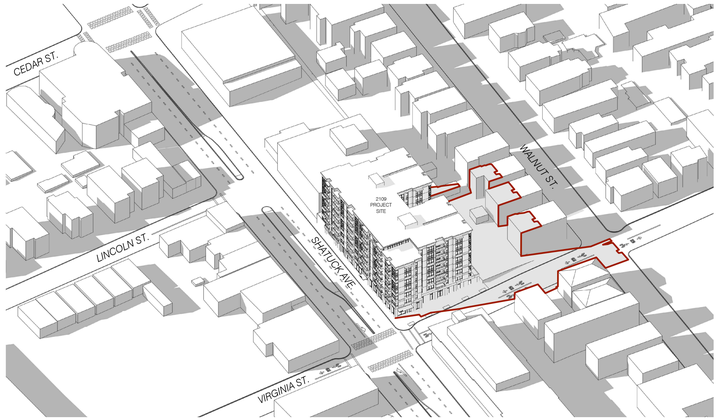
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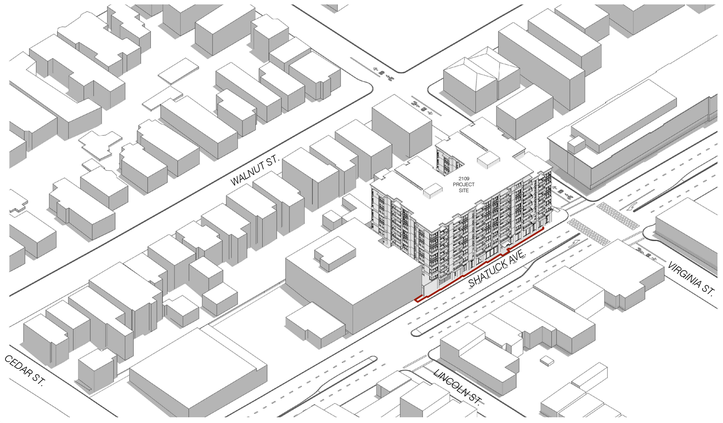
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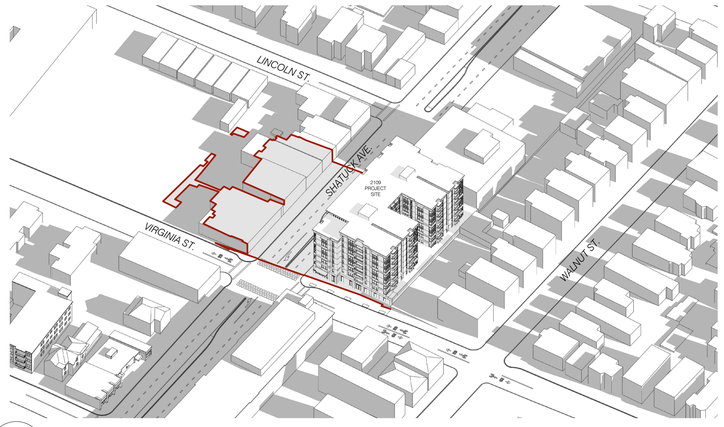
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SHADOW STUDIES
JUNE 21ST

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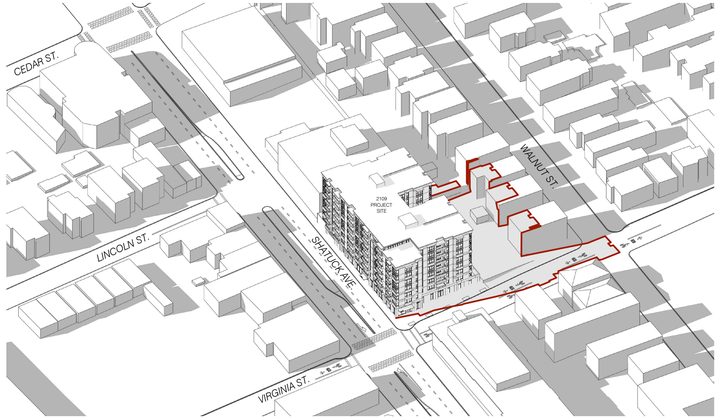
CURRENT
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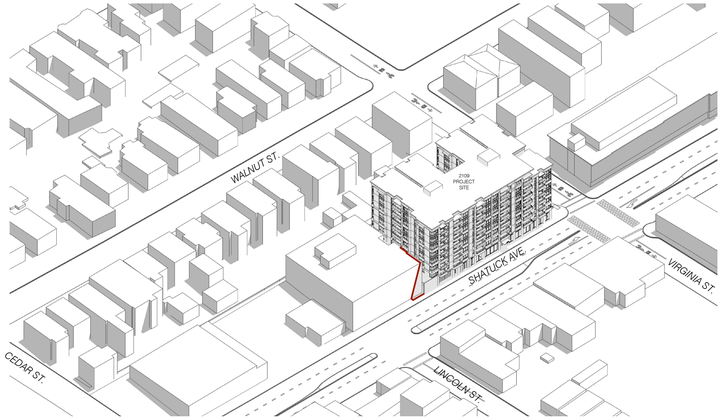
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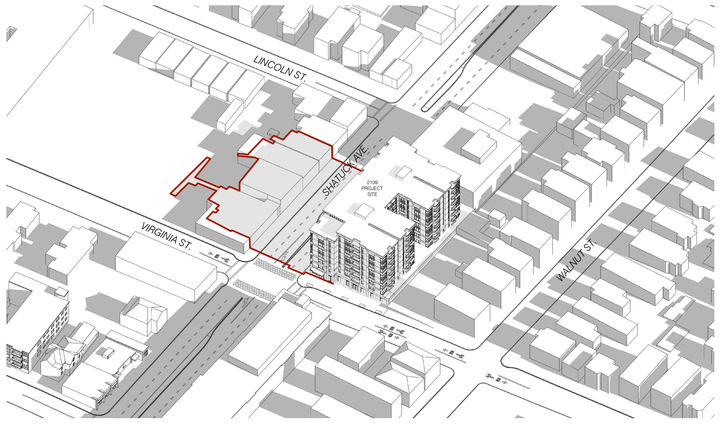
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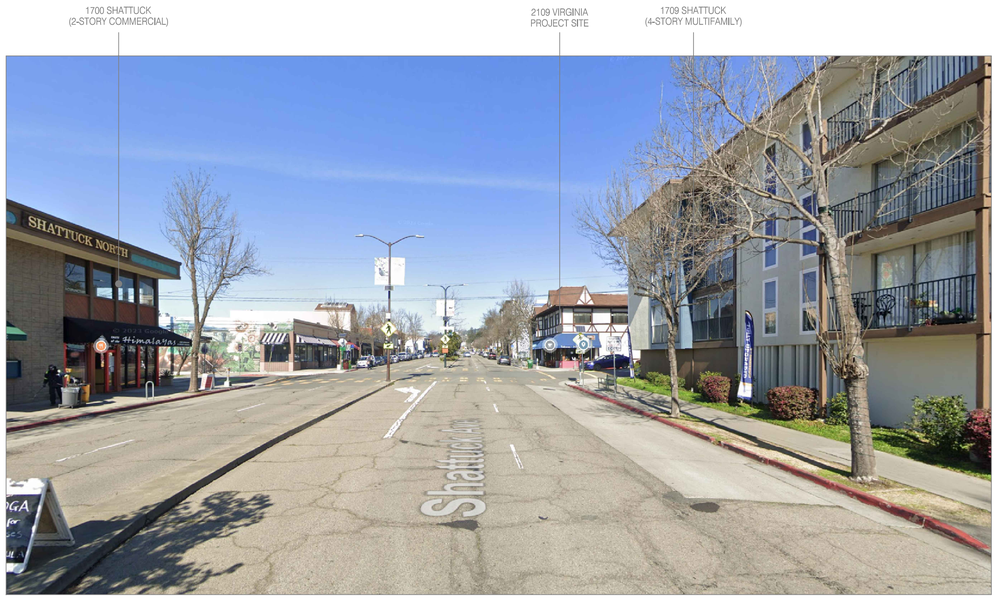
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SHADOW STUDIES
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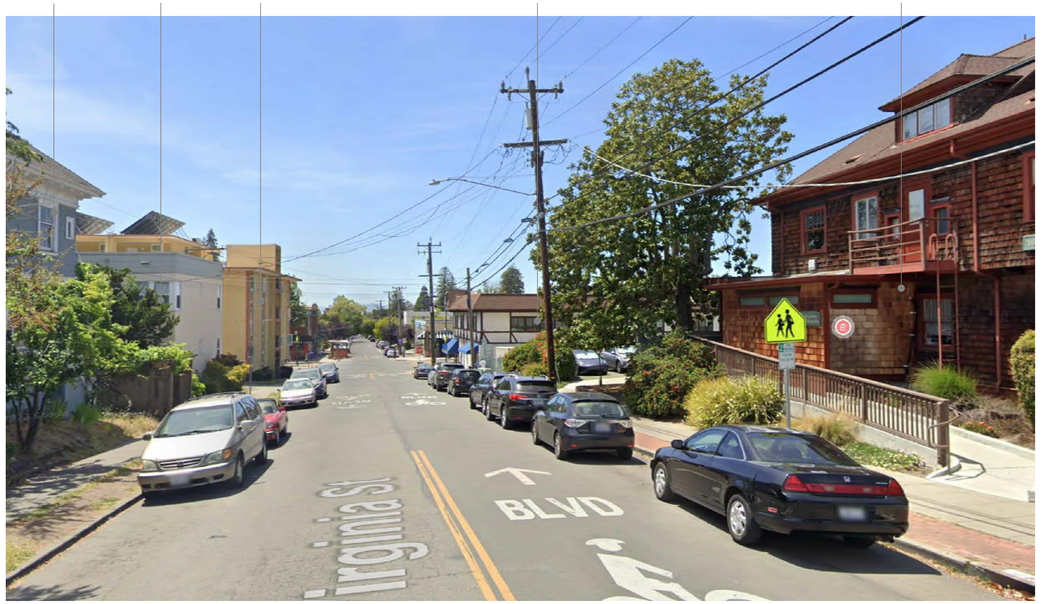
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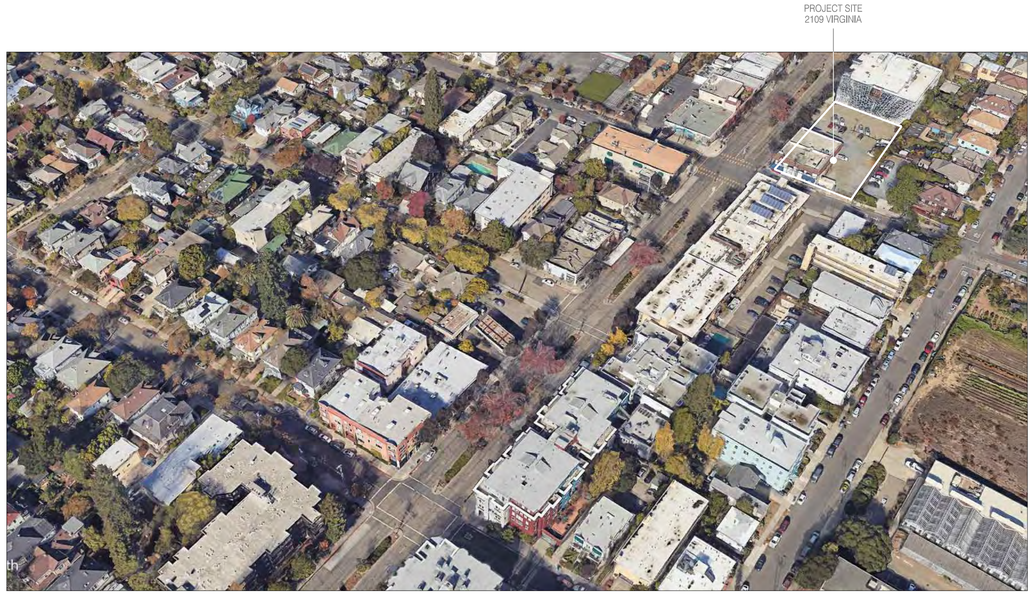
4 - VIEW FROM SHATTUCK LOOKING SOUTH



2 - VIEW FROM SHATTUCK LOOKING NORTH



3 - VIEW FROM VIRGINIA LOOKING WEST



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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4/30/20 25
RENEWAL DATE
STATE OF CALIFORNIA

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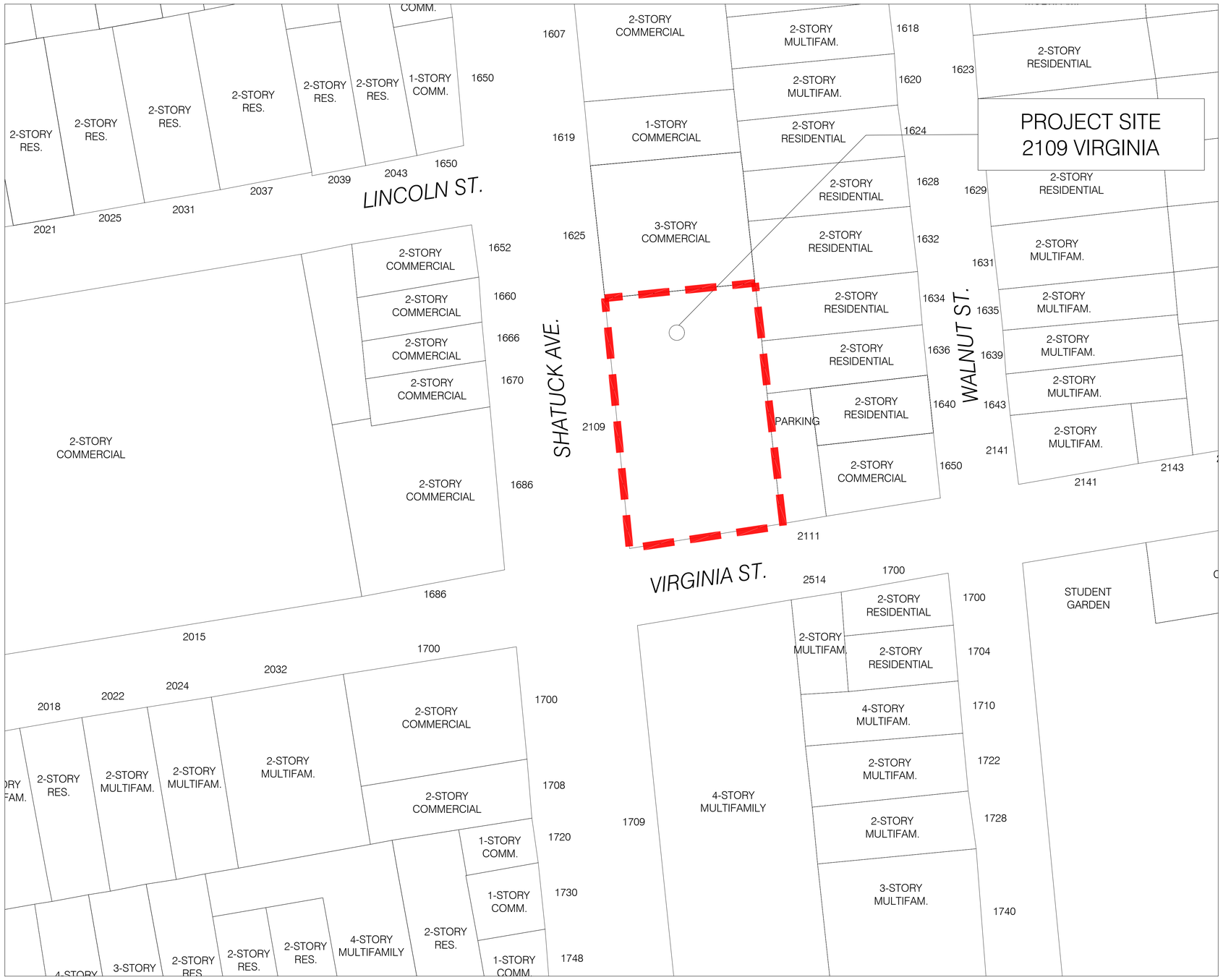
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JOB: 2109

SHEET:

SITE CONTEXT
PHOTOS

A0.5



1 - VICINITY MAP
NTS

N

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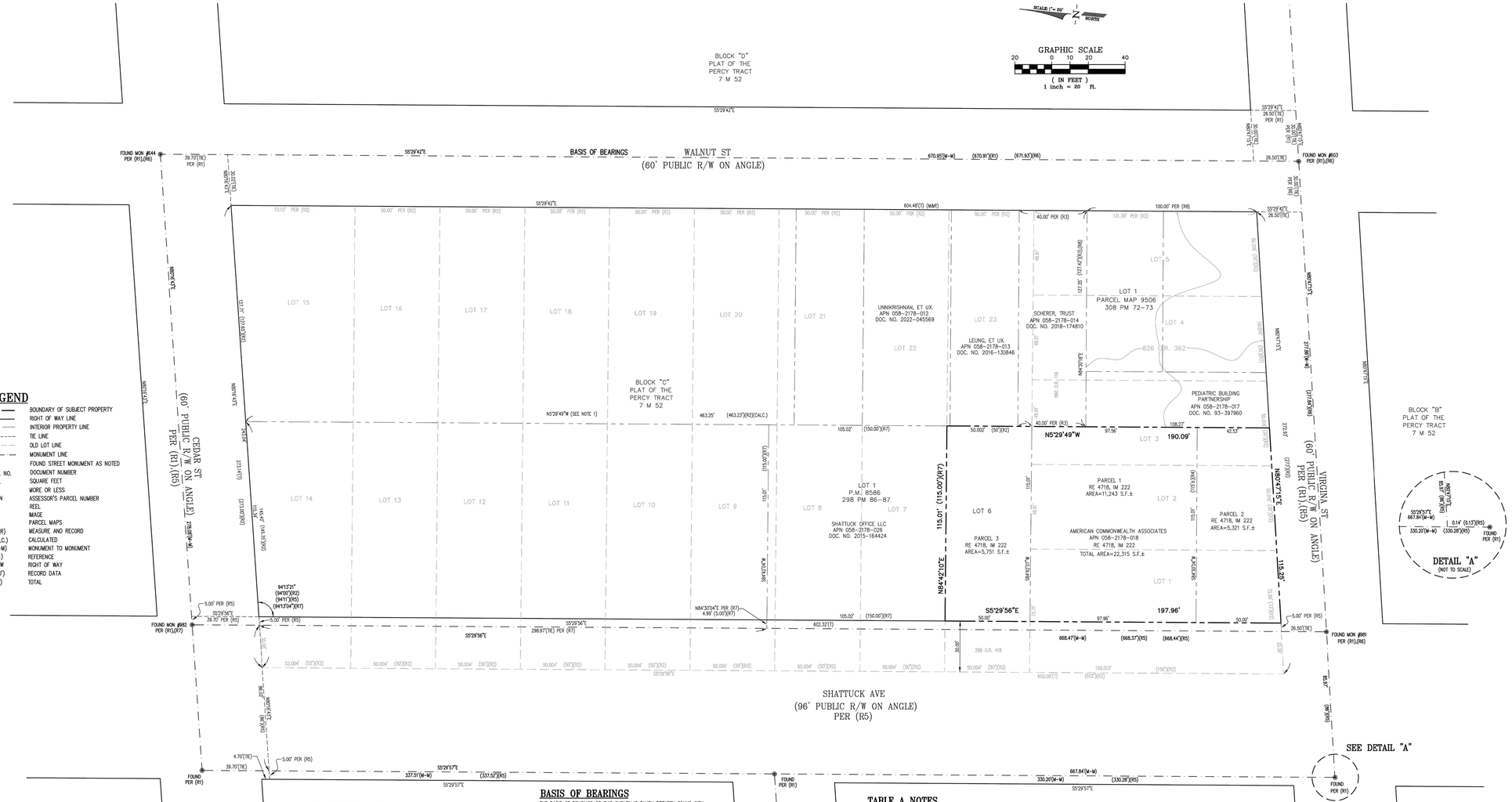
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JOB: 2341

SHEET:

VICINITY MAP

A0.6



LEGEND

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

TITLE REPORT

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

TITLE TO SAID ESTATE IS VESTED IN:

AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP

THE ESTATE OR INTEREST IN THE LAND IS:

A FEE

EXCEPTIONS TO TITLE

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

NOTES

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

LEGAL DESCRIPTION

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

PARCEL 1:

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

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

PARCEL 2:

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

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

PARCEL 3:

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

APN: 058-2178-018-00

BASIS OF BEARINGS

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

REFERENCES

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

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

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

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

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

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

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

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

SURVEYOR'S CERTIFICATE

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

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

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

DATE APRIL 30, 2029

PROFESSIONAL LAND SURVEYOR JACQUELINE LUK LS 8934 STATE OF CALIFORNIA

TABLE A NOTES

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

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

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

   MAXIMUM HEIGHT: 35 FEET AND 3 STORIES

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

BENCHMARK

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

SHEET INDEX

1) NOTES AND BOUNDARY SURVEY
2) TOPOGRAPHIC SURVEY



VICINITY MAP
NO SCALE

NOTE

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

ALTA/NSPS LAND TITLE SURVEY

OF

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

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

SHEET 1 OF 2

F:\Jobs\FILE2024\24071A10\ALTA-24071A10.dwg JOB NO.: 24071A10 PLOT DATE: APRIL 30, 2024

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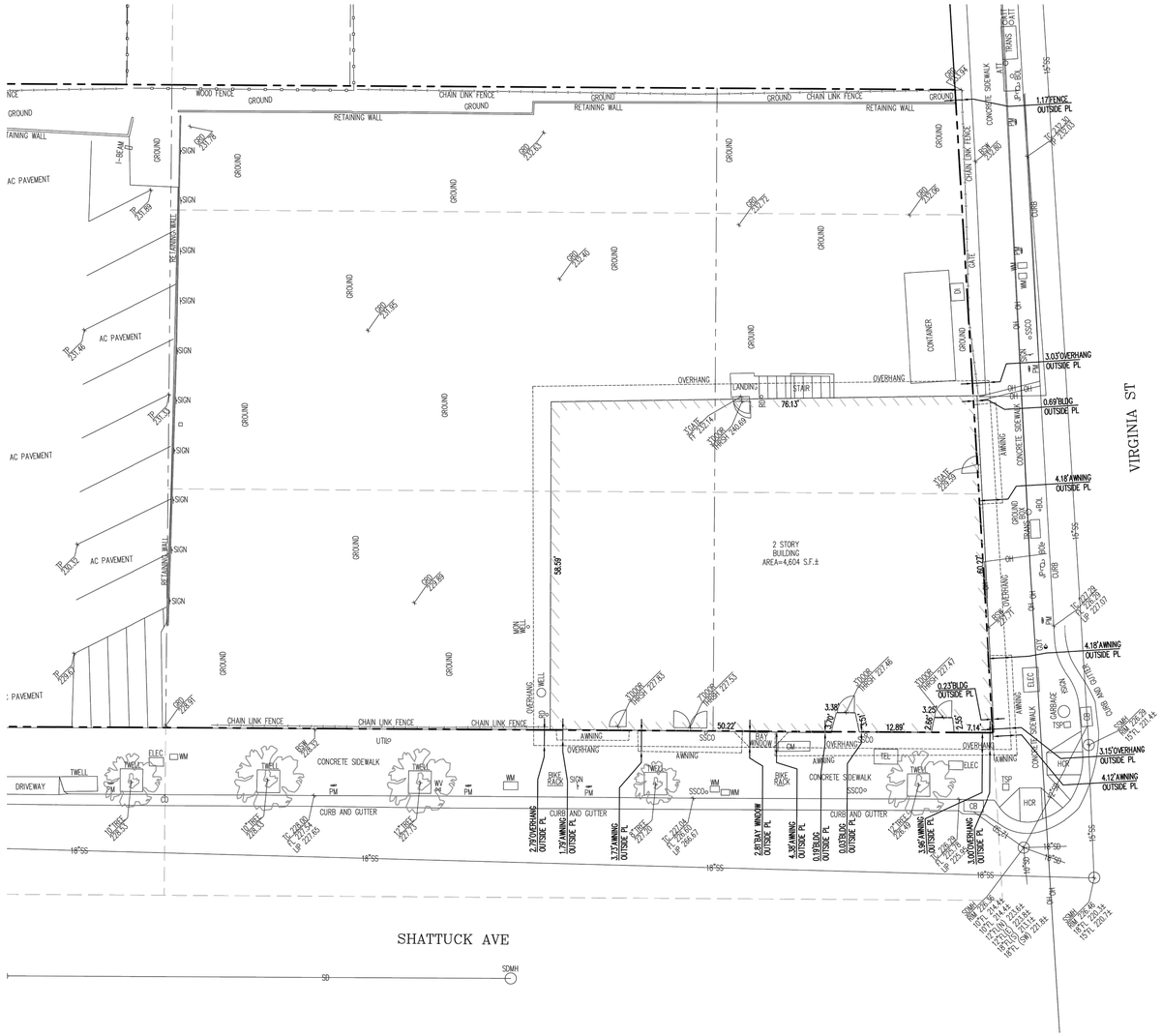
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JOB: 2341

SHEET:

SURVEY

A2.0a



LEGEND

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

SCALE: 1"= 10'

NORTH

GRAPHIC SCALE

10 0 5 10 20

(IN FEET)

1 inch = 10 ft.

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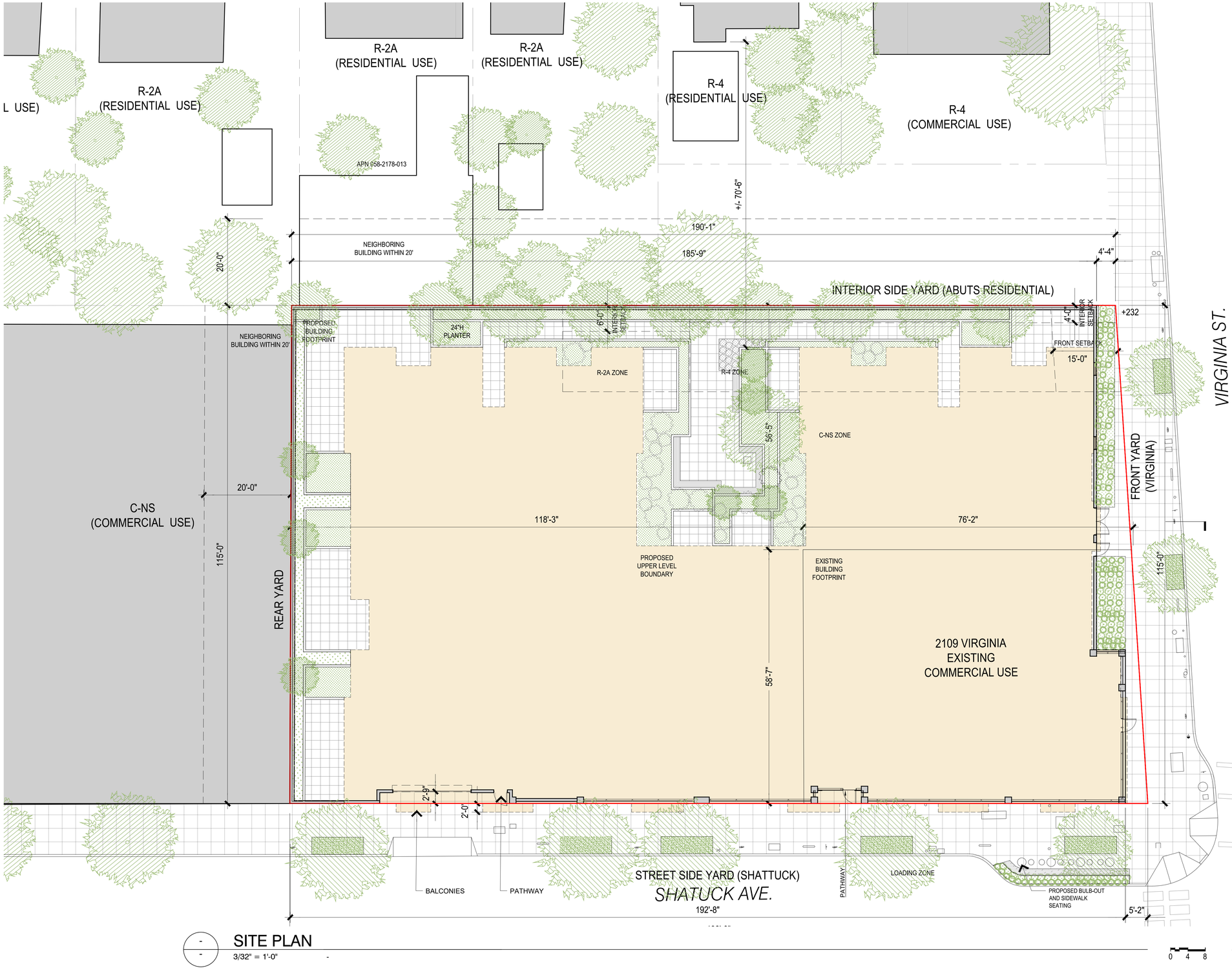
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SHEET:

SURVEY

A2.0b



SITE PLAN

3/32" = 1'-0"

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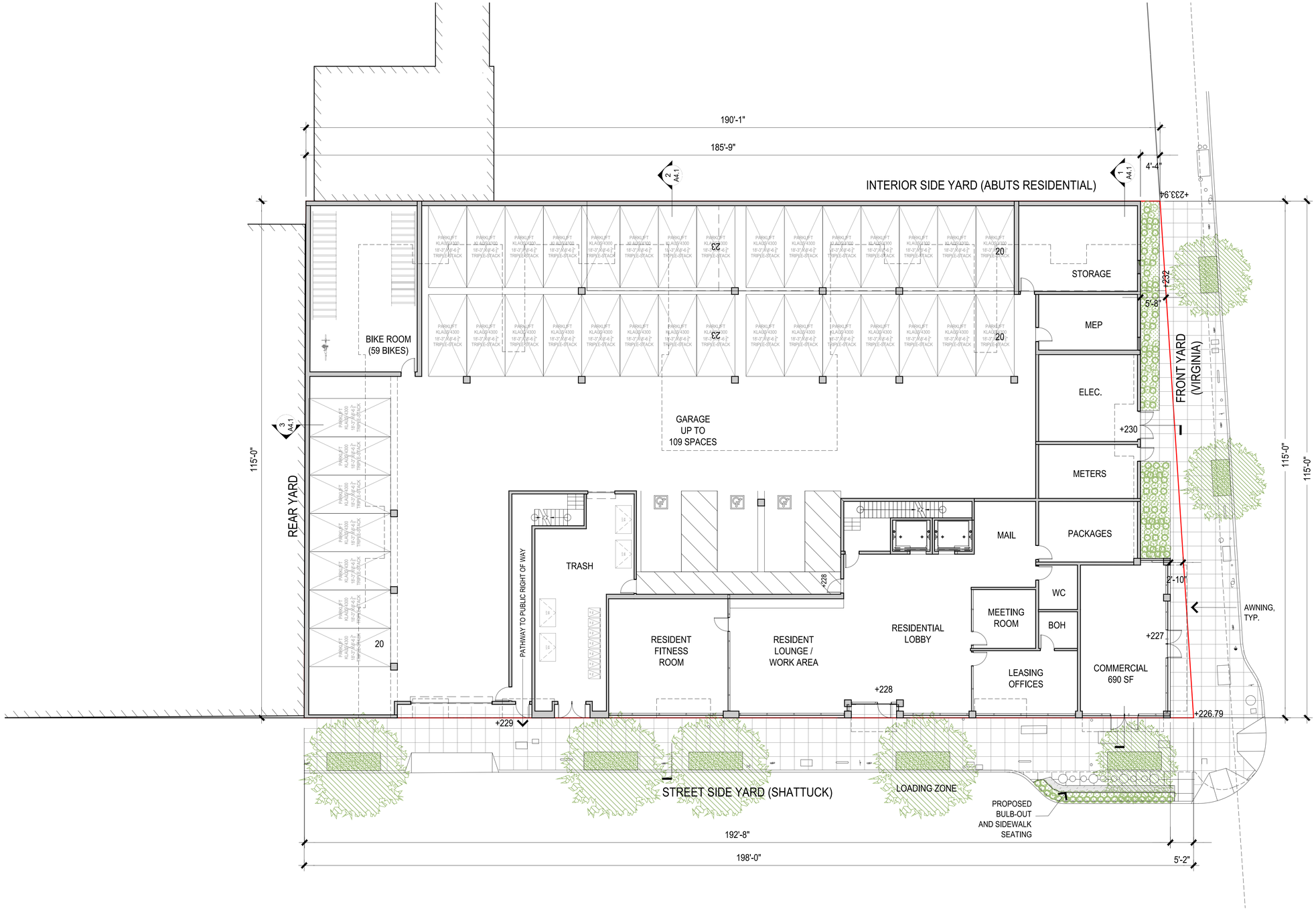
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PROPOSED SITE PLAN

A2.0c



PLAN AT GROUND LEVEL

3/32" = 1'-0"

0 4 8

N

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SHEET:

PROPOSED
FLOOR
PLAN

A2.1



STREET SIDE YARD (SHATTUCK)

PLAN AT LEVEL 2 PODIUM

3/32" = 1'-0"

0 4 8

N

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SHEET:

PROPOSED FLOOR PLAN

A2.2



PLAN AT LEVELS 3-7

3/32" = 1'-0"

0 4 8

N

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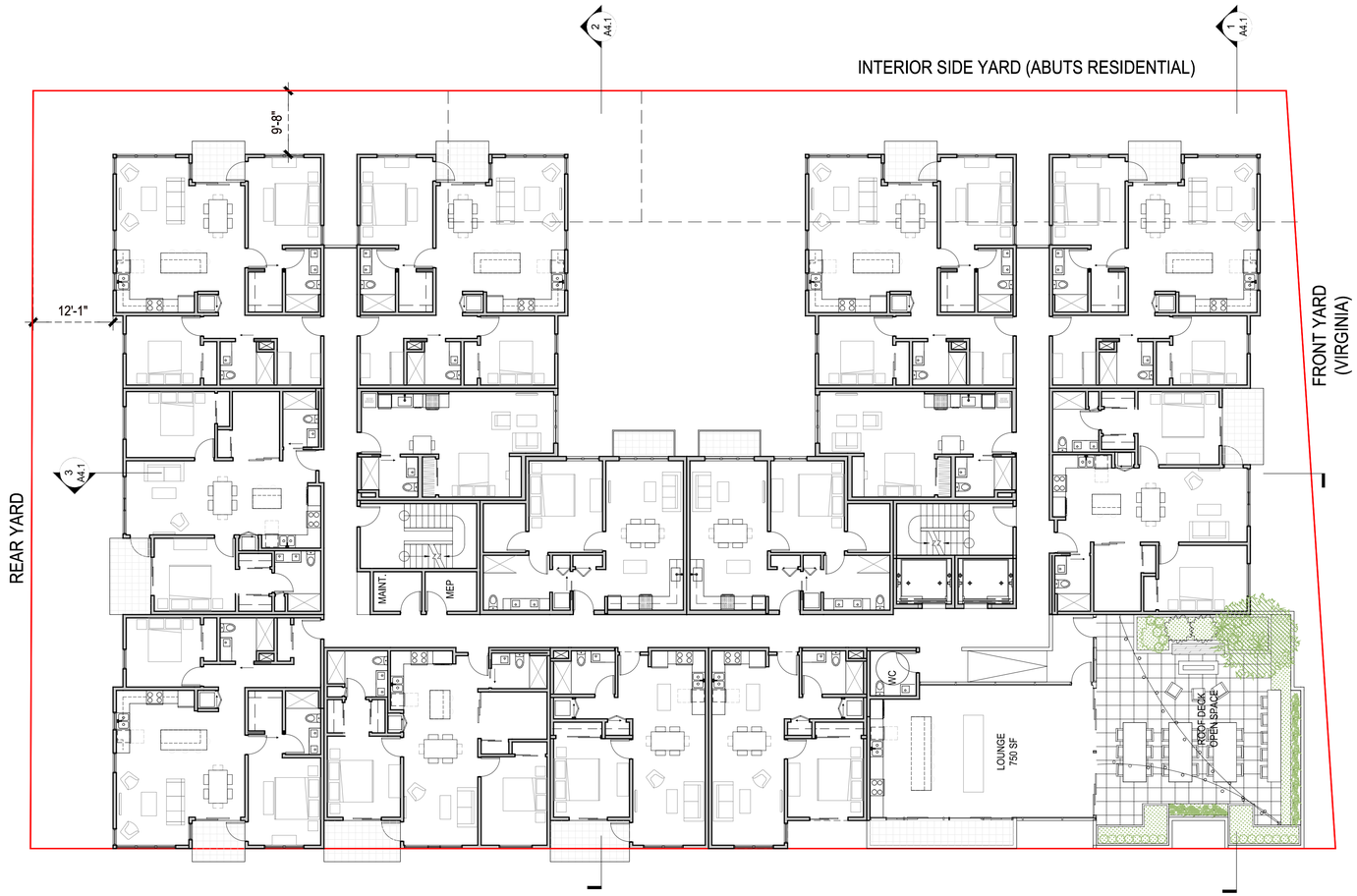
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SHEET:

PROPOSED
FLOOR
PLAN

A2.3



PLAN AT LEVEL 8

3/32" = 1'-0"

0 4 8

N

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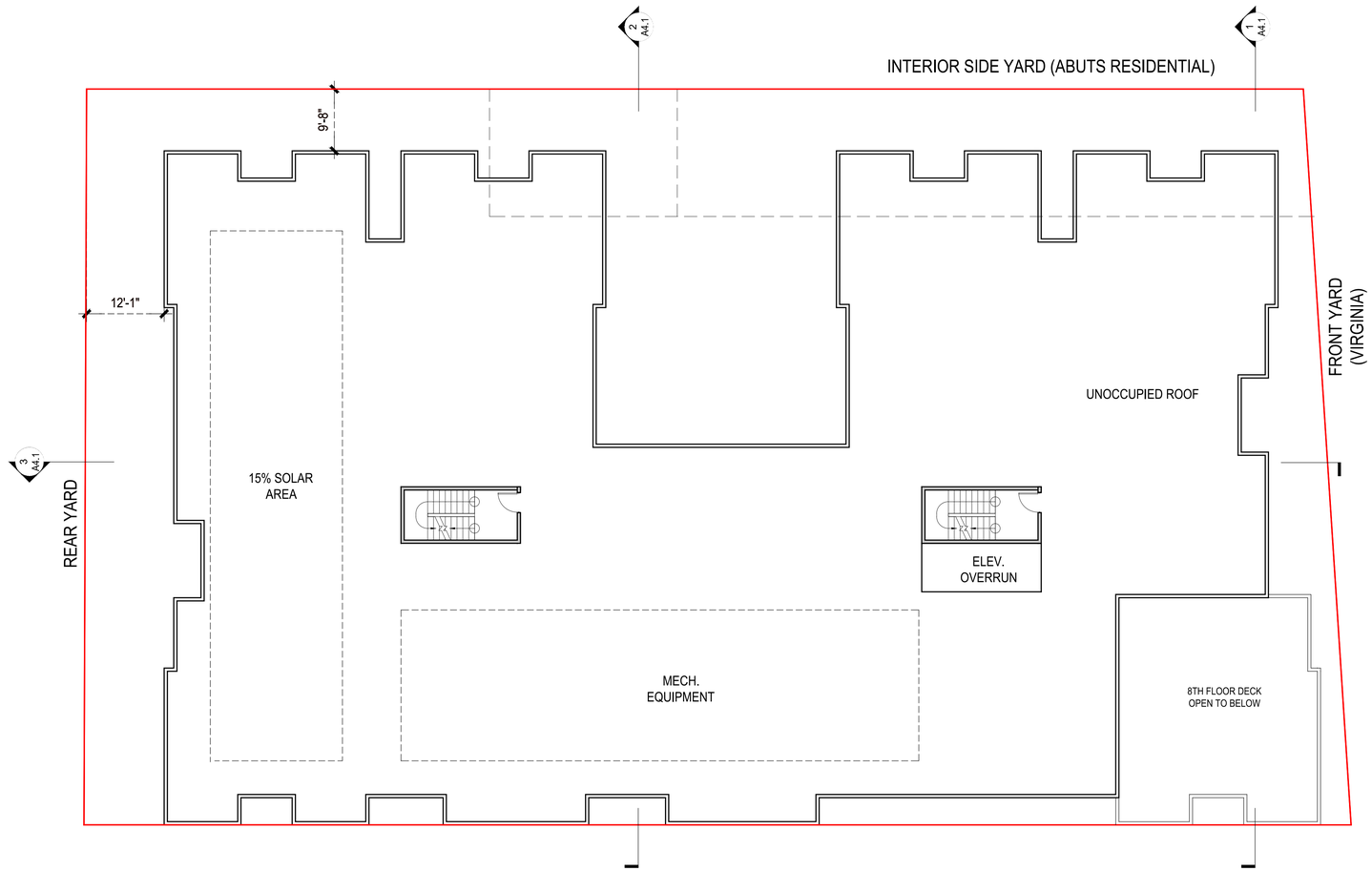
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JOB: 2341

SHEET:

PROPOSED
FLOOR
PLAN

A2.4



PLAN AT ROOF

3/32" = 1'-0"

0 4 8

N

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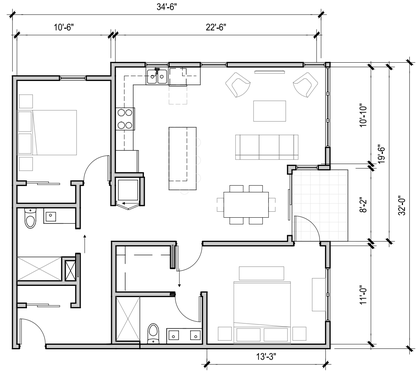
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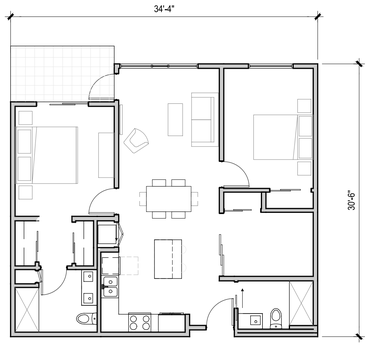
SHEET:

PROPOSED
ROOF
PLAN

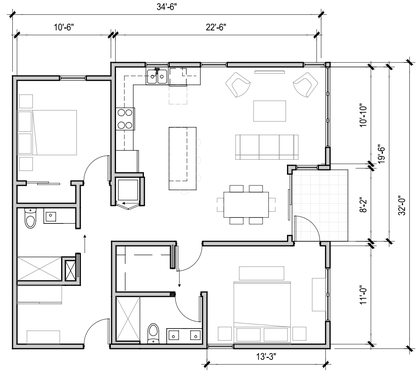
A2.5



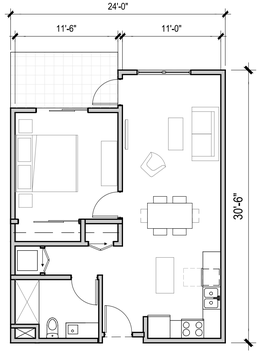
2BR CORNER UNIT AT WEST
1,075 SF



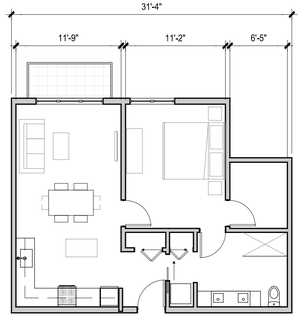
2BR PLUS OFFICE
1,000 SF



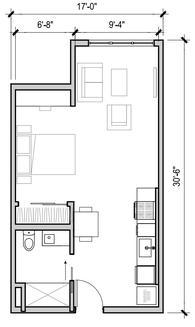
2BR CORNER UNIT AT EAST
1,075 SF



1BR
677 SF



1BR AT COURTYARD
706 SF



STUDIO
485 SF

TYPICAL UNIT PLANS

3/32" = 1'-0"

0 4 8

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SHEET:

PROPOSED
UNIT
PLANS

A2.6



1 A3.1 WEST ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.1



1 A3.2 SOUTH ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.2



1 A3.3 EAST 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 A3.4 NORTH ELEVATION

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

0 4 8 16

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BUILDING ELEVATIONS

A3.4



2 - VIRGINIA ST.

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

0 4 8 16 32



1 - SHATTUCK AVE.

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

0 4 8 16 32

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SHEET:

STREET STRIP ELEVATIONS

A3.5



4
A3.6
SHATTUCK LOOKING SOUTH - AFTER



2
-
VIRGINIA LOOKING WEST - AFTER



3
A3.6
SHATTUCK LOOKING SOUTH - BEFORE



1
-
VIRGINIA LOOKING WEST - BEFORE

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SHEET:

PHOTO MATCH VIEWS

A3.6



1
-

PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

-

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SHEET:

CONCEPTUAL RENDERING

A3.7



1 - PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

-

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SHEET:

CONCEPTUAL RENDERING

A3.8



1 - SIDEWALK VIEW - SHATTUCK LOOKING NORTH

-

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07.24.2025 ZAB HEARING SET

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.9

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1 - PERSPECTIVE VIEW - SHATTUCK LOOKING SOUTHEAST
-

PANORAMIC
1685 SHATTUCK/ 2109 VIRGINIA

Berkeley, CA

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SHEET:

CONCEPTUAL RENDERING

A3.10

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1 - PERSPECTIVE VIEW - VIRGINIA LOOKING WEST

-

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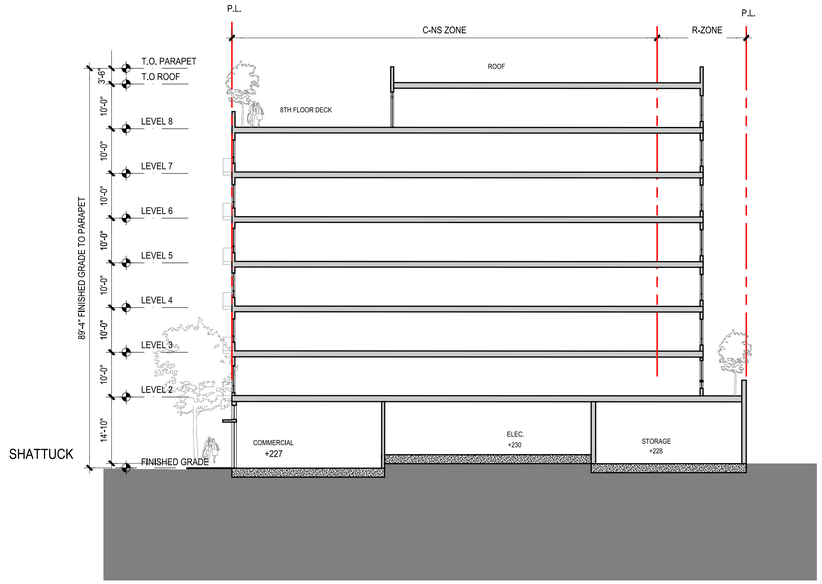
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SHEET:

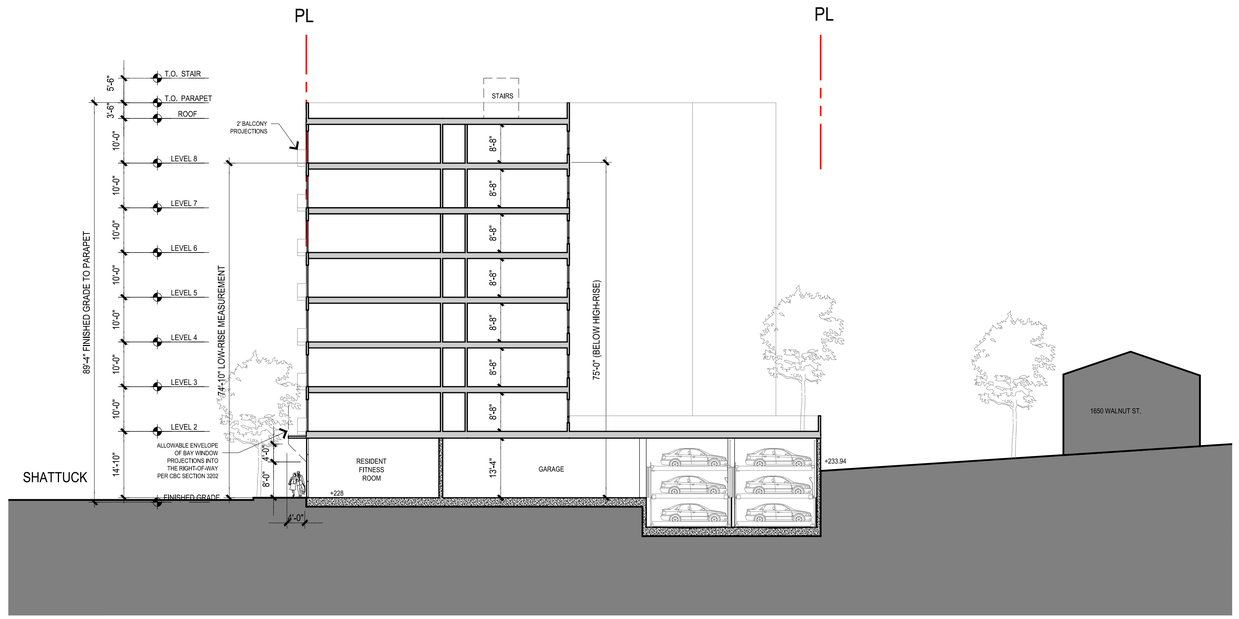
CONCEPTUAL RENDERING

A3.11



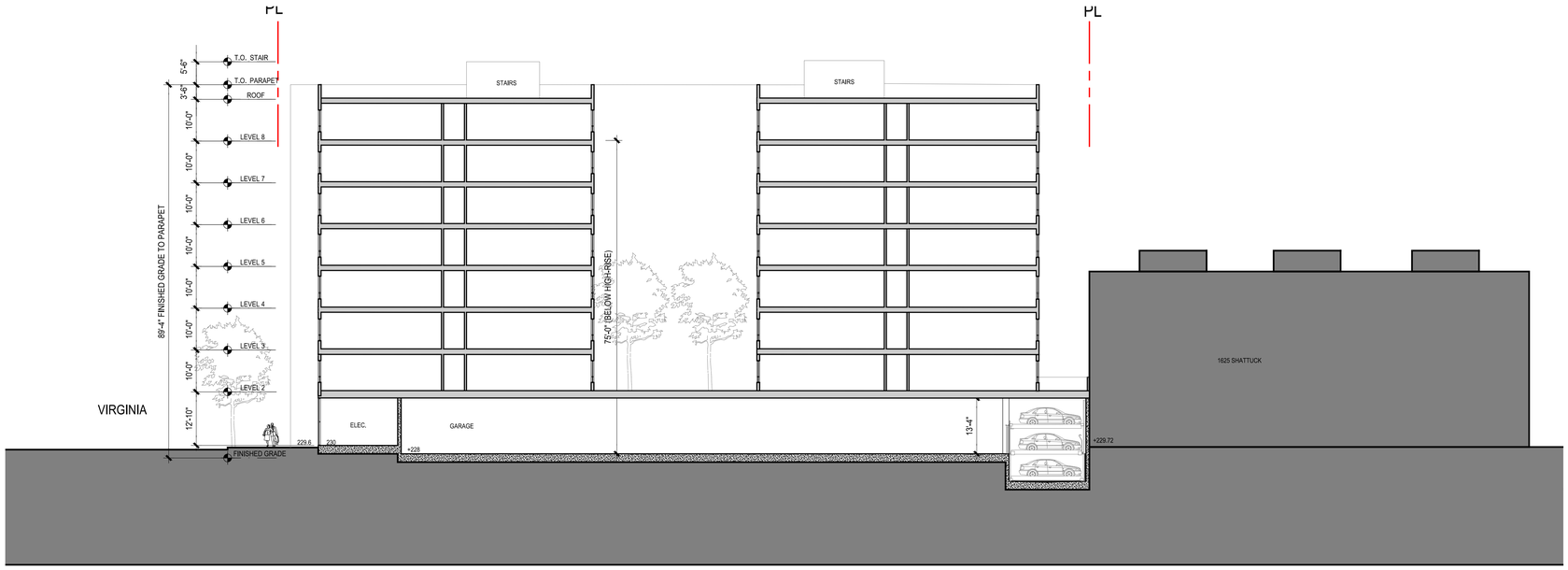
1 - EAST WEST SECTION

1/16" = 1'-0"



2 - EAST WEST SECTION

1/16" = 1'-0"



3 - NORTH SOUTH SECTION

1/16" = 1'-0"

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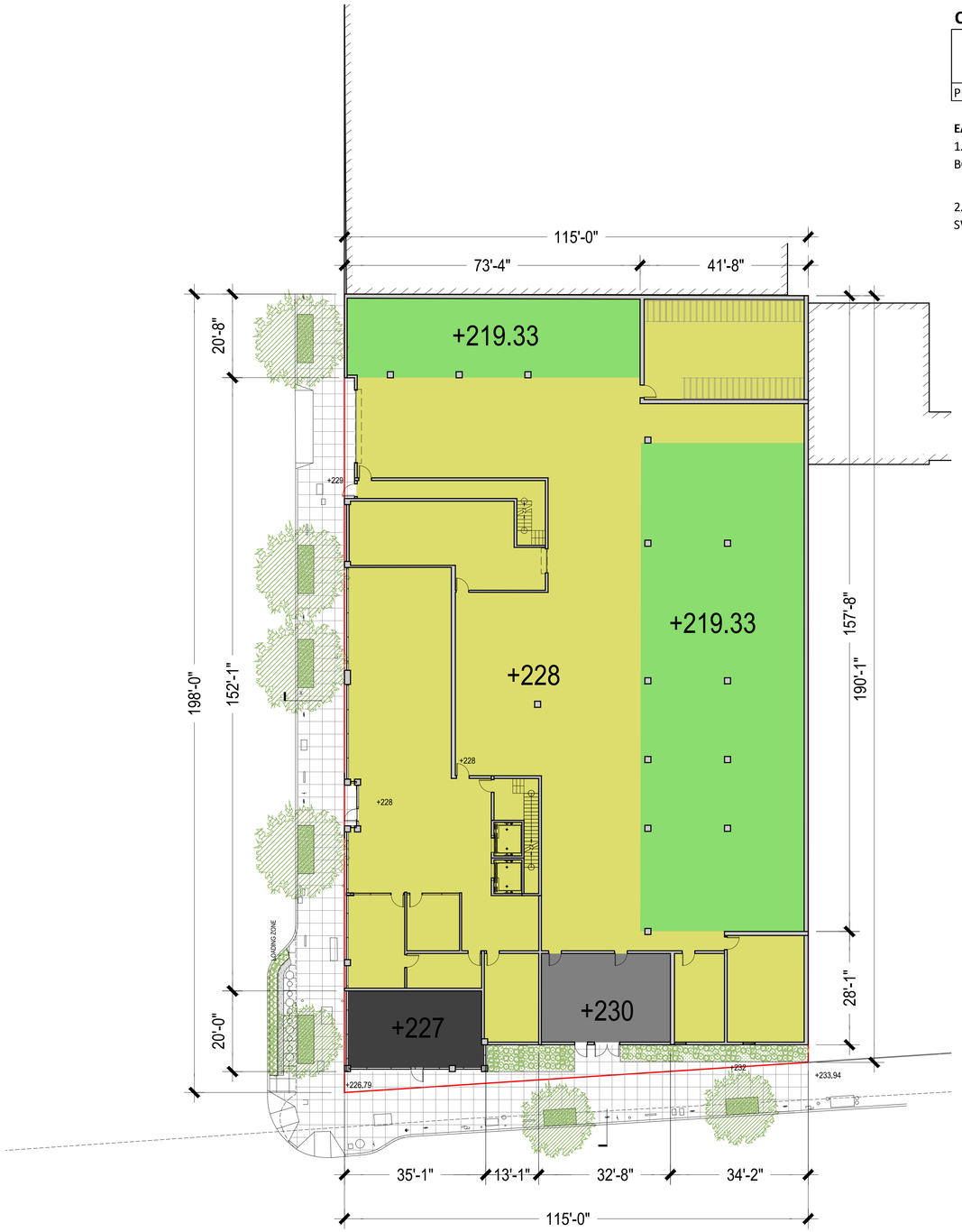
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JOB: 2341

SHEET:

PROPOSED SECTIONS

A4.1



1 / - PRELIMINARY GRADING PLAN

1/16" = 1'-0" -

CUT AND FILL CALCULATIONS

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

EARTHWORK NOTES:

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

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

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JOB: 2341

SHEET:

PRELIMINARY
GRADING PLAN

A5.1



METAL INFILL PANEL



WOOD LOOK SIDING



THIN BRICK



DECORATIVE METAL BALCONY



1 - WEST ELEVATION

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

0 4 8 16

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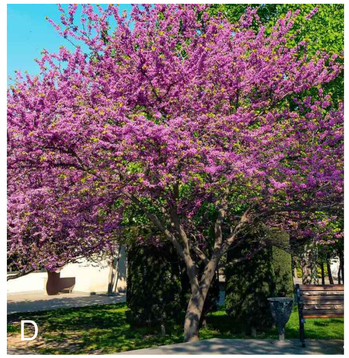
SHEET:

BUILDING MATERIALS

MAT



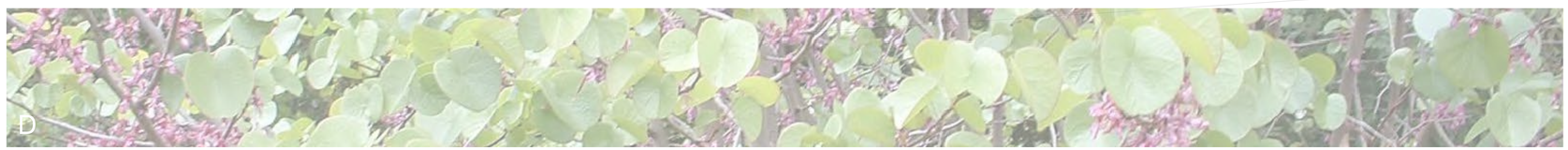


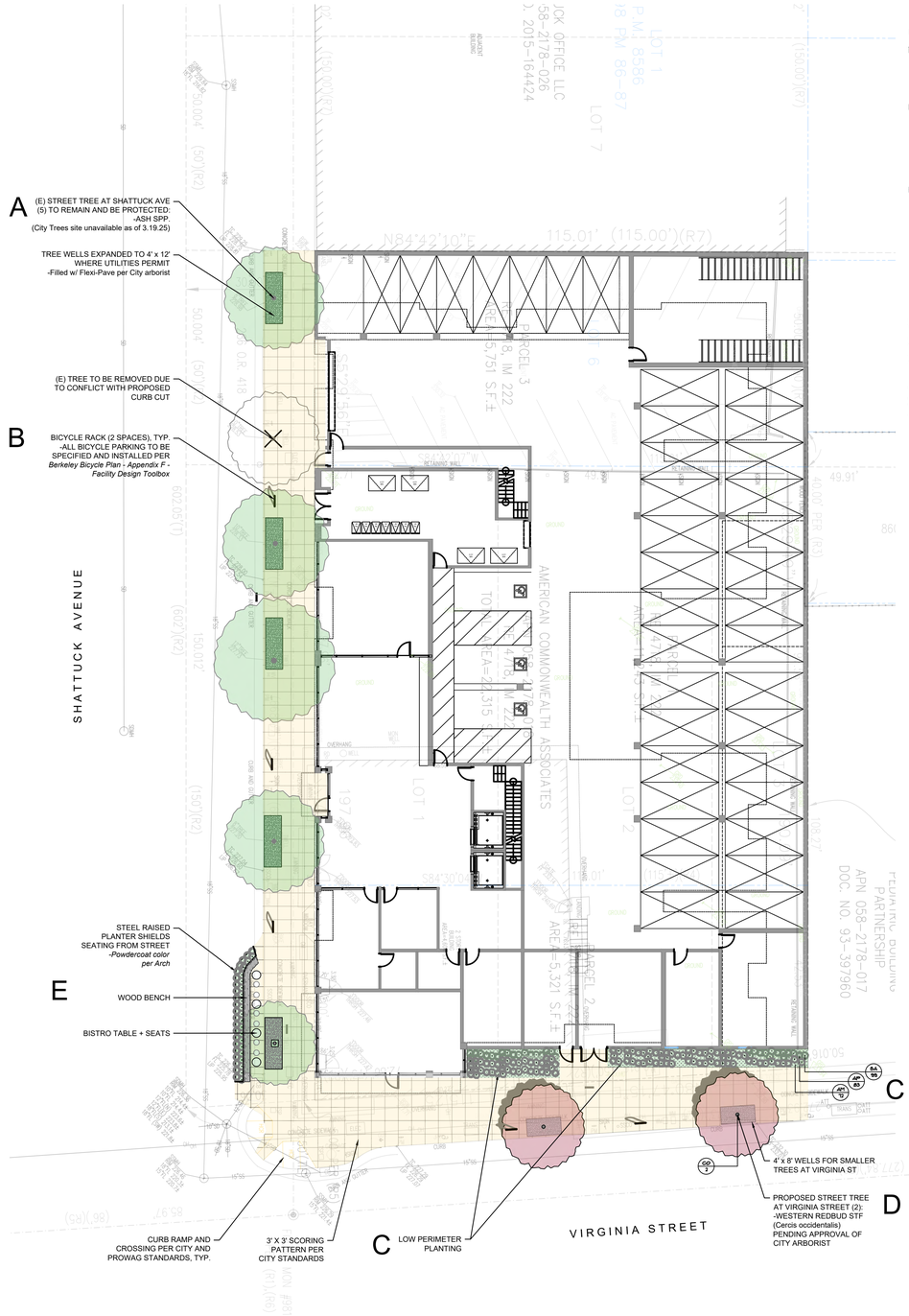












Plant List

Index	Latin Name	Common Name	Size	Qty	Spacing	WUCOLS	Exposure	FTP*	Notes + Pollinators Supported	CA Native
Trees										
AF	Acer negundo 'Flamingo'	Flamingo Box Elder	24" box STF	1	As Shown	M	SU, P	X	**Courtyard tree** - Specimen. *Alopiidris orbis, Aloppidris pomidoris, Anaxeryxmi stresquivida, Xiorothrella pamplonia*	C
CO	Cercis occidentalis	Western Redbud	24" box STF	2	As Shown	VL	SU, P	X	**Roof deck tree** - Espalier. *Hummingbirds, Archilochus parenteskiae, Archilyra virginiquis, Melissodes tebiella, Cercopis directans*	X
CT	Citrus x meyeri		24" box	1	As Shown	M	SU		**Roof deck tree** - Edible.	
MD	Malus domestica	Multi-Grafted Apple	15 gal espalier	1	As Shown	M	SU		**Roof deck tree** - Edible.	
PT	Pittosporum tenuifolium 'Silver Sheen'	Silver Sheen Kohuhu	15 gallon	28	4'-0" o.c.	L	SU, P		**Courtyard tree** - Screening.	
Shrubs										
AA	Agave attenuata 'Boutin Blue', 'Nova'	Blue Fox Tail Agave	15 gallon	2	36"	L	any			
AH	Arctostaphylos densiflora 'Dr. Hurd'	Dr. Hurd Manzanita	15 gallon	4	As Shown	L	SU, P	X	**Courtyard shrub** - Accent. *Callophrys augustinus, Incisalia pinetorum, Hesperostipa sparteria*	C
BA	Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama Grass	1 gallon	106	36"	L	SU, P	X	Paler flower than the species. *Hesperia uncas, Polites sabuleti, Neonimitis nitiguli, Ochlodes yuhavodtes*	C
CM	Ceanothus 'Marie Simon'	Marie Simon Ceanothus (pale pink)	15 gallon	50	60"	L	SU, P			H
CS	Cornus sericea, C. 'Bolchnifera Hedgerow Gold'	Hedgerows Gold Redtwig Dogwood	15 gallon	2		M	any		**Courtyard shrub** - Accent.	X
DM	Dahlia 'Mystic Dreamer'	Mystic Dreamer Dahlia	1 gallon	5		M	SU, PA			
RW	Ribes sanguineum 'White Icicle'	White Icicle Flowering Currant	15 gallon	2		L	any		**Courtyard shrub** - Accent. Paler flower than the species.	C
MP	Mahonia pinnata	California Holly Grape			48"	L	any		**Courtyard shrub** - Accent.	
YF	Yucca filamentosa + pallida 'Silver Anniversary'	Silver Anniversary Yucca (spineless)	10 gallon	3	48"	L	SU			
Groundcovers and Vines										
AM	Achillea millefolium 'Sonoma Coast'	Sonoma Coast Yarrow	1 gallon	72	18"	L	SU		Aethes smeathmanniana, *Gillivela pallidactyla, Homorthodes furfurata, Lacinipolia renigera, Sutterfliea, bumblebees and sweat bees.*	X
AP	Aristida purpurea	Purple Three-Awn	1 gallon	83	18"	L	SU, P			X
CP	Calystegia macrostegia 'Anacapa Pink'	Anacapa Pink Island Morning Glory	1 gallon	57		L, M	SU			C
DF	Dudleya pulverulenta	Chalk Dudleya	1 gallon	15	as shown	L	SU, PA		*Argyrotaenia franciscana, Callophrys mossii, Phiditia acuminata*	X
EG	Erigeron glaucus 'Sea Breeze'	Sea Breeze Seaside Daisy	4" pots	23	12"	L	any	X	*Adela septentrionella, Platyptilia williamsi, Clinopyra pylridi, Clinopyra pallii*	X
EN	Echeveria 'Nodulosa'	Painted Echeveria	1 gallon	6	as shown	L	any			
EK	Erigeron karvinskianus	Fleabane	4" pots	21	24"	L	any	X	Smaller flower, finer foliage than Erigeron glaucus.	
ID	Iris douglasiana	Douglas Iris	1 gallon	92	18"	L	any			X
JP	Jasminum polyanthum	Pink Jasmine	1 gallon	46		M	any			
LA	Lavandula angustifolia 'Munstead'	Munstead English Lavender	1 gallon	16	15"	L	SU		**Roof deck border** - Edible, evergreen accent.	
LC	Leonus cardiaca/ssp. 'Canyon Prince'	Canyon Prince Blue Wild Rye	1 gallon	21	36"	L	any	X	Blue foliage than the species.	C
PE	Pasiflora edulis 'Nancy Garrison'	Nancy Garrison Passion Fruit	5 gallon	1	as shown	M	SU		**Roof deck vine** - Edible.	
SA	Salvia spiana 'Compacta'	Dwarf California Wilde Sage	1 gallon	99	24"	L	any	X	*Hummingbirds, Atagrolis orbis, Anatrenopilis mormoniellyria, Xylographa californica, Xylocopa tabaniformis*	X
SS	Sedum spathulifolium 'Cape Blanco' or 'Purpureum'	Pacific Stonecrop	1 gallon	43	12"	L	any		*Calosyllabo, butterflies.*	X

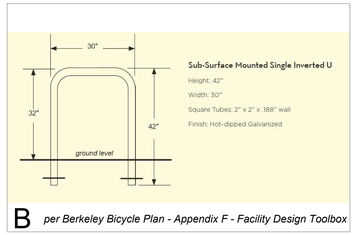
Note: All plantings will be watered by an automated irrigation system compliant with City of Berkeley code. Water calculations will be documented and submitted to City for review. The proposed planting shall be WELO compliant.

Note: approximately 85% of specified plants will be California native and wildlife-supporting.
X = California native, C= Cultivar of CA native, H = Hybrid of CA native

**Species appropriate for FTP if needed. Species selected for flow-through planters (FTP) per Stormwater C.3 Guidebook (Dalziel et. al. 2022) and San Francisco Stormwater Management Requirements and Design Guidelines (SMR).*

Berkeley is USDA 10a and Sunset 17

Non-native columnar screening tree search — https://selectree.calpoly.edu/search-results?RiverState=noe01wet0dry0=500?tre_shape=Columnar?foliage_type=Evergreen?sunset_climate_zone=17?drought=true&colorType=true&colorPer?page=50&sort=1
CA native screening tree search — https://selectree.calpoly.edu/search-results?RiverState=noe01wet0dry0=500?ca_native=1.?foliage_type=Evergreen?sunset_climate_zone=17?drought=true&colorType=true&colorPer?page=50&sort=1
CA native screening tree search max 20' width — https://calscape.org/search/?client=&orderBy=&location_name=&lat=&lng=&page=1&perPage=48&plant_type%5B%5D=Tree&common_size%5B%5D=Container&common_size%5B%5D=Hedge&height_from=&height_to=&width_to=20&deciduous%5B%5D=Evergreen



https://deilmountainnursery.com/echeveria-nodulosa/

North 0 8 16 32 1/16" = 1'-0"

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SHEET:

Ground Level
Streetscape and UOS

L1-SS


A


B



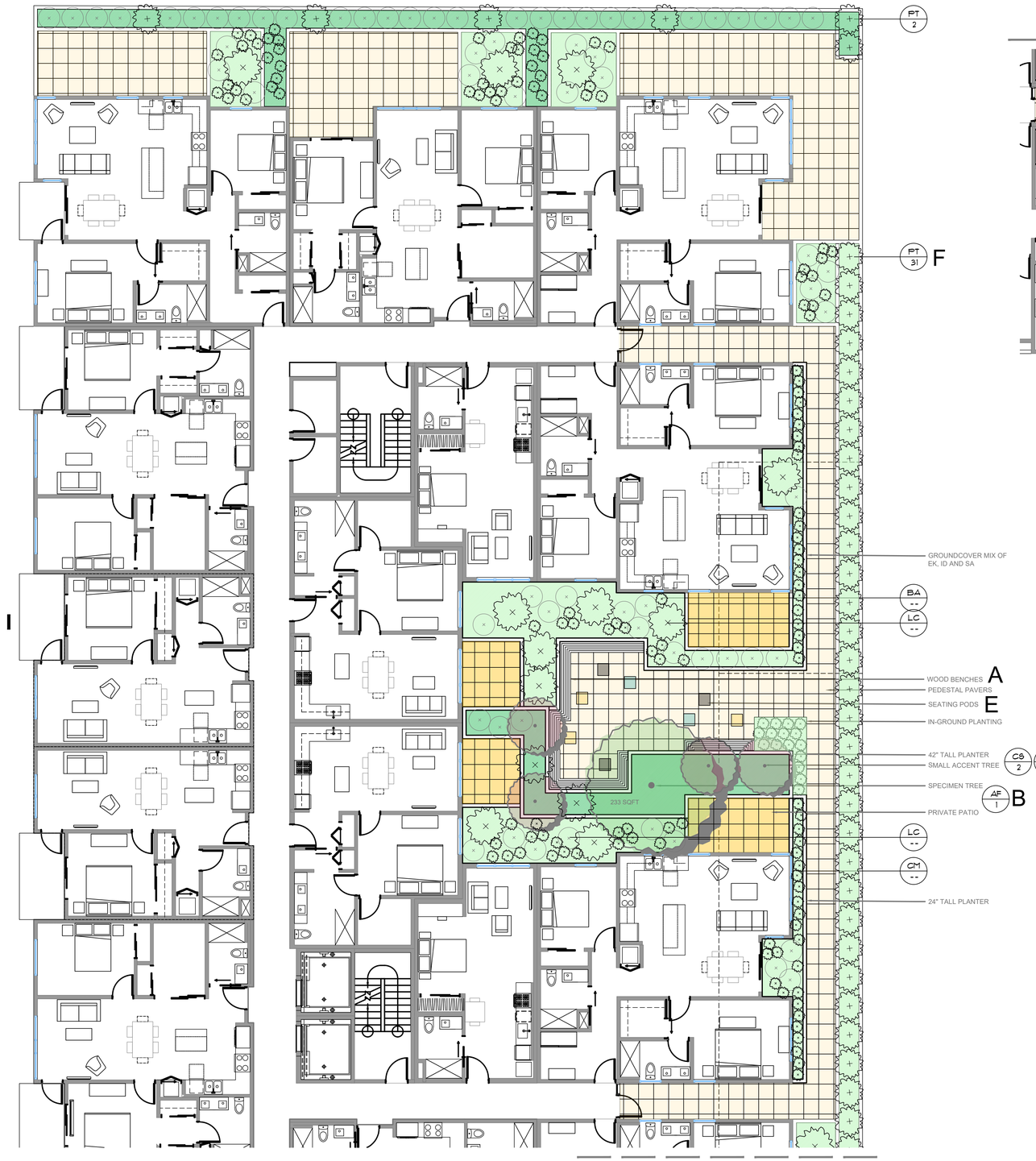

C

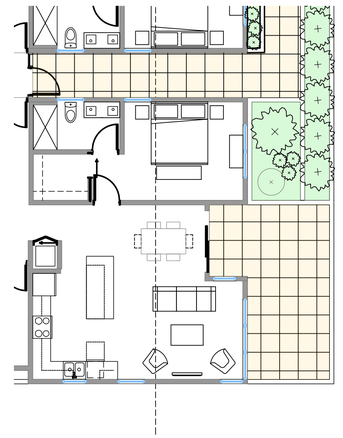



D




E






F

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

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JOB: 2109

SHEET:

Second Level Courtyard

L2-CY


A

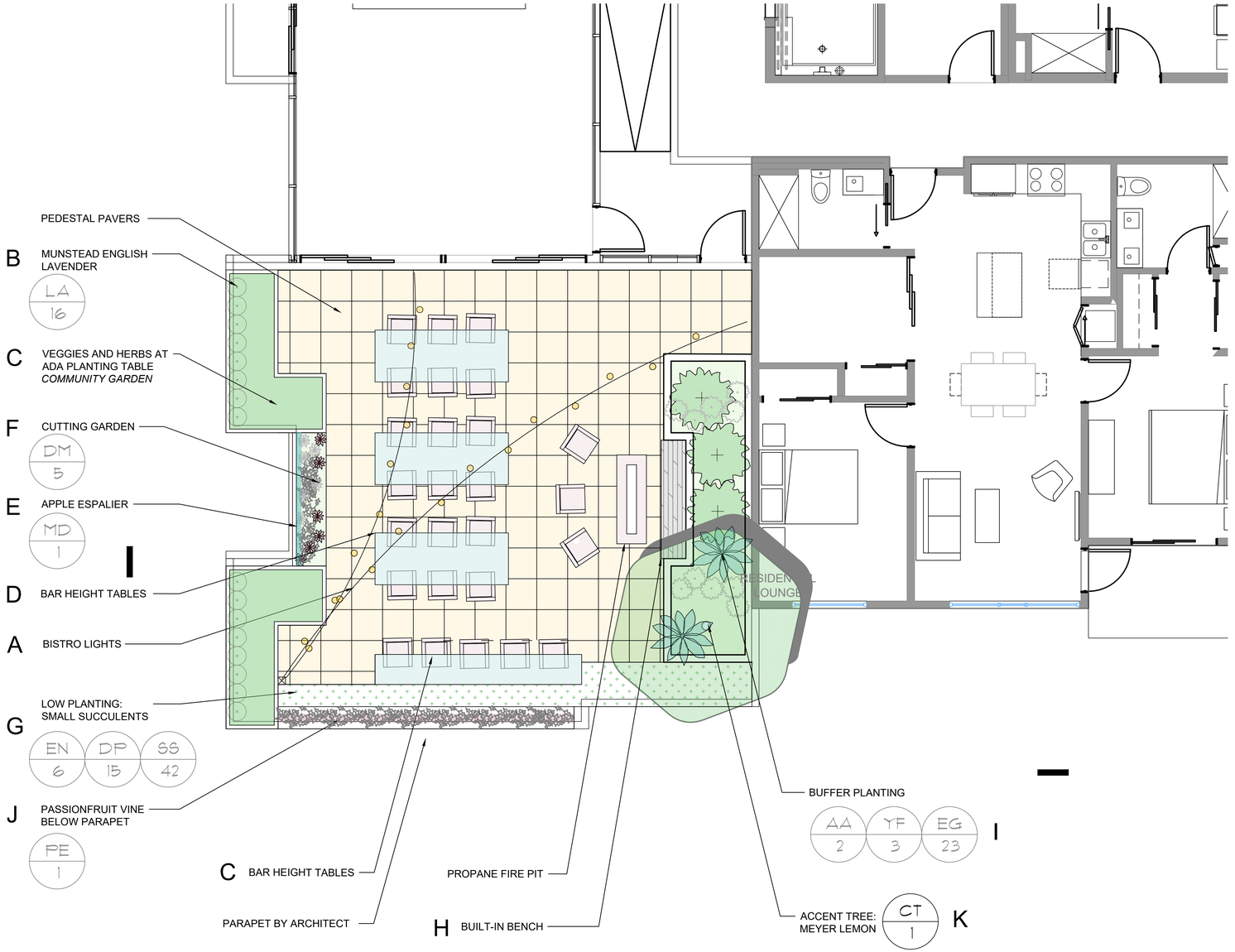

B


C


D


E


F




G


H


G


I


J


K

North

1/4" = 1'-0"

0 2 4 8

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JOB: 2109

SHEET:

Eighth Level Roof Deck

L3-RD

STREET TREE COORDINATION NOTES:

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

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

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

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

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

STREET TREE PROTECTION DURING CONSTRUCTION NOTES:

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

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

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

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

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

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

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

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

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

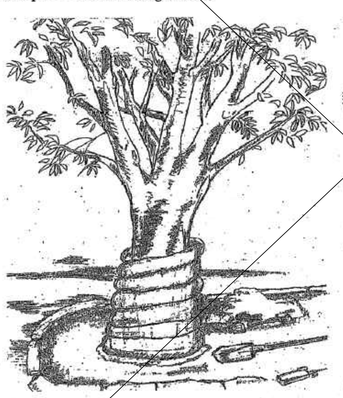
STREET TREE PLANTING NOTES:

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

Figure 1: Examples of Tree Trunk Protection

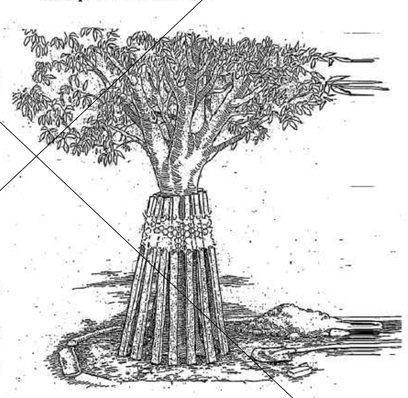
The following illustrations are examples of tree trunk protection measures. One of these examples shall be used when any approved construction activity takes place within the dripline of a protected tree that is not surrounded by protective fencing.

Example A – Straw tubing (wattle)



Example A. Illustration by Dwayne Walters

Example B – Wooden slats



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

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

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

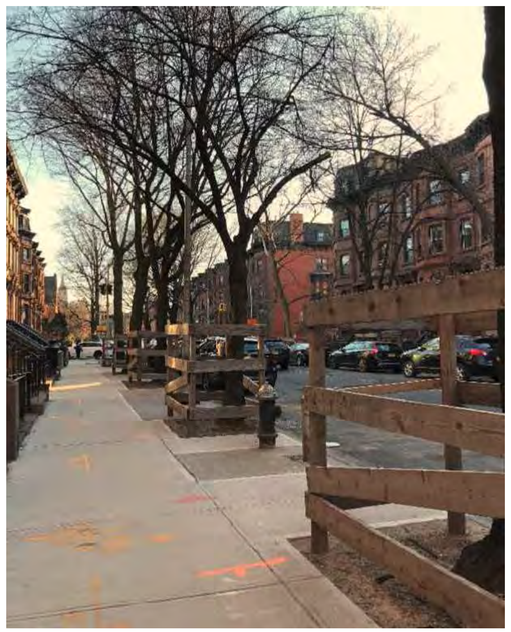
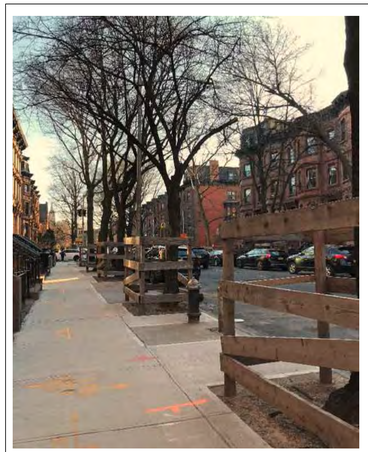


FIGURE 2 — TREE PROTECTION FENCE EXAMPLE
(via City of Berkeley - SEE DETAIL TP2 FOR NOTES)



FIGURE 3 — TREE PROTECTION FENCE EXAMPLE

SCALE FACTOR = 1



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

TP2 TREE PROTECTION, TYPE 2
NTS

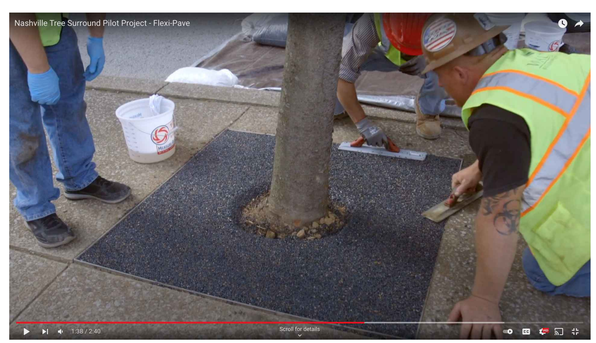


FIGURE 4 — FLEXI-PAVE EXAMPLE
(via City of Berkeley)

TRACHTENBERG ARCHITECTS

2421 Fourth Street
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www.TrachtenbergArch.com

PANORAMIC 1685 SHATTUCK

Berkeley, CA

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

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JOB: 2109

SHEET:

Street Tree Notes and Details

L4-ST

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

IRRIGATION WATER USE CALCULATIONS

WATER USE ESTIMATION

WATER TYPE	POTABLE
SITE ETo=	41.6

REGULAR LANDSCAPE AREAS

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

SPECIAL LANDSCAPE AREAS

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

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

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

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

MAWA FORMULA

MAXIMUM APPLIED WATER ALLOWANCE (MAWA) GALLONS PER YEAR

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

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

ETWU FORMULA

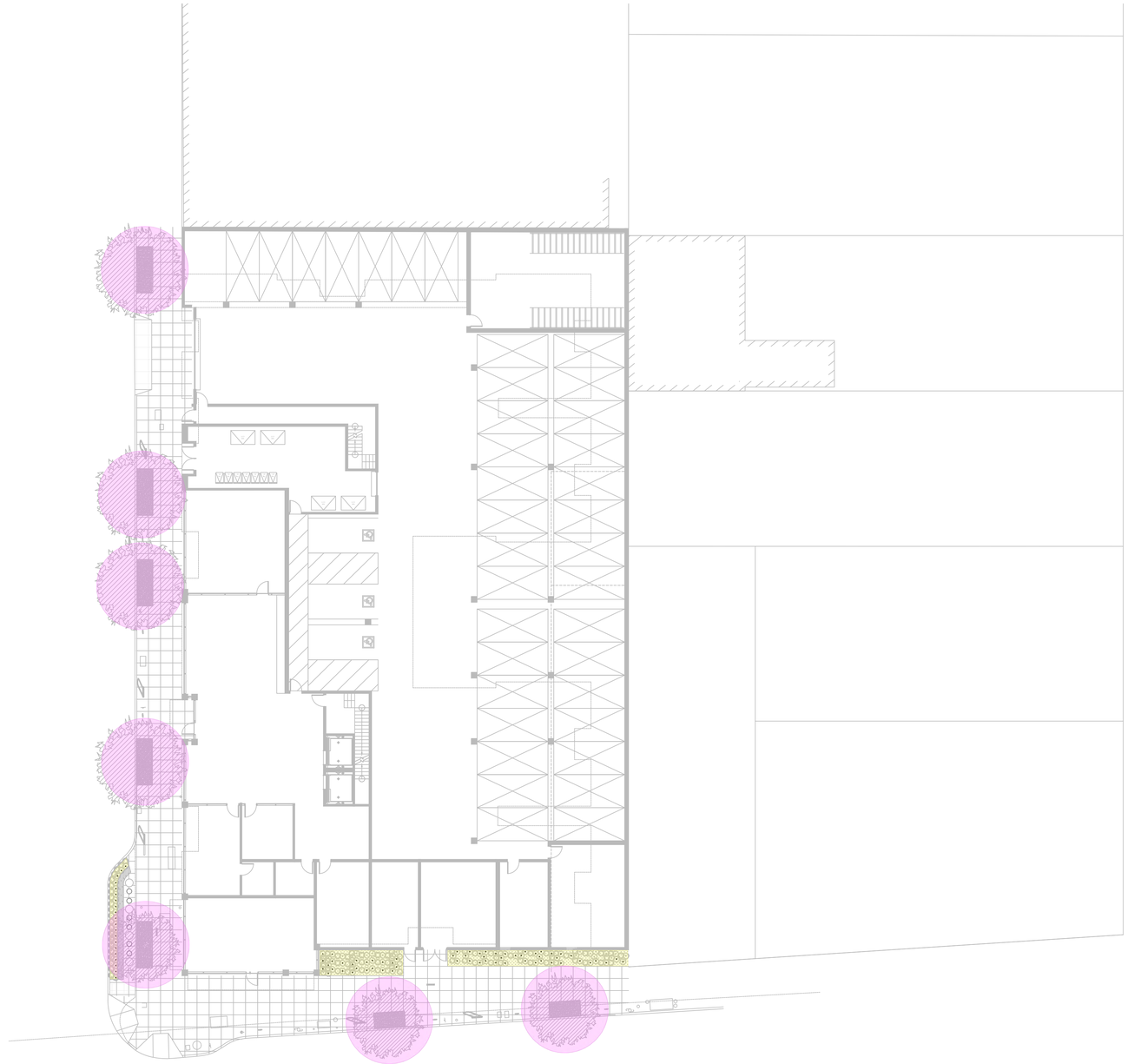
ESTIMATED TOTAL WATER USE (ETWU) GALLONS PER YEAR

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

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

IE = IRRIGATION EFFICIENCY (0.81)-BUBBLER/DRIP

IE = IRRIGATION EFFICIENCY (0.75)-ROTORS/SPRAY



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

North

1/16" = 1'-0"

0 8 16 32

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1685
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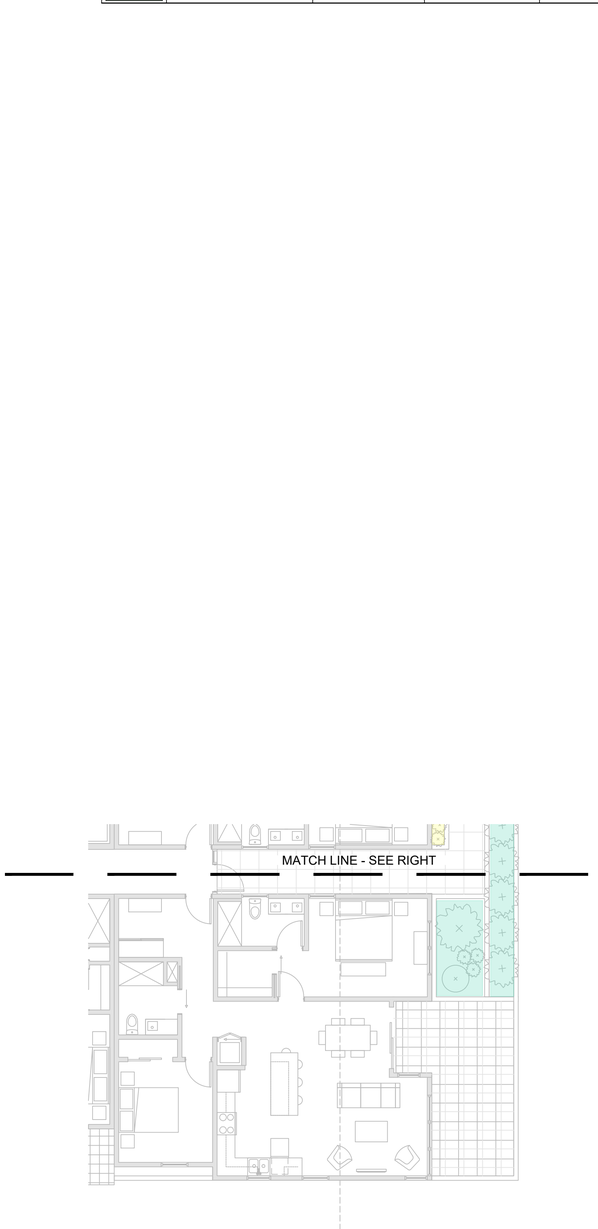
JOB: 2109

SHEET:

Ground Level
Hydrozone Plan

I1.0

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





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North

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

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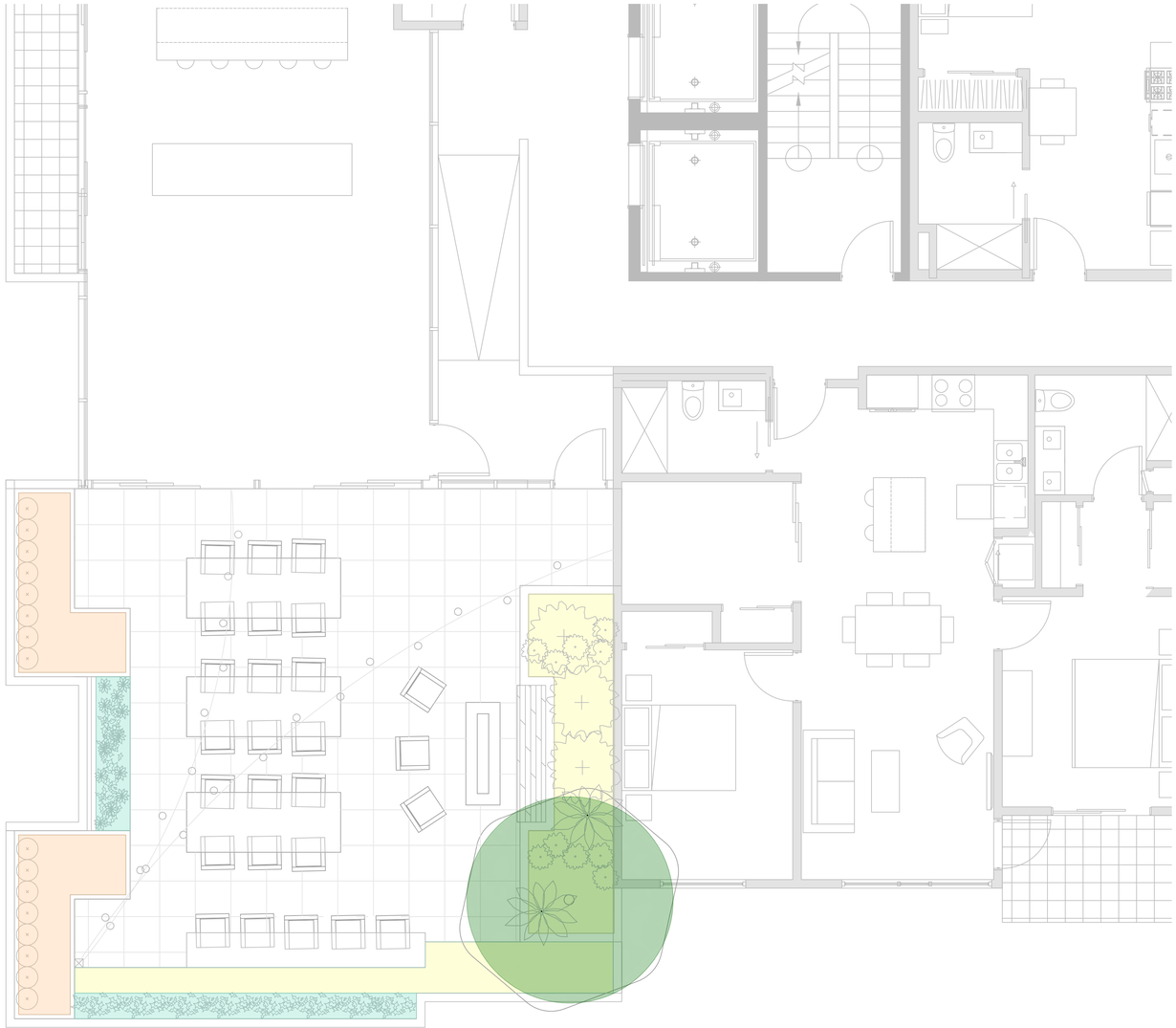
JOB: 2109

SHEET:

Second Level Courtyard - Hydrozone Plan

I2.0

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



North

0 2 4 8

1/4" = 1'-0"

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PANORAMIC 1685 SHATTUCK

Berkeley, CA

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JOB: 2109

SHEET:

Eigth Level Roof Deck - Hydrozone Plan

I3.0

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

Cover Page / Summary

City of Berkeley – ZAB Appeal Submission

Project: 2109 Virginia Street – Use Permit #ZP292409966

ZAB Approval Date: September 11, 2025

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

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

Summary of Appeal

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

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

Attachments

Full appeal letter

1

Appeal Letter

North Shattuck Alliance via Melinda E. Lopez

1618/1620 Walnut Street

Berkeley, CA 94709

melindaelopez@gmail.com

Date: September 25, 2025

City Clerk's Office

City of Berkeley

2180 Milvia Street

Berkeley, CA 94704

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

Dear City Clerk,

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

1. Construction Impacts

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

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

2. Labor Standards

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

3. Toxic Soil and Tenant Disclosure

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

4. Water Resources

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

5. Traffic & Parking Impacts

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

6. Operational Impacts

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

7. Design & Massing

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

8. Emergency Preparedness & Safety

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

9. Neighborhood & Citywide Impacts

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

10. Density Bonus Transparency

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

11. Proximity to Residences and Nearby Homes

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

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

12. Community Health / Sensitive Receptors

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

Request

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

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

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

Thank you for your consideration.

Sincerely,

North Shattuck Alliance via Melinda E. Lopez

Petition Signatures (Neighbors Supporting Appeal)

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

North Shattuck Alliance appeal

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

see letter

see letter

see signature on next page

September 25, 2025

To: City of Berkeley – ZAB

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

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

Dear City of Berkeley / ZAB,

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

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

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

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

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

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

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

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

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

9. Increased local conjestion

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

Best regards,

Glen Stevick

Elizabeth Scherer

North Shattuck Alliance

Member Emails:
melindaelopez@gmail.com
karen.streets@gmail.com
unnikvij@gmail.com
lizstevick@gmail.com
gstevick@gmail.com
bgordon9962@hotmail.com
ronasidvj@gmail.com
mgapte@gmail.com
415jazz@gmail.com
catlady_1619@hotmail.com
rhojati1@yahoo.com

September 27, 2024

By Electronic Mail

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

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

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

Dear ZAB, Cecelia Mariscal,

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

We have several concerns regarding the 2109 Virginia Street project:

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

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

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

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

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

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

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

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

Detailed points of residents of North Shattuck Alliance Memorandum

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

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

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

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

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

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

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

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

in this locale where elderly citizens and schoolchildren from Berkeley Arts Magnet Elementary School inhabit posing significant safety concerns.
Ask – the city must request analysis and evaluation of realistic demands of likely residents and family structure, their car ownership, proposed parking slots and the impact on nearby street parking availability to ensure the right balance of transit-orientated housing goals are met without endangering current residents safety in walkability and convenience to accessible street parking in the vicinity and/or reduce proposed building size to mitigate risks

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion:

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

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

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

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

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

JAMES E. HENDRY

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

City Clerk
City of Berkeley
Hand-delivered

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

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

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

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

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

Thank you for your consideration of this protest.

Sincerely,

JAMES HENDRY

September 29, 2025

To: City of Berkeley – ZAB

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

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

Dear City of Berkeley / ZAB,

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

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

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

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

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

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

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

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

Best regards,

9/29/25

Mary Maslund 9/29/25

September 29, 2025

To: City of Berkeley – ZAB

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

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

Dear City of Berkeley / ZAB,

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

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

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

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

Best regards,

SEPT. 29. 2025

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

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

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

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

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

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

5 owner

6 Second Letter owner

7 Lessee display upstairs

6 Lessee display downstairs

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

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

9

NAME: Carol Worrall
ADDRESS: 1631 Walnut St.
PHONE/E-MAIL 970-901-8116
SIGNATURE/DATE Carol Worrall 9/28-25

Lessor

10

NAME: Emma Bergmann
ADDRESS: 1631 Walnut St. Apt. D
PHONE/E-MAIL 707-849-6279
SIGNATURE/DATE Emma Bergmann 9/28/25

Lessor

11

NAME: Vanessa Kim Ivelich
ADDRESS: 1631 Walnut St Apt J
PHONE/E-MAIL 510 684-8709
SIGNATURE/DATE V.K. Ivelich 28 September 2025

Lessor

12

NAME: SOUKAINA ECBANI
ADDRESS: 1633 Walnut St, APT # 1
PHONE/E-MAIL 321-978-2401
SIGNATURE/DATE S 9/29/25

Lessor

(1618) Melinda

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

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

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

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

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

Same as #8 duplicate Signature

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

17

OWNER

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

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

18

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

Lessor

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

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

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

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

North Shattuck Alliance appeal

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

owner

Lessor

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

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

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

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

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

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

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

North Shattuck Alliance appeal

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

24

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

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

25

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

Thank you for your consideration.

Sincerely,

North Shattuck Alliance via Melinda E. Lopez

Petition Signatures (Neighbors Supporting Appeal)

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

North Shattuck Alliance appeal

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

6

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

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

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

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

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

35

NAME:	Paul Molin
ADDRESS:	2137 Virginia St, Berkeley CA 94709
PHONE/E-MAIL	
SIGNATURE/DATE	9.20.25
NAME:	James
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	

Zoning Adjustments Board Staff Report

APP # ZP2024-0066

Sept 11, 2025

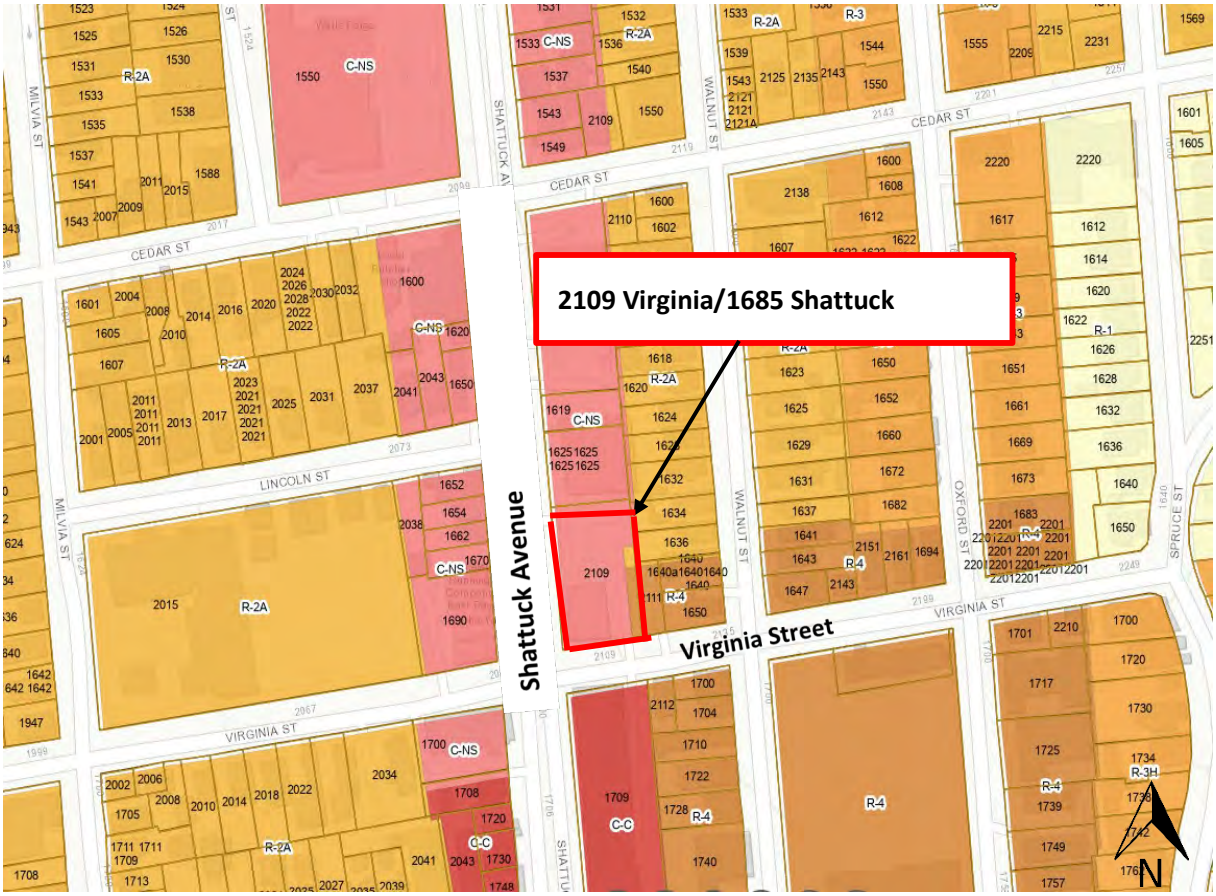
Use Permit for a Project at address 2109 Virginia Street



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

ZONING MAP

Figure 1: Vicinity and Zoning Districts Map



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

AERIAL


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

STREET ELEVATION



BACKGROUND

Subject Site

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

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

Table 1. Site Zoning

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

Site History

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

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

ANALYSIS

Project Scope

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

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

Findings

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

2023-2031 Housing Element

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

Environmental Review

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

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

Base Project and Density Bonus

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

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

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

Notes:

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

Abbreviations: % = percent

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

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

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

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

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

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

North Shattuck Commercial District (C-NS):

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

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

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

Multi-Family Residential District (R-4):

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

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

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

ADVISORY BODY REVIEW

Landmarks Preservation Commission Review: Demolition Referral

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

Design Review Committee Review: Preliminary Design Review

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

Recommendations:

Site Design / Neighborhood Context

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

Exterior Finishes

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

Landscaping

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

Windows / Building Details

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

Community Meeting

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

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

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

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

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

See Attachment 7 for all neighborhood comment letters.

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

POLICY CONSISTENCY

Housing Accountability Act

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

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

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

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

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

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

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

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

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

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

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

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

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

General Plan Consistency

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

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

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

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

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

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

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

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

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

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

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

Attachments

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

Attachment 1

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

Table 1: Project Chronology

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

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

Table 2: Special Characteristics

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

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

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

Notes:

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

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

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

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

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

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

_____ = Concession or Waiver requested to modify the district standard

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

Notes:

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

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

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

_____ = Concession or Waiver requested to modify the district standard

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

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

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

_____ = Concession or Waiver requested to modify the district standard

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

Attachment 1

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

Table 1: Project Chronology

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

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

Table 2: Special Characteristics

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

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

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

Notes:

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

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

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

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

_____ = Concession or Waiver requested to modify the district standard

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

Notes:

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

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

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

_____ = Concession or Waiver requested to modify the district standard

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

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

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

_____ = Concession or Waiver requested to modify the district standard

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

Zoning Adjustments Board Findings

App # ZP2024-0066

Use Permit for a Project at 2109 Virginia Street

Sept 11, 2025

Project Facts

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

Property Owner: American Commonwealth Associates

Project Address: 2109 Virginia Street/1685 Shattuck Avenue

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

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

Site Size: .51 acres

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

Vesting Date: December 27, 2023

Date Deemed Complete: July 23, 2024

Project Planner: Singeh Saliki

Project Description:

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

Permits Requested:

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

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

Staff Recommendation

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

CEQA

Qualified Infill Checklist

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

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

FINDINGS FOR APPROVAL

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

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

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

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

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

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

b) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

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

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

DEMOLITION

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

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

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

DENSITY BONUS

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

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

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

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

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

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

North Shattuck Commercial District (C-NS)

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

Restricted Multiple Family Residential District (R-2A)

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

Multi-Family Residential District (R-4)

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

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

HOUSING ACCOUNTABILITY ACT

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

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

PERMIT FINDINGS FOR THE C-NS ZONING DISTRICT

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

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

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

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

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

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

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

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

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

(a) The proposed land use; and

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

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

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

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

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

PLANNING AND DEVELOPMENT

USE PERMIT ZP2024-0066 CONDITIONS OF APPROVAL

September 11, 2025

2109 Virginia Street

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

I. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

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

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

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

II. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

    ☐ **Project Liaison** _____

    Name Phone #

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

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

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

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

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

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

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

E. Prohibit unnecessary idling of internal combustion engines.

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

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

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

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

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

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

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

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

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

20. **Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
21. **Construction Noise Management -** Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
22. **Construction Phases.** The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
23. **Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
24. **Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prior to Issuance of Any Building (Construction) Permit

25. **Parcel Merger/Lot Line Adjustment.** The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
26. **Final Design Review.** The Project requires approval of a Final Design Review application by the Design Review Committee.
27. **HVAC Noise Reduction.** Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
28. **Interior Noise Levels.** Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
29. **Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS).** A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)

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

AFFORDABLE HOUSING REQUIREMENTS – RESIDENTIAL PROJECTS

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

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

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

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

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

Prior to Demolition or Start of Construction:

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

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

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

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

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

    D. Significant truck activity.

    Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

40. **Construction/No Parking Permits.** Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood.

During Construction:

41. **Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
42. **Construction Hours- Exceptions.** It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.
43. **Project Construction Website.** The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant.
    - **A.** Contact information (i.e. “hotline” phone number, and email address) for the project construction manager
    - **B.** Calendar and schedule of daily/weekly/monthly construction activities
    - **C.** The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
44. **Public Works - Implement Bay Area Air District (BAAD)-**Recommended Measures during Construction. For all proposed projects, BAAD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
    - **A.** All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
    - **B.** All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
    - **C.** All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
    - **D.** All vehicle speeds on unpaved roads shall be limited to 15 mph.
    - **E.** All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
    - **F.** Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
    - **G.** All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.

H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

45. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

C. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

46. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

47. **Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)

48. **Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

49. **Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*).** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:

    A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.

    B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

    C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.

    D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.

E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

50. Human Remains (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

51. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

52. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

53. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.

F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

G. All private or public projects that create and/or replace 5,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)

H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.

I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

J. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

54. Public Works. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

55. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

56. Public Works. The applicant shall ensure that all excavation accounts for surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

57. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

58. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

59. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

60. **Public Works / Building and Safety.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

61. **Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

62. All landscape, site and architectural improvements shall be completed per the attached approved drawings received July 9, 2025.

63. **Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in BMC Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in these sections.

    A. Consistent with BMC Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection.

    B. Consistent with BMC Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all residents.

        i. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit.

        ii. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass.

    C. Consistent with BMC Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

    D. Property owners may be required to pay administrative fees associated with compliance with this Condition.

At All Times:

64. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.

65. **Transportation Demand Management Compliance.** A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).

66. **Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

67. **Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.

68. **Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.

69. **Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

70. **Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.

71. **Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

72. **Residential Permit Parking.** No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The Finance Department, Customer Service Center shall add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts.

73. **Required Bike Parking.** Secure and on-site bike parking for at least 64 bicycles (59 residential long-term, 4 residential short-term, and 1 commercial) shall be provided for the life of the building.

74. **Residential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and low power Level 2 EV charging receptacles, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in good working condition and made available for building resident use. (Project required to meet applicable code at time of building permit application, if different from above.)

75. **Nonresidential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and DC Fast Charge stations, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in *good working condition and made available for building occupant and/or visitor* use. (Project required to **meet applicable code at time of building permit application, if different from above.)**

76. **Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service, and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

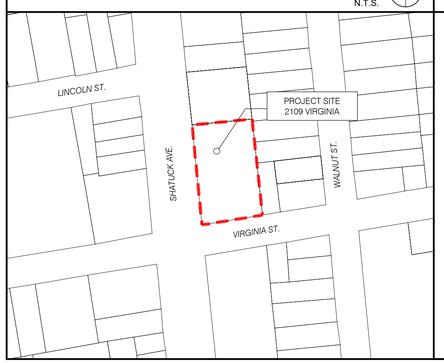
VIEW ALONG SHATTUCK LOOKING NORTHEAST



VICINITY MAP

N

N.T.S.



PROJECT DIRECTORY

OWNER/APPLICANT:
AMERICAN COMMONWEALTH ASSOCIATES, LP
1683 SHATTUCK AVE
BERKELEY, CA 94709

CO OWNER/APPLICANT:
PANORAMIC INTERESTS
100 BUSH STREET
SAN FRANCISCO, CA 94104
panoramic.com

ARCHITECT:
ISAIAH STACKHOUSE, PRINCIPAL
SDT ARCHITECTS
2421 FOURTH STREET
BERKELEY, CA 94710
510.845.7414
www.trachtenbergarch.com

LANDSCAPE ARCHITECT:
INSIDEOUT DESIGN
6000 HARWOOD AVENUE
OAKLAND, CA 94618
510.655.7674
https://www.aboutinsideout.com/

PROJECT DESCRIPTION

PROJECT ADDRESS: 2109 Virginia Street
Berkeley, CA 94709 (APN: 058 217801800)

SCOPE OF WORK:

THE PROJECT IS THE CONSTRUCTION OF A NEW 8-STORY(89'-4" TALL), 110-UNIT MIXED-USE HOUSING DEVELOPMENT WITH 112,969SF OF NEW RESIDENTIAL USE, PARKING GARAGE FOR UP TO 109 SPOTS, AND 690SF NEW COMMERCIAL SPACE. PROJECT INCLUDES REMOVAL OF EXISTING NON-LANDMARKED 2-STORY COMMERCIAL STRUCTURE AND SURFACE PARKING. 15% (9 UNITS) OF THE BASE PROJECT'S UNITS WILL BE AFFORDABLE TO VERY-LOW-INCOME HOUSEHOLDS, AND 15% (9 UNITS) WILL BE MODERATE INCOME HOUSEHOLDS, ENTITLING IT TO A 100% DENSITY BONUS, WAIVERS, AND UP TO 3 CONCESSIONS UNDER THE STATE DENSITY BONUS LAW.

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-NS, R2A, R4

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

SHEET NO. & TITLE

ARCHITECTURAL				LANDSCAPE	
A0.0	GENERAL INFORMATION	A2.6	UNIT PLANS	L1-SS	GROUND LEVEL STREETSCAPE
A0.1	ZONING INFORMATION & DIAGRAMS	A3.1	BUILDING ELEVATIONS	L2-CY	SECOND LEVEL COURTYARD
A0.3A	DENSITY BONUS DIAGRAMS	A3.2	BUILDING ELEVATIONS	L3-RD	EIGHTH LEVEL ROOF DECK
A0.3B	DENSITY BONUS CALCULATIONS	A3.3	BUILDING ELEVATIONS	L4-ST	STREET TREE NOTES AND DETAILS
A0.3C	PRELIMINARY AFFORDABLE HOUSING CALCULATIONS	A3.4	BUILDING ELEVATIONS	I1.0	GROUND LEVEL HYDROZONE PLAN
A0.4A	SHADOW STUDIES	A3.5	STREET STRIP ELEVATIONS	I2.0	SECOND LEVEL HYDROZONE PLAN
A0.4B	SHADOW STUDIES	A3.6	PHOTO MATCH PERSPECTIVES	I3.0	EIGHTH LEVEL HYDROZONE PLAN
A0.4C	SHADOW STUDIES	A3.7	CONCEPTUAL RENDERING		
A0.5	SITE CONTEXT PHOTOS	A3.8	CONCEPTUAL RENDERING		
A0.6	VICINITY MAP	A3.9	CONCEPTUAL RENDERING		
A2.0A	SURVEY	A3.10	CONCEPTUAL RENDERING		
A2.0B	SURVEY	A3.11	CONCEPTUAL RENDERING		
A2.0C	SITE PLAN	A4.1	SECTIONS		
A2.1	FLOOR PLANS	A5.1	PRELIMINARY GRADING PLAN		
A2.2	FLOOR PLANS	MAT	MATERIAL BOARD		
A2.3	FLOOR PLANS				
A2.4	FLOOR PLANS				
A2.5	FLOOR PLANS				

STACKHOUSE
DE LA PEÑA
TRACHTENBERG
ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
www.sdtarch.com

PANORAMIC
1685 SHATTUCK/ 2109 VIRGINIA

Berkeley, CA

12.11.2023 SB330 SUBMISSION
05.31.2024 ZONING APPLICATION
09.18.2024 ZONING RESUBMISSION
04.02.2025 ZONING RESUBMISSION
05.02.2025 DRC HEARING SET
07.24.2025 ZAB HEARING SET

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT OF TRACHTENBERG ARCHITECTS.

JOB: 2341

SHEET:

GENERAL INFORMATION

A0.0

Xref: \PANORAMIC - Titleblock 24 x36.dwg

ZONING TABLES

CITY OF BERKELEY ZONING TABULATIONS

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	C-NS			
LOT AREA	19,788	19,788	19,788	
LOT AREA (ACRES)	0.45	0.45	0.45	
NUMBER OF DWELLING UNITS	N/A	N/A	110	
SETBACK - FRONT (VIRGINIA)	N/A	N/A	2'-10" TO 5'-2"	
SETBACK - REAR	N/A	N/A	0' TO 12'-6"	
SETBACK - INTERIOR SIDE	N/A	N/A	0" TO 35'-7"	
SETBACK - STREET SIDE (SHATTUCK)	N/A	N/A	0	
BUILDING SEPARATION, MINIMUM 1ST STORY	8'	8'	N/A	
BUILDING SEPARATION, MIN. 2ND& 3RD STORY	12', 16'	12', 16'	N/A	
BUILDING HEIGHT	35'	35'	89'-4"	COMPLIES W/WAIVER
BUILDING STORIES	3	3	8	COMPLIES W/WAIVER
LOT COVERAGE (CORNER LOT, 6 STORIES)	N/A	N/A	97%	
BUILDING FOOTPRINT	7,915	7,915	19,155	
FAR	NA	NA	6.21	
TOTAL GSF	NA	NA	122,924	
USABLE OPEN SPACE (SEE TABLE)	40/unit	40/unit	7,060	COMPLIES
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES W/WAIVER
BIKE PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	R-4 Multi-Family Residential District			
LOT AREA	1,970	1,970	1,970	
LOT AREA (ACRES)	0.05	0.05	0.05	
NUMBER OF DWELLING UNITS	N/A	N/A	0	
SETBACK - FRONT	15'	15'	4'-4" to 5'-8"	COMPLIES W/WAIVER
SETBACK - REAR 1ST - 3RD STORY	15'	15'	0'	COMPLIES W/WAIVER
SETBACK - REAR 3RD - 6TH STORY	17', 19', 21'	17', 19', 21'	24'-10"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 1ST - 2ND STOR	4'	4'	0"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 3RD - 6TH STOR	6', 8', 10', 12'	6', 8', 10', 12'	9'-8"	COMPLIES W/WAIVER
SETBACK - STREET SIDE 1ST-6TH STORY	6', 8', 10', 12', 14', 15'	6', 8', 10', 12', 14', 15'	NA	
BUILDING HEIGHT	35'	65'	89'-4"	COMPLIES W/WAIVER
BUILDING STORIES	3	6	8	COMPLIES W/WAIVER
LOT COVERAGE (INTERIOR LOT)	35%	35%	96%	COMPLIES W/WAIVER
BUILDING FOOTPRINT	887	690	1,886	
FAR	no max.	no max.	3.16	
TOTAL GSF	NA	NA	6,228	
USABLE OPEN SPACE (SEE TABLE)	200/unit	200/unit	0	COMPLIES
PARKING	0	0	0	COMPLIES
BIKE PARKING	0	0	0	COMPLIES

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	R-2A Restricted Multi-Family Residential District			
LOT AREA	584	584	584	
LOT AREA (ACRES)	0.01	0.01	0.01	
NUMBER OF DWELLING UNITS	N/A	N/A	0	
SETBACK - FRONT	15'	15'	NA	COMPLIES
SETBACK - REAR	15'	15'	0	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 1ST - 2ND STOR	4'	4'	0"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 3RD	6'	6'	9'-8"	COMPLIES W/WAIVER
SETBACK - STREET SIDE 1ST - 3RD STORY	6', 8', 10'	6', 8', 10'	NA	
BUILDING HEIGHT	28'	35'	89'-4"	COMPLIES
BUILDING STORIES	3	3	8	COMPLIES
LOT COVERAGE (INTERIOR LOT)	35%	35%	100%	COMPLIES W/WAIVER
BUILDING FOOTPRINT	234	234	584	
FAR	NA	NA	2.92	
TOTAL GSF	NA	NA	1,704	
USABLE OPEN SPACE (SEE TABLE)	300/unit	300/unit	NA	COMPLIES
PARKING	0	0	0	COMPLIES
BIKE PARKING	0	0	0	COMPLIES

UNIT COUNTS

UNIT TYPE	STUDIO	1-BED	2-BED	2-BED + OFFICE	TOTAL
LEVEL 8	2	4	5	3	14
LEVEL 7	2	4	6	4	16
LEVEL 6	2	4	6	4	16
LEVEL 5	2	4	6	4	16
LEVEL 4	2	4	6	4	16
LEVEL 3	2	4	6	4	16
LEVEL 2	2	4	6	4	16
GROUND LEVEL					0
TOTAL	14	28	41	27	110
PERCENT OF TOTAL	13%	25%	37%	25%	
TOTAL BEDROOMS	14	28	82	54	178

OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA (40%)
REQUIRED OPEN SPACE (PER UNIT)	110	40	4,400	
TOTAL CONCESSION REQUESTED			NONE	
AREA PROVIDED - PODIUM DECK			2,670	2,528
AREA PROVIDED - PODIUM PRIVATE PATIOS			320	
AREA PROVIDED - ROOF DECK			1,030	308
AREA PROVIDED - UNIT BALCONIES			3,040	
TOTAL AREA PROVIDED			7,060	2,836

BICYCLE PARKING CALCULATIONS

		REQ'D SPACES		PROPOSED SPACES
RESIDENTIAL LONG TERM (PER BEDROOM)	178	1 per 3 bedrms	59	59
RESIDENTIAL SHORT TERM (PER BEDROOM)	178	per 40 bedrms	4	4
COMMERCIAL (PER SF)	690	1 per 2000sf	1	1
TOTAL BICYCLE PARKING				**64**

PARKING TABLE

	PROVIDED	REQ'D SPACES	PER	PROPOSED
RESIDENTIAL (0 required per Table 23.322-2	110 UNITS	0	0	109
COMMERCIAL (0 required per AB 2097)	690SF	0	1000	0
TOTAL				**109**

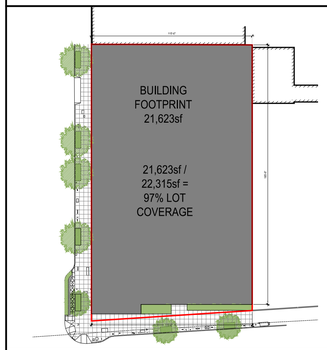
ROOFTOP ARCHITECTURAL ELEMENTS CALCS

AVERAGE AREA	14121
TOTAL AREA OF ROOFTOP ELEMENTS	521
% AREA OF ROOFTOP ARCH. FEATURES	3.7%
ALLOWABLE % (PER 23E.04.020C)	15.0%

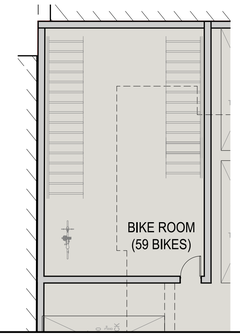
PROPOSED FLOOR AREA WITH DENSITY BONUS

	C-NS RESIDENTIAL	C-NS MEP	C-NS COMMERICAL	R-4 RESIDENTIAL	R4 MEP	R-2A RESIDENTIAL	R-2A MEP	TOTAL RESIDENTIAL
LEVEL 8	13,665			588		160		14,413
LEVEL 7	14,784			588		160		15,532
LEVEL 6	14,784			588		160		15,532
LEVEL 5	14,784			588		160		15,532
LEVEL 4	14,784			588		160		15,532
LEVEL 3	14,784			588		160		15,532
LEVEL 2	14,784			588		160		15,532
GROUND LEVEL	5,376	1,072	690	588	584	-		5,964
TOTAL FLOOR AREA W/ DENSITY BONUS	**107,745**	**1,072**	**690**	**4,704**	**584**	**1,120**	**-**	**113,569**

LOT COVERAGE DIAGRAM

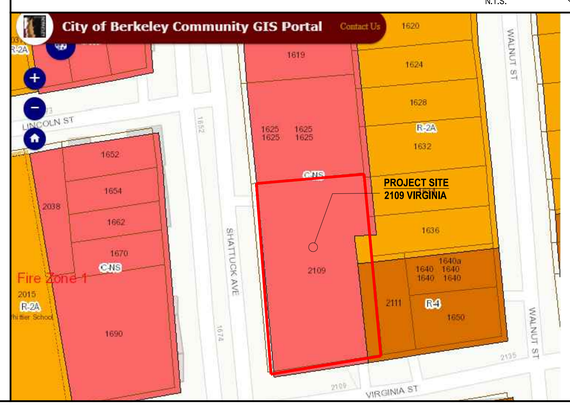


BIKE PARKING

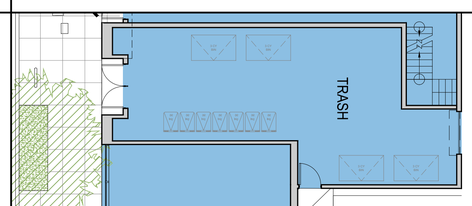


ZONING MAP

N.T.S.



REFUSE AND RECYCLING



Waste and Recycling Calculation

# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3		Waste (40%)		Recycling (40%)	Organics (20%)
178	1.00	178	14.83 cy	2,967 gal	5.93 cuft	1,187 gal	1,187 gal	593 gal
Space Calculation	Container Quanities			Space Required			150% Additional	
	Waste	Recycling	Organics	Factor/container		Space/ Container	Required	Provided
3 cy bin (606 gal)	2	2		28 sf		112 sf		
96 gallon cart			7	7 sf		49 sf		
64 gallon cart				6 sf		sf		
Total capacity	1212 gal	1212 gal	672 gal			161 sf	242 sf	500

OPEN SPACE DIAGRAMS



LEVEL 2
USABLE OPEN SPACE 4,912SF

LEVEL 8
USABLE OPEN SPACE 1,030SF

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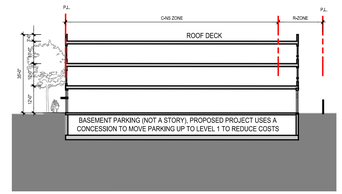
SHEET:

ZONING DATA

A0.1

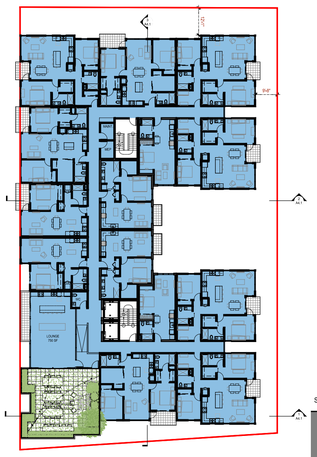
BASE PROJECT AREAS

	RETAIL	MEP	RESIDENTIAL FLOOR AEA				TOTAL PROJECT
			C-NS	R-4	R-2A	TOTAL RES.	
SITE AREA			19,788	1,970	584		22,342
ALLOWABLE DENSITY (UNITS/SF)			NA	NA	1650		
ALLOWABLE UNITS (ROUNDS UP)			NA	NA	1		
ALLOWABLE FAR (1.0 FOR COMM. AREA)			NA	**NA**	**NA**		
ALLOWABLE HEIGHT (BASE)			35'	35'	28'		
ALLOWABLE HEIGHT (W/ UP)			35'	65'	35'		
ALLOWABLE STORIES			3	3	3		
ALLOWABLE LOT COVERAGE (%)			NA	45%	40%		
ALLOWABLE LOT COVERAGE (SF)			NA	887	234		
BASE PROJECT AREAS							
LEVEL 3			18,709	887	234	19,830	
LEVEL 2			18,709	887	234	19,830	
LEVEL 1	669	2187	16,006	887	234	17,127	
BASEMENT		4007					
TOTAL ALLOWABLE BASE AREA	669	6,194	53,424	2,661	702	56,787	63,650
100% DENSITY BONUS	NA					56,787	
MAX PROJECT W/100% DENSITY BONUS	690	1,656				113,574	115,920

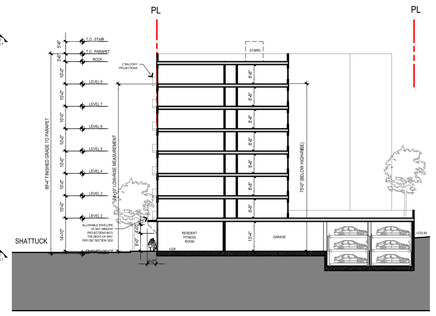


SECTION

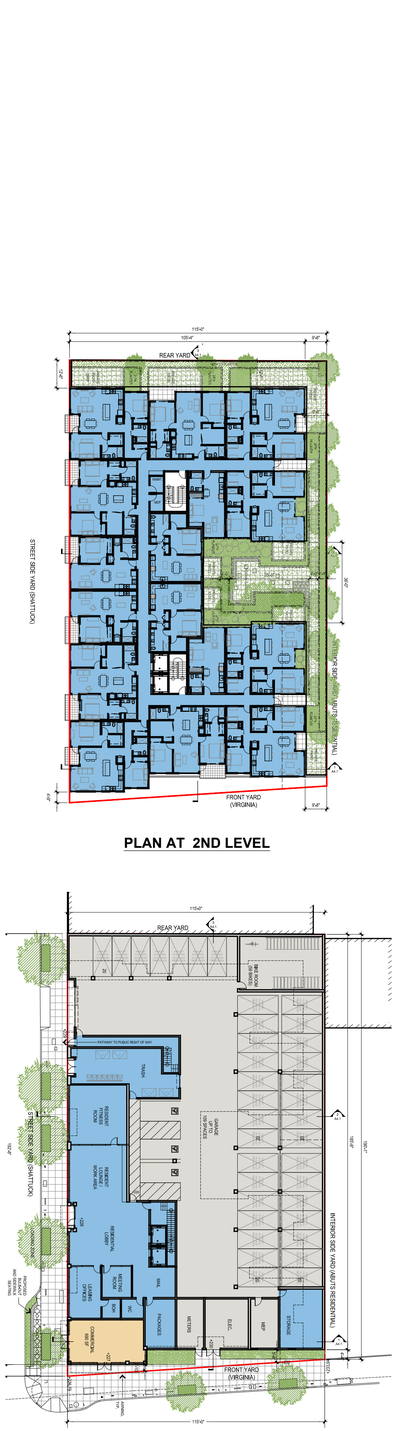
PLAN AT 2ND LEVEL



PLAN AT LEVEL 8



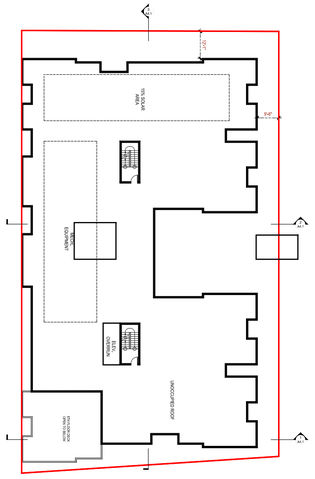
SECTION



PLAN AT GROUND LEVEL

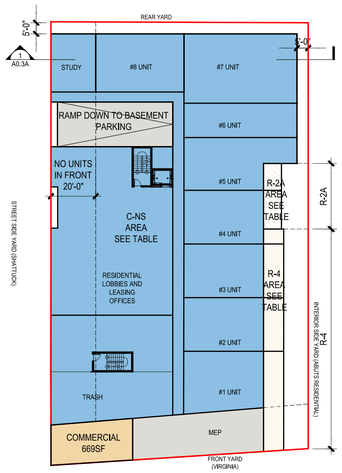


PLAN AT LEVELS 3-7

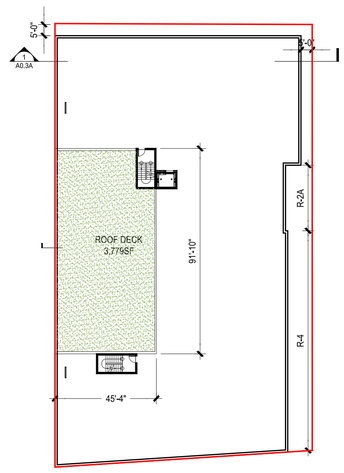


PLAN AT ROOF LEVEL

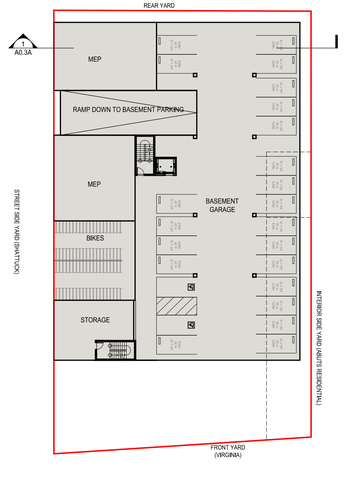
PROPOSED DENSITY BONUS PROJECT



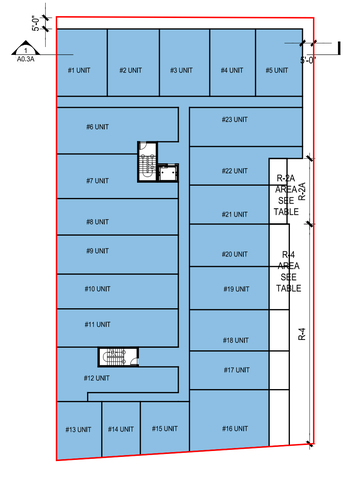
PLAN AT GROUND LEVEL



PLAN AT ROOF



PLAN AT BASEMENT



PLAN AT 2ND-3RD LEVEL

BASE PROJECT

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DENSITY BONUS DIAGRAMS

A0.3A

DENSITY BONUS TABLE

	Base Project	base avg. unit size	Base # Units	% VLI units	# VLI Units	#VLI Units	% MI units	# MI Units	#MI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
	sq. ft. - see calculation below	base avg. unit size	Base Project Area / Base Avg Unit Size	VLI = Very Low Income <50 AMI	% VLI x Base # Units		MI = Moderate Income <120 AMI	% MI x Base # Units			%Bonus x Base # Units	%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)
	56,787	1,032	55	15%	8.25	9.00	15%	8.25	9.00	100.0%	55.0000	55	**110**

	Base Project Res. Area	Floor	Proposed Project Res. Area
		Eighth	14,413
		Seventh	15,532
		Sixth	15,532
		Fifth	15,532
		Fourth	15,532
	19,830	Third	15,532
	19,830	Second	15,532
	17,127	Ground	5,964
Total Floor Area:	**56,787**		**113,569**

	Base Project # of Units	Floor	Proposed Project # of Units
		Eighth	14
		Seventh	16
		Sixth	16
		Fifth	16
		Fourth	16
	23	Third	16
	23	Second	16
	9	Ground	
Total Units:	**55**		**110**

	#VLI	%VLI	%DB	#DB	#Concessions
	3	5%	20.00%	66	1
	4	6%	22.50%	68	1
	4	7%	25.00%	69	1
	5	8%	27.50%	71	1
	5	9%	30.00%	72	1
	6	10%	32.50%	73	2
	7	11%	35.00%	75	2
	7	12%	38.75%	77	2
	8	13%	42.50%	79	2
	8	14%	46.25%	81	2
	9	**15%**	**50.00%**	**83**	**3**

Additional DB	#MI	%MI	%DB	#DB	#Concessions
	3	5%	20.00%	94	3
	4	6%	22.50%	95	3
	4	7%	25.00%	97	3
	5	8%	27.50%	98	3
	5	9%	30.00%	99	3
	6	10%	32.50%	101	3
	7	11%	35.00%	102	3
	7	12%	38.75%	104	3
	8	13%	42.50%	106	3
	8	14%	46.25%	108	3
	9	**15%**	**50.00%**	**110**	3

Avg. Unit Size: 1032 sf

Concession #1: The project is proposing to relocate the underground parking in the base project to above grade in the proposed project
Concession #2: The project requests a concession to eliminate the Public Art on Private Property requirement
Concession #3

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - Open Space

	Units	Ratio	Total Area
Total Required for Base Units	55	40	2200
Total Area Provided			3779
Provided Open Space (Roof Top Open Space)			3779

Base Project - FAR

	Res. Area	Commercial	Total GFA
GFA	56,787	1133	57,920
Site Area			22,342
FAR			2.6

Base Project - Parking

	Req.d Spaces	per SF	SF Provided	Total Req.	Provided
Residential (0 per Table 23.322-2)				0	23
Commercial	2.0	1,000	450.0	1	1

Base Project -Bicycle Parking

	SF	Bedrooms	Ratio	Total Req.	Provided
New Commercial	1,133		1/2000	2	2
Res. (Long)		68	0.33	22	30
Res (Short)		68	0.025	2	2

Base Project - Stormwater

	Roof Area	%	Required	Provided
Base Units	19,830	4%	793	793

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DENSITY BONUS CALCULATIONS

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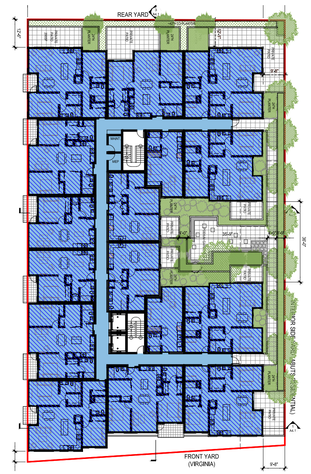
PROPOSED PROJECT RESIDENTIAL UNIT FLOOR AREA DIAGRAM

LEGEND

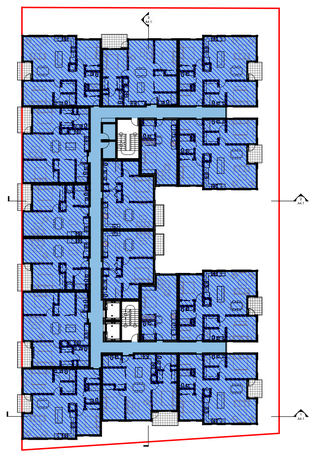
- DWELLING UNIT RUFA
- RESIDENTIAL AMENITY AREA
- COMMERCIAL AREA



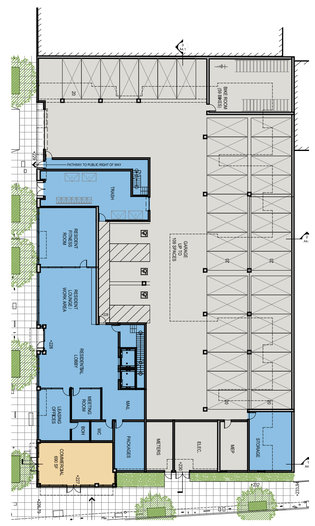
PLAN AT LEVEL 8



PLAN AT LEVEL 2



PLAN AT LEVELS 3-7



PLAN AT GROUND

PROPOSED PROJECT AREA AND UNIT CALCULATIONS

Calculation of the Final Proposed Residential Unit Floor Area:

Floor	Proposed Project Res. Unit Area	Proposed Project Residential Units
8th	11,265	14
7th	13,208	16
6th	13,208	16
5th	13,208	16
4th	13,208	16
3rd	13,208	16
2nd	13,208	16
1st		
Final Proposed Residential Unit Floor Area	**90,513**	**110**

Calculation of Base Project Residential Floor Area:

Final Proposed DB Residential Unit Floor Area	90,513
	/
1 + 100% Density Bonus percentage taken	2.000
	=
Base Project Residential Unit Floor Area	45,257

Calculation of the Affordable Housing Fee:

A	Total Base Project Residential Unit Floor Area	45,257
B	Total Base Project Units	55
C	Total VLI and LI Requirements (20% of Base)	11
D	Total VLI and LI Units Proposed	9
	Fee per Square Foot	$56.25
		X
	Total Base Project Residential Unit Floor Area	45,257
		X
	In Lieu Fee Percentage Calculation (C-D)/C)	18.2%
		=
	Total Fee Due	**$462,855**

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PRELIMINARY AFFORDABLE HOUSING CALCULATIONS

A0.3C

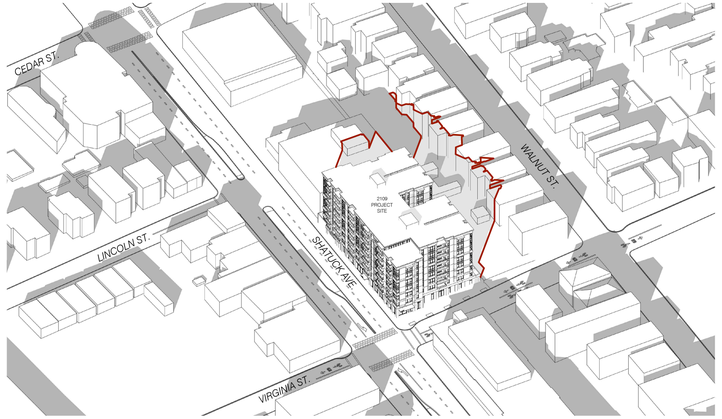
WINTER SOLSTICE
DEC 21ST:
2-HRS BEFORE SUNSET (PM)

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
1:240 @ 11X17 1:120 @ 24X36

N

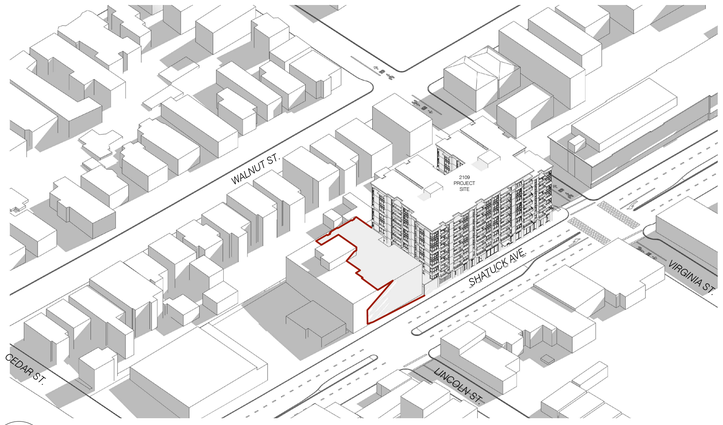
WINTER SOLSTICE
DEC 21ST:
NOON

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
1:240 @ 11X17 1:120 @ 24X36

N

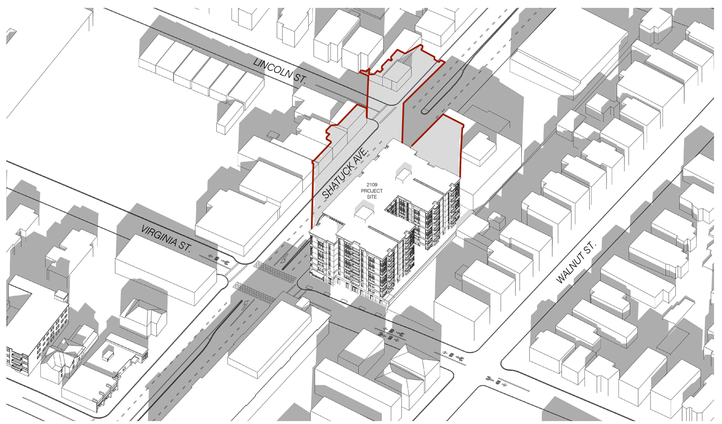
WINTER SOLSTICE
DEC 21ST:
2-HRS AFTER SUNRISE (AM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

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2 SHADOW STUDY AXONOMETRIC - AM
N.T.S.



1 SHADOW STUDY - AM
1:240 @ 11X17 1:120 @ 24X36

N

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SHEET:

SHADOW STUDIES
DECEMBER 21ST

A0.4A

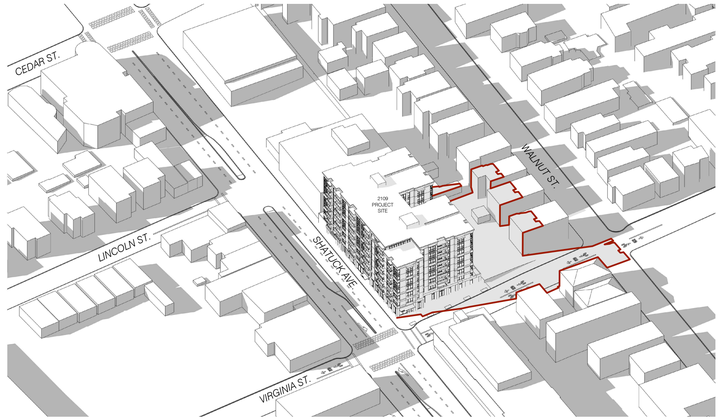
SUMMER SOLSTICE
JUN 21ST:
2-HRS BEFORE SUNSET (PM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

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6 SHADOW STUDY AXONOMETRIC - PM
N.T.S.



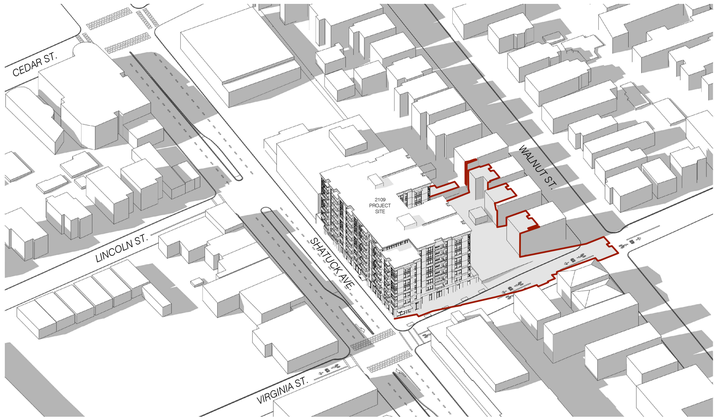
CURRENT
MAY 31ST:
2-HRS BEFORE SUNSET (PM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

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6 SHADOW STUDY AXONOMETRIC - PM
N.T.S.



5 SHADOW STUDY - PM
1:240 @ 11X17 1:120 @ 24X36

N

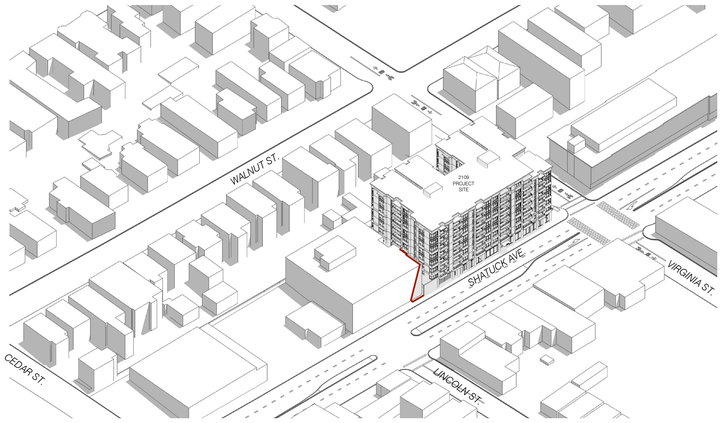
CURRENT
MAY 31ST:
NOON

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NT.S.



3 SHADOW STUDY - NOON
1:240 @ 11X17 1:120 @ 24X36

N

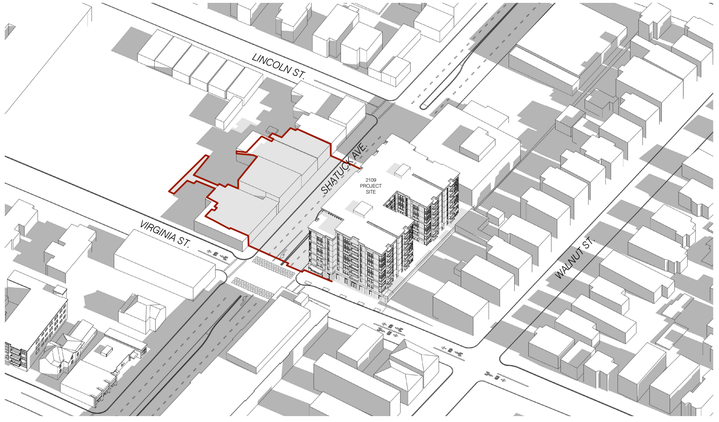
CURRENT
MAY 31ST:
2-HRS AFTER SUNRISE (AM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

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N.T.S.



1 SHADOW STUDY - AM
1:240 @ 11X17 1:120 @ 24X36

N

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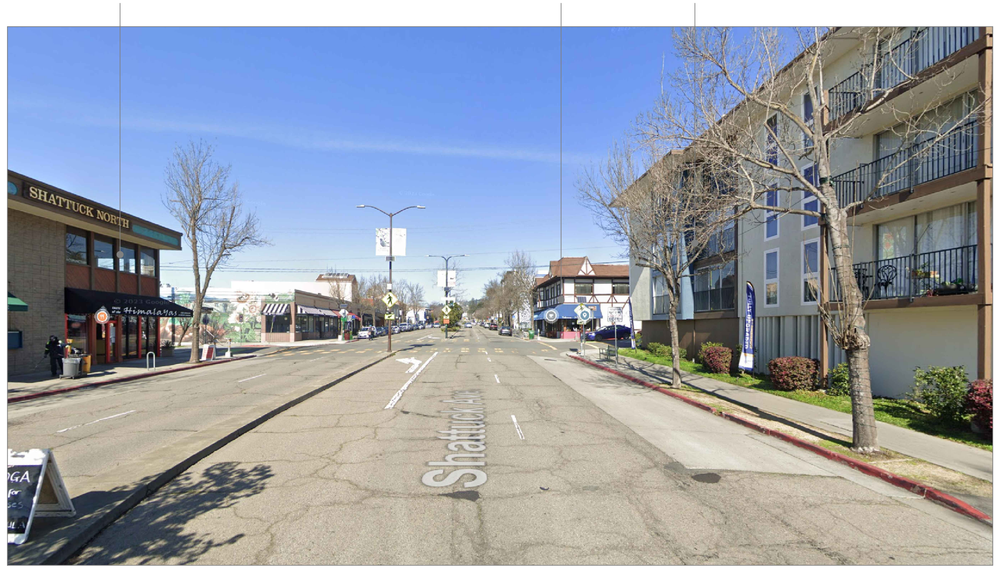
SHEET:

SHADOW STUDIES
MAY 31ST

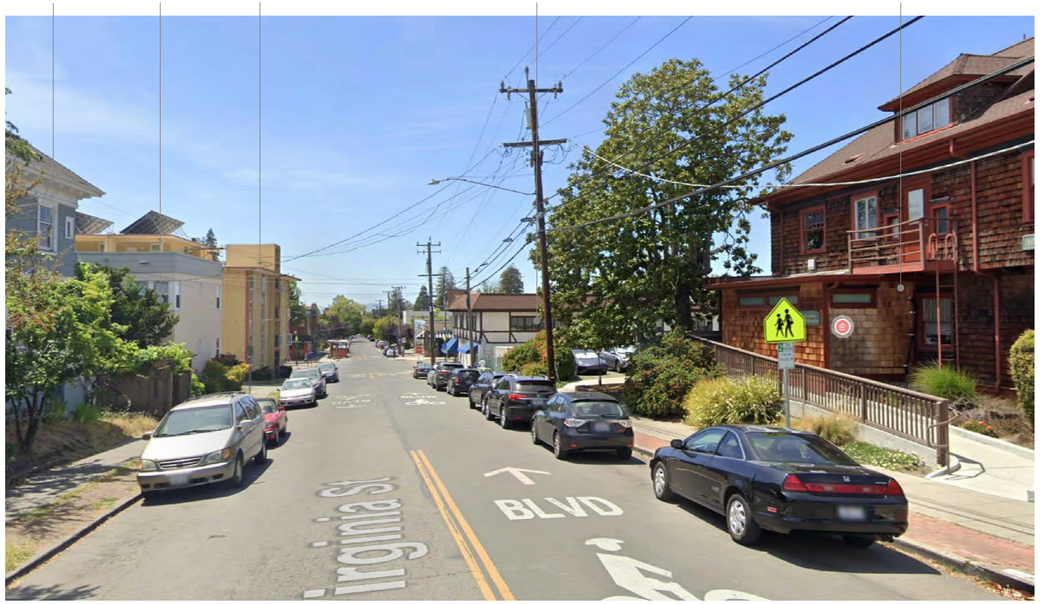
A0.4C



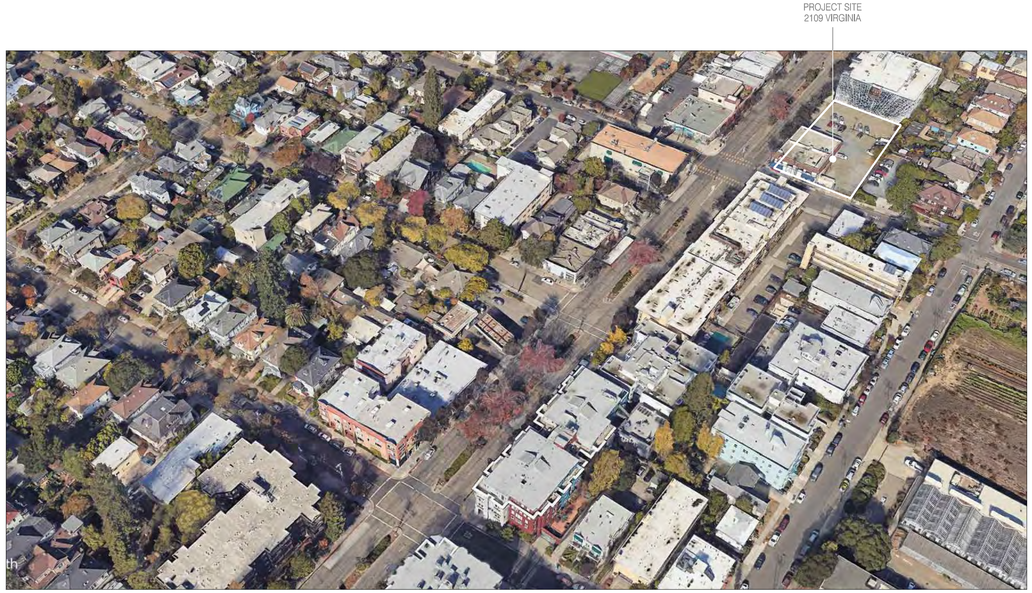
4 - VIEW FROM SHATTUCK LOOKING SOUTH



2 - VIEW FROM SHATTUCK LOOKING NORTH



3 - VIEW FROM VIRGINIA LOOKING WEST



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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RENEWAL DATE
STATE OF CALIFORNIA

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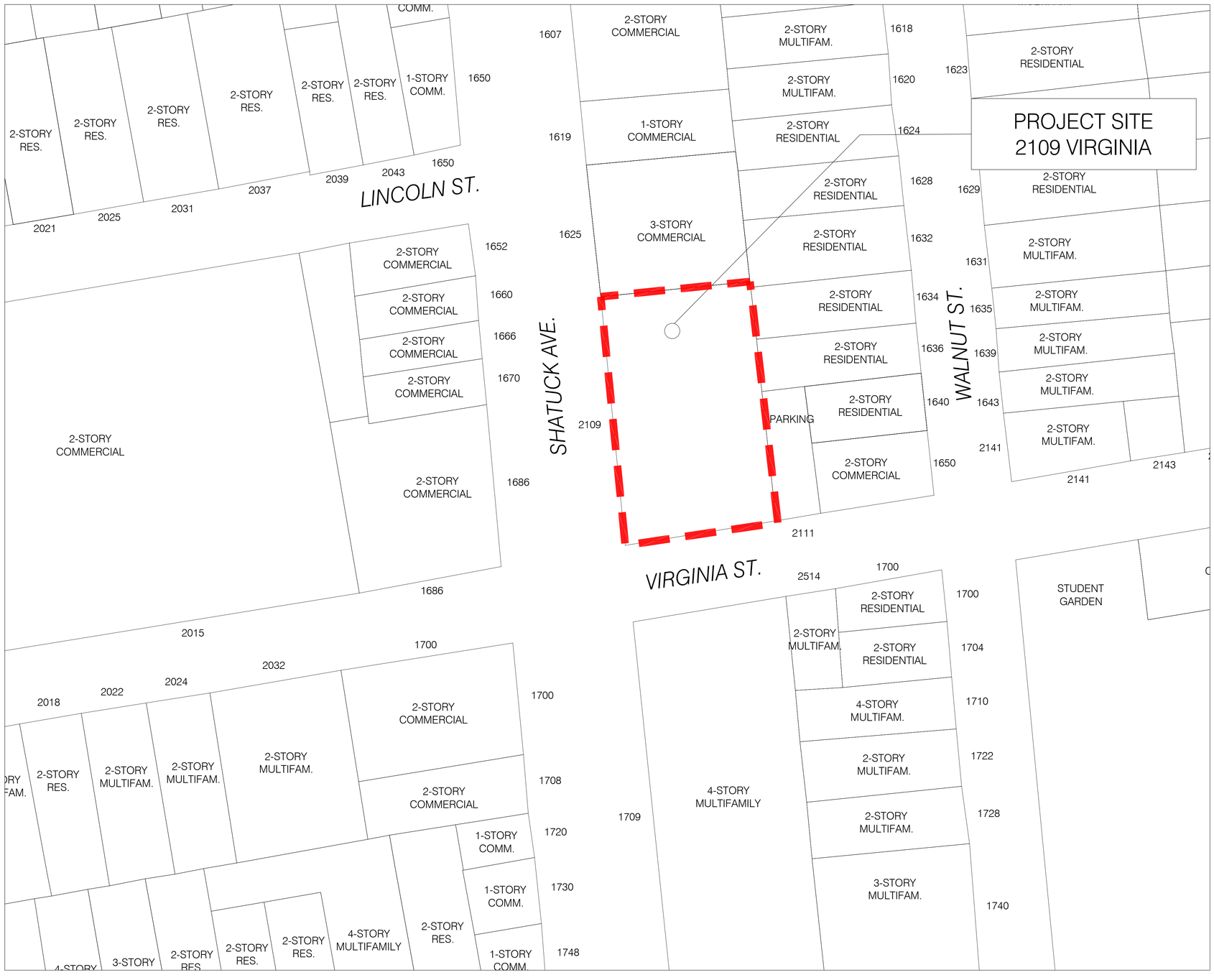
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JOB: 2109

SHEET:

SITE CONTEXT PHOTOS

A0.5



1 / - VICINITY MAP
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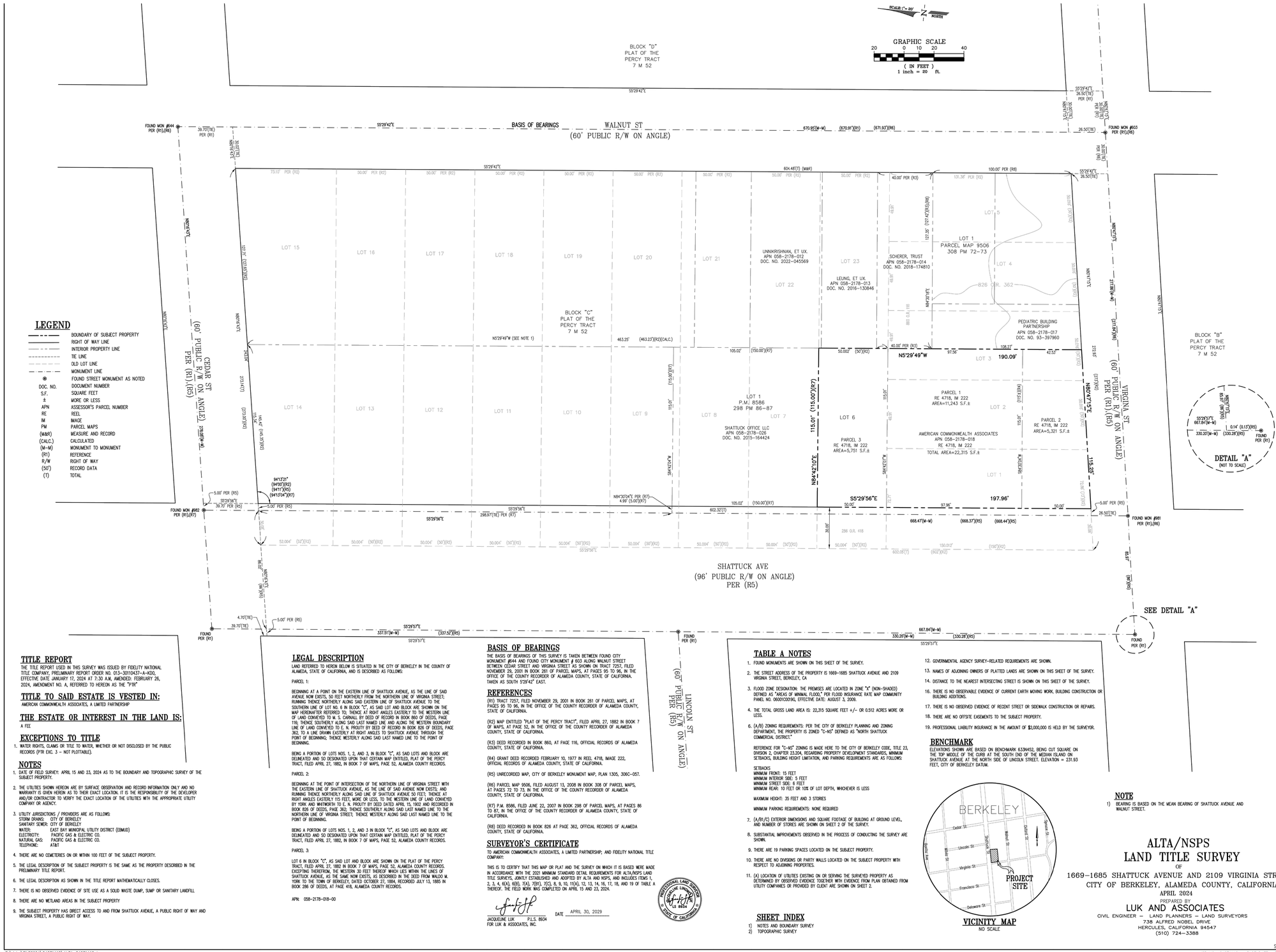
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JOB: 2341

SHEET:

VICINITY MAP

A0.6



LEGEND

	BOUNDARY OF SUBJECT PROPERTY
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	TIE LINE
	OLD LOT LINE
	MONUMENT LINE
⊕	FOUND STREET MONUMENT AS NOTED
DOC. NO.	DOCUMENT NUMBER
S.F.	SQUARE FEET
±	MORE OR LESS
APN	ASSESSOR'S PARCEL NUMBER
RE	REEL
IM	IMAGE
PM	PARCEL MAPS
(M&R)	MEASURE AND RECORD
(CALC.)	CALCULATED
(M=M)	MONUMENT TO MONUMENT
(R1)	REFERENCE
R/W	RIGHT OF WAY
(50')	RECORD DATA
(T)	TOTAL

TITLE REPORT

THE TITLE REPORT USED IN THIS SURVEY WAS ISSUED BY FIDELITY NATIONAL TITLE COMPANY, PRELIMINARY REPORT ORDER NO. 013-30110437-A-KDO, EFFECTIVE DATE JANUARY 17, 2024 AT 7:30 A.M., AMENDED: FEBRUARY 26, 2024, AMENDMENT NO. A, REFERRED TO HEREON AS THE "PTR"

TITLE TO SAID ESTATE IS VESTED IN:

AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP

THE ESTATE OR INTEREST IN THE LAND IS:

A FEE

EXCEPTIONS TO TITLE

1. WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT DISCLOSED BY THE PUBLIC RECORDS (PTR EXC. 3 – NOT PLOTTABLE).

NOTES

1. DATE OF FIELD SURVEY: APRIL 15 AND 23, 2024 AS TO THE BOUNDARY AND TOPOGRAPHIC SURVEY OF THE SUBJECT PROPERTY.
2. THE UTILITIES SHOWN HEREON ARE BY SURFACE OBSERVATION AND RECORD INFORMATION ONLY AND NO WARRANTY IS GIVEN HEREIN AS TO THEIR EXACT LOCATION. IT IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR CONTRACTOR TO VERIFY THE EXACT LOCATION OF THE UTILITIES WITH THE APPROPRIATE UTILITY COMPANY OR AGENCY.
3. UTILITY JURISDICTIONS / PROVIDERS ARE AS FOLLOWS:
   STORM DRAINS: CITY OF BERKELEY
   SANITARY SEWER: CITY OF BERKELEY
   WATER: EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)
   ELECTRICITY: PACIFIC GAS & ELECTRIC CO.
   NATURAL GAS: PACIFIC GAS & ELECTRIC CO.
   TELEPHONE: AT&T
4. THERE ARE NO CEMETERIES ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
5. THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY IS THE SAME AS THE PROPERTY DESCRIBED IN THE PRELIMINARY TITLE REPORT.
6. THE LEGAL DESCRIPTION AS SHOWN IN THE TITLE REPORT MATHEMATICALLY CLOSES.
7. THERE IS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL
8. THERE ARE NO WETLAND AREAS IN THE SUBJECT PROPERTY
9. THE SUBJECT PROPERTY HAS DIRECT ACCESS TO AND FROM SHATTUCK AVENUE, A PUBLIC RIGHT OF WAY AND VIRGINIA STREET, A PUBLIC RIGHT OF WAY.

LEGAL DESCRIPTION

LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BERKELEY IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

BEGINNING AT A POINT ON THE EASTERN LINE OF SHATTUCK AVENUE, AS THE LINE OF SAID AVENUE NOW EXISTS, 50 FEET NORTHERLY FROM THE NORTHERN LINE OF VIRGINIA STREET; RUNNING THENCE NORTHERLY ALONG SAID EASTERN LINE OF SHATTUCK AVENUE TO THE SOUTHERN LINE OF LOT NO. 6 IN BLOCK "C", AS SAID LOT AND BLOCK ARE SHOWN ON THE MAP HEREINAFTER REFERRED TO; THENCE AT RIGHT ANGLES EASTERLY TO THE WESTERN LINE OF LAND CONVEYED TO M. S. CARNALL BY DEED OF RECORD IN BOOK 860 OF DEEDS, PAGE 116; THENCE SOUTHERLY ALONG SAID LAST NAMED LINE AND ALONG THE WESTERN BOUNDARY LINE OF LAND CONVEYED TO E. N. PROUTY BY DEED OF RECORD IN BOOK 826 OF DEEDS, PAGE 362, TO A LINE DRAWN EASTERLY AT RIGHT ANGLES TO SHATTUCK AVENUE THROUGH THE POINT OF BEGINNING; THENCE WESTERLY ALONG SAID LAST NAMED LINE TO THE POINT OF BEGINNING.

BEING A PORTION OF LOTS NOS. 1, 2, AND 3, IN BLOCK "C", AS SAID LOTS AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED, PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882, IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS.

PARCEL 2:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERN LINE OF VIRGINIA STREET WITH THE EASTERN LINE OF SHATTUCK AVENUE, AS THE LINE OF SAID AVENUE NOW EXISTS; AND RUNNING THENCE NORTHERLY ALONG SAID LINE OF SHATTUCK AVENUE 50 FEET; THENCE AT RIGHT ANGLES EASTERLY 115 FEET, MORE OR LESS, TO THE WESTERN LINE OF LAND CONVEYED BY YORK AND WHITWORTH TO E. N. PROUTY BY DEED DATED APRIL 15, 1902 AND RECORDED IN BOOK 826 OF DEEDS, PAGE 362; THENCE SOUTHERLY ALONG SAID LAST NAMED LINE TO THE NORTHERN LINE OF VIRGINIA STREET; THENCE WESTERLY ALONG SAID LAST NAMED LINE TO THE POINT OF BEGINNING.

BEING A PORTION OF LOTS NOS. 1, 2, AND 3 IN BLOCK "C", AS SAID LOTS AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED, PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882, IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS.

PARCEL 3:

LOT 6 IN BLOCK "C", AS SAID LOT AND BLOCK ARE SHOWN ON THE PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882 IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS. EXCEPTING THEREFROM, THE WESTERN 30 FEET THEREOF WHICH LIES WITHIN THE LINES OF SHATTUCK AVENUE, AS THE SAME NOW EXISTS, AS DESCRIBED IN THE DEED FROM WALDO M. YORK TO THE TOWN OF BERKELEY, DATED OCTOBER 27, 1884, RECORDED JULY 13, 1885 IN BOOK 286 OF DEEDS, AT PAGE 418, ALAMEDA COUNTY RECORDS.

APN: 058-2178-018-00

BASIS OF BEARINGS

THE BASIS OF BEARINGS OF THIS SURVEY IS TAKEN BETWEEN FOUND CITY MONUMENT #644 AND FOUND CITY MONUMENT # 603 ALONG WALNUT STREET BETWEEN CEDAR STREET AND VIRGINIA STREET AS SHOWN ON TRACT 7257, FILED NOVEMBER 29, 2001 IN BOOK 281 OF PARCEL MAPS, AT PAGES 95 TO 96, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA. TAKEN AS SOUTH 5°29'42" EAST.

REFERENCES

(R1) TRACT 7257, FILED NOVEMBER 29, 2001 IN BOOK 281 OF PARCEL MAPS, AT PAGES 95 TO 96, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R2) MAP ENTITLED "PLAT OF THE PERCY TRACT", FILED APRIL 27, 1882 IN BOOK 7 OF MAPS, AT PAGE 52, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R3) DEED RECORDED IN BOOK 860, AT PAGE 116, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R4) GRANT DEED RECORDED FEBRUARY 10, 1977 IN REEL 4718, IMAGE 222, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R5) UNRECORDED MAP, CITY OF BERKELEY MONUMENT MAP, PLAN 1305, 306C-057.

(R6) PARCEL MAP 9506, FILED AUGUST 13, 2008 IN BOOK 308 OF PARCEL MAPS, AT PAGES 72 TO 73. IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R7) P.M. 8586, FILED JUNE 22, 2007 IN BOOK 298 OF PARCEL MAPS, AT PAGES 86 TO 87, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R8) DEED RECORDED IN BOOK 826 AT PAGE 362, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

SURVEYOR'S CERTIFICATE

TO AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP; AND FIDELITY NATIONAL TITLE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(A), 6(B), 7(A), 7(B), 7(C), 8, 9, 10, 11(A), 12, 13, 14, 16, 17, 18, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 15 AND 23, 2024.

JACQUELINE LUK P.L.S. 8934
FOR LUK & ASSOCIATES, INC.

DATE APRIL 30, 2029

PROFESSIONAL LAND SURVEYOR
JACQUELINE LUK
LS 8934
STATE OF CALIFORNIA

TABLE A NOTES

1. FOUND MONUMENTS ARE SHOWN ON THIS SHEET OF THE SURVEY.
2. THE STREET ADDRESS OF THE PROPERTY IS 1669–1685 SHATTUCK AVENUE AND 2109 VIRGINIA STREET, BERKELEY, CA
3. FLOOD ZONE DESIGNATION: THE PREMISES ARE LOCATED IN ZONE "X" (NON-SHADED) DEFINED AS "AREAS OF MINIMAL FLOOD," PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 06001C0019G, EFFECTIVE DATE: AUGUST 3, 2009.
4. THE TOTAL GROSS LAND AREA IS: 22,315 SQUARE FEET +/- OR 0.512 ACRES MORE OR LESS.
6. (A/B) ZONING REQUIREMENTS: PER THE CITY OF BERKELEY PLANNING AND ZONING DEPARTMENT, THE PROPERTY IS ZONED "C-NS" DEFINED AS "NORTH SHATTUCK COMMERCIAL DISTRICT."

   REFERENCE FOR "C-NS" ZONING IS MADE HERE TO THE CITY OF BERKELEY CODE, TITLE 23, DIVISION 2, CHAPTER 23.204, REGARDING PROPERTY DEVELOPMENT STANDARDS, MINIMUM SETBACKS, BUILDING HEIGHT LIMITATION, AND PARKING REQUIREMENTS ARE AS FOLLOWS:

   SETBACKS
   MINIMUM FRONT: 15 FEET
   MINIMUM INTERIOR SIDE: 5 FEET
   MINIMUM STREET SIDE: 6 FEET
   MINIMUM REAR: 10 FEET OR 10% OF LOT DEPTH, WHICHEVER IS LESS

   MAXIMUM HEIGHT: 35 FEET AND 3 STORIES

   MINIMUM PARKING REQUIREMENTS: NONE REQUIRED
7. (A/B1/C) EXTERIOR DIMENSIONS AND SQUARE FOOTAGE OF BUILDING AT GROUND LEVEL, AND NUMBER OF STORIES ARE SHOWN ON SHEET 2 OF THE SURVEY.
8. SUBSTANTIAL IMPROVEMENTS OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY ARE SHOWN.
9. THERE ARE 19 PARKING SPACES LOCATED ON THE SUBJECT PROPERTY.
10. THERE ARE NO DIVISIONS OR PARTY WALLS LOCATED ON THE SUBJECT PROPERTY WITH RESPECT TO ADJOINING PROPERTIES.
11. (A) LOCATION OF UTILITIES EXISTING ON OR SERVING THE SURVEYED PROPERTY AS DETERMINED BY OBSERVED EVIDENCE TOGETHER WITH EVIDENCE FROM PLAN OBTAINED FROM UTILITY COMPANIES OR PROVIDED BY CLIENT ARE SHOWN ON SHEET 2.
12. GOVERNMENTAL AGENCY SURVEY-RELATED REQUIREMENTS ARE SHOWN.
13. NAMES OF ADJOINING OWNERS OF PLATTED LANDS ARE SHOWN ON THIS SHEET OF THE SURVEY.
14. DISTANCE TO THE NEAREST INTERSECTING STREET IS SHOWN ON THIS SHEET OF THE SURVEY.
16. THERE IS NO OBSERVABLE EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
17. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
18. THERE ARE NO OFFSITE EASEMENTS TO THE SUBJECT PROPERTY.
19. PROFESSIONAL LIABILITY INSURANCE IN THE AMOUNT OF $2,000,000 IS HELD BY THE SURVEYOR.

BENCHMARK

ELEVATIONS SHOWN ARE BASED ON BENCHMARK 633N452, BEING CUT SQUARE ON THE TOP MIDDLE OF THE CURB AT THE SOUTH END OF THE MEDIAN ISLAND ON SHATTUCK AVENUE AT THE NORTH SIDE OF LINCOLN STREET. ELEVATION = 231.93 FEET, CITY OF BERKELEY DATUM.

NOTE

1) BEARING IS BASED ON THE MEAN BEARING OF SHATTUCK AVENUE AND WALNUT STREET.

SHEET INDEX

1) NOTES AND BOUNDARY SURVEY
2) TOPOGRAPHIC SURVEY

VICINITY MAP
NO SCALE

ALTA/NSPS LAND TITLE SURVEY

OF

1669–1685 SHATTUCK AVENUE AND 2109 VIRGINIA STREET
CITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA

APRIL 2024

PREPARED BY
LUK AND ASSOCIATES
CIVIL ENGINEER – LAND PLANNERS – LAND SURVEYORS
738 ALFRED NOBEL DRIVE
HERCULES, CALIFORNIA 94547
(510) 724-3388

F:\Jobs\FILE2024\24071A10\ALTA-24071A10.dwg JOB NO.: 24071A10 PLOT DATE: APRIL 30, 2024

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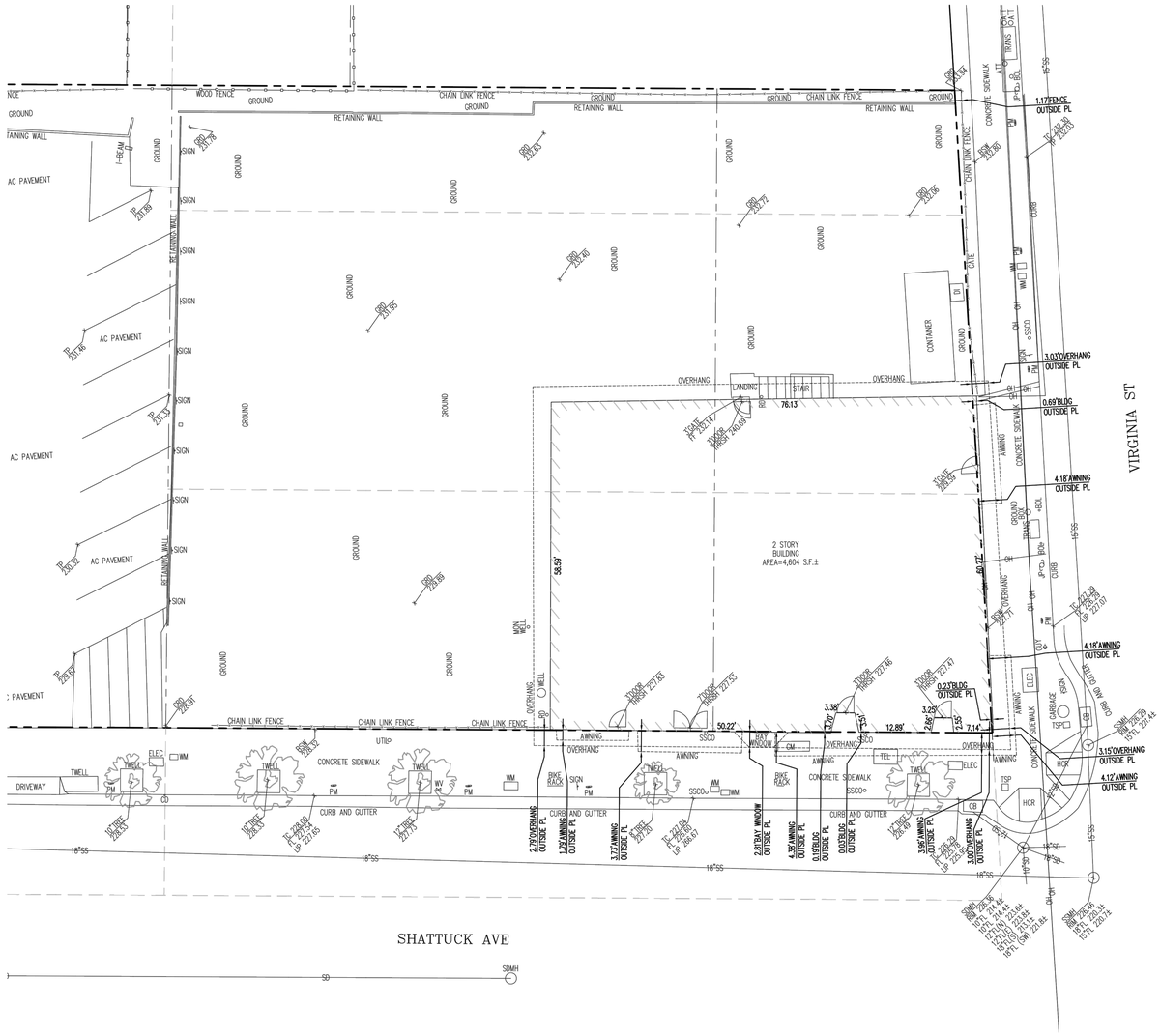
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JOB: 2341

SHEET:

SURVEY

A2.0a



LEGEND

SYMBOLS	DESCRIPTION
	BOUNDARY OF SUBJECT PROPERTU
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	OLD LOT LINE
	BUILDING LINE
OH	OVERHEAD WIRE LINE
SD	STORM DRAIN LINE
SS	SANITARY SEWER LINE
TSP	TRAFFIC SIGNAL POLE
JP	JOINT POLE
AC PAVEMENT	ASPHALT CONCRETE
UTIL PANEL	UTILITY PANEL
HCR	HANDICAP RAMP
ELEC	ELECTRIC BOX
GM	GAS METER
BOL	BOLLARD
CB	CATCH BASIN
TEL	TELECOMMUNICATION BOX
DI	DRAIN INLET
WM	WATER METER
CD	CURB DRAIN
CO	CLEAN OUT
SSCO	SANITARY SEWER CLEAN OUT
TRANS	TRANSFORMER
GUY	GUY WIRE
WV	WATER VALVE
TWELL	TREE WELL
ATT	TLECOMMUNICATION BOX
PM	PARKING METER
SSMH	SANITARY SEWER MANHOLE
RD	ROOF DRAIN
MON WELL	MONITORING WELL
BSW 65.60	BACK OF SIDEWALK ELEVATION
TC 65.64	TOP OF CURB ELEVATION
TP 65.64	TOP OF PAVEMENT ELEVATION
FL 65.64	FLOW LINE ELEVATION
TOP STAIR 65.64	TOP OF STAIR ELEVATION
BOT STAIR 65.64	BOTTOM OF STAIR ELEVATION
TOP BLDG 65.64	TOP OF BUILDING ELEVATION
THRSH 65.60	THRESHOLD ELEVATION
CONC 65.60	TOP OF CONCRETE ELEVATION
	TREE

SCALE: 1"= 10'
NORTH

GRAPHIC SCALE
10 0 5 10 20
(IN FEET)
1 inch = 10 ft.

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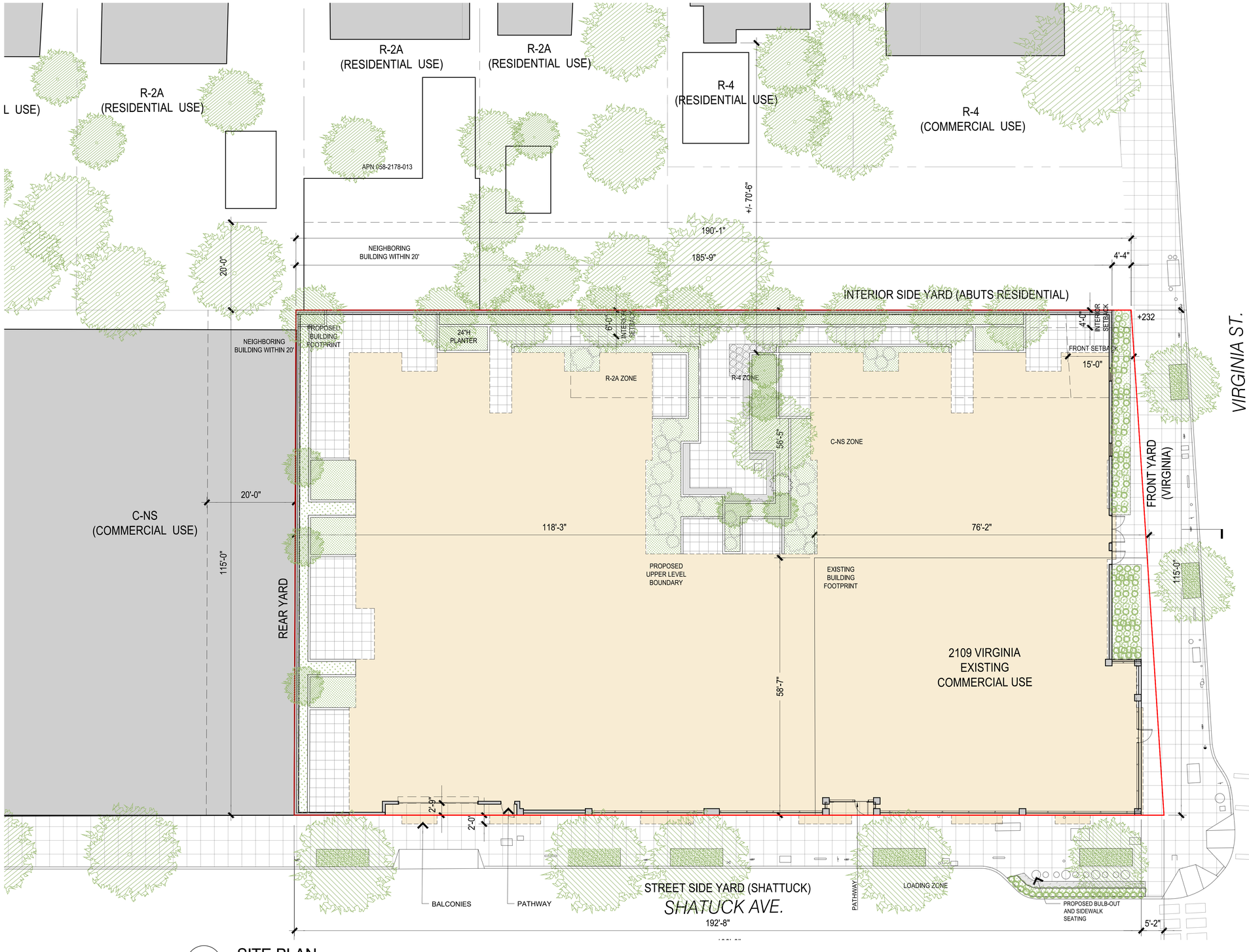
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JOB: 2341

SHEET:

SURVEY

A2.0b



SITE PLAN
3/32" = 1'-0"

0 4 8

N

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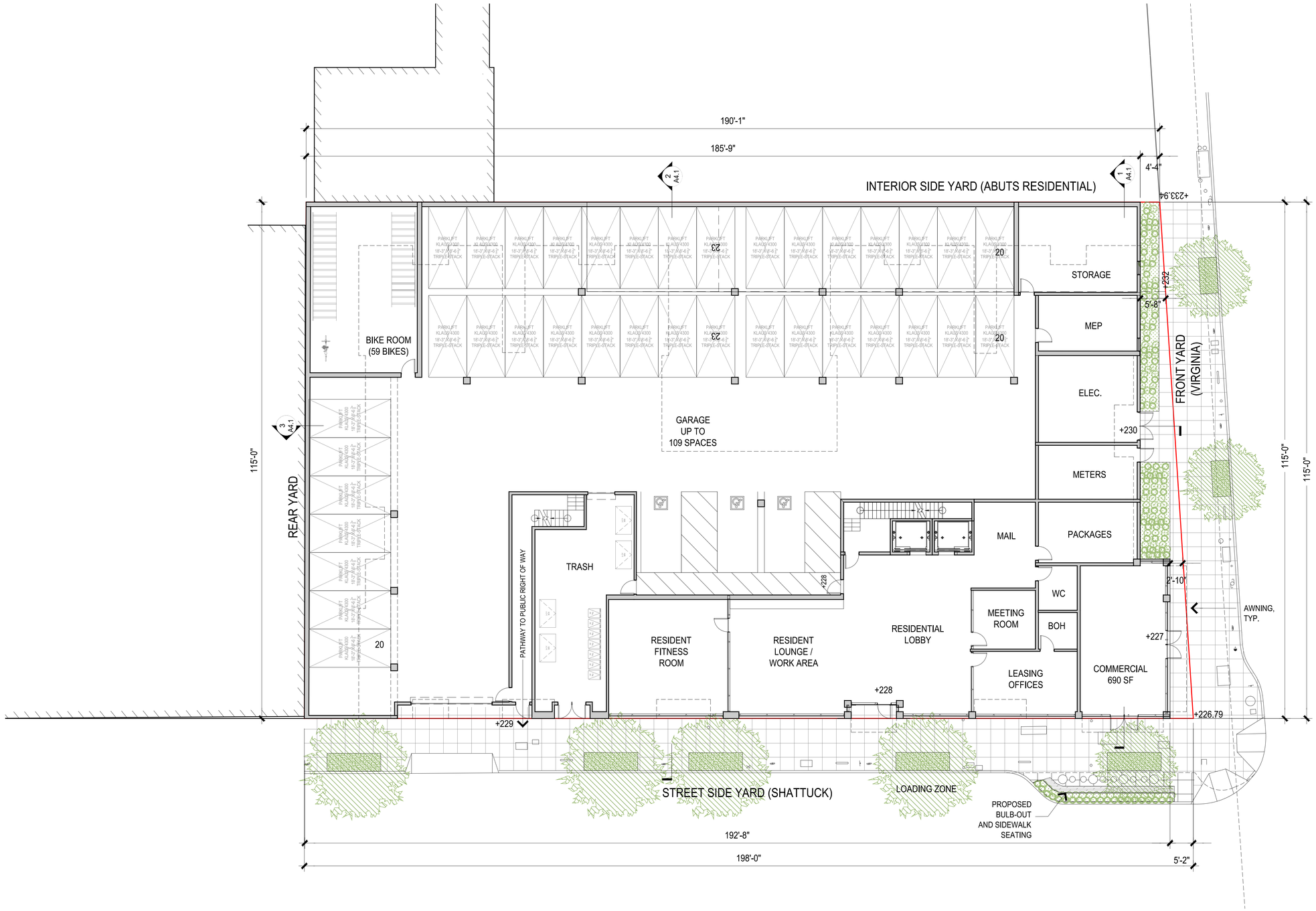
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JOB: 2341

SHEET:

PROPOSED SITE PLAN

A2.0c



PLAN AT GROUND LEVEL

3/32" = 1'-0"

0 4 8

N

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JOB: 2341

SHEET:

PROPOSED FLOOR PLAN

A2.1



STREET SIDE YARD (SHATTUCK)

PLAN AT LEVEL 2 PODIUM

3/32" = 1'-0"

0 4 8

N

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SHEET:

PROPOSED FLOOR PLAN

A2.2



PLAN AT LEVELS 3-7

3/32" = 1'-0"

0 4 8

N

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JOB: 2341

SHEET:

PROPOSED
FLOOR
PLAN

A2.3



PLAN AT LEVEL 8

3/32" = 1'-0"

0 4 8

N

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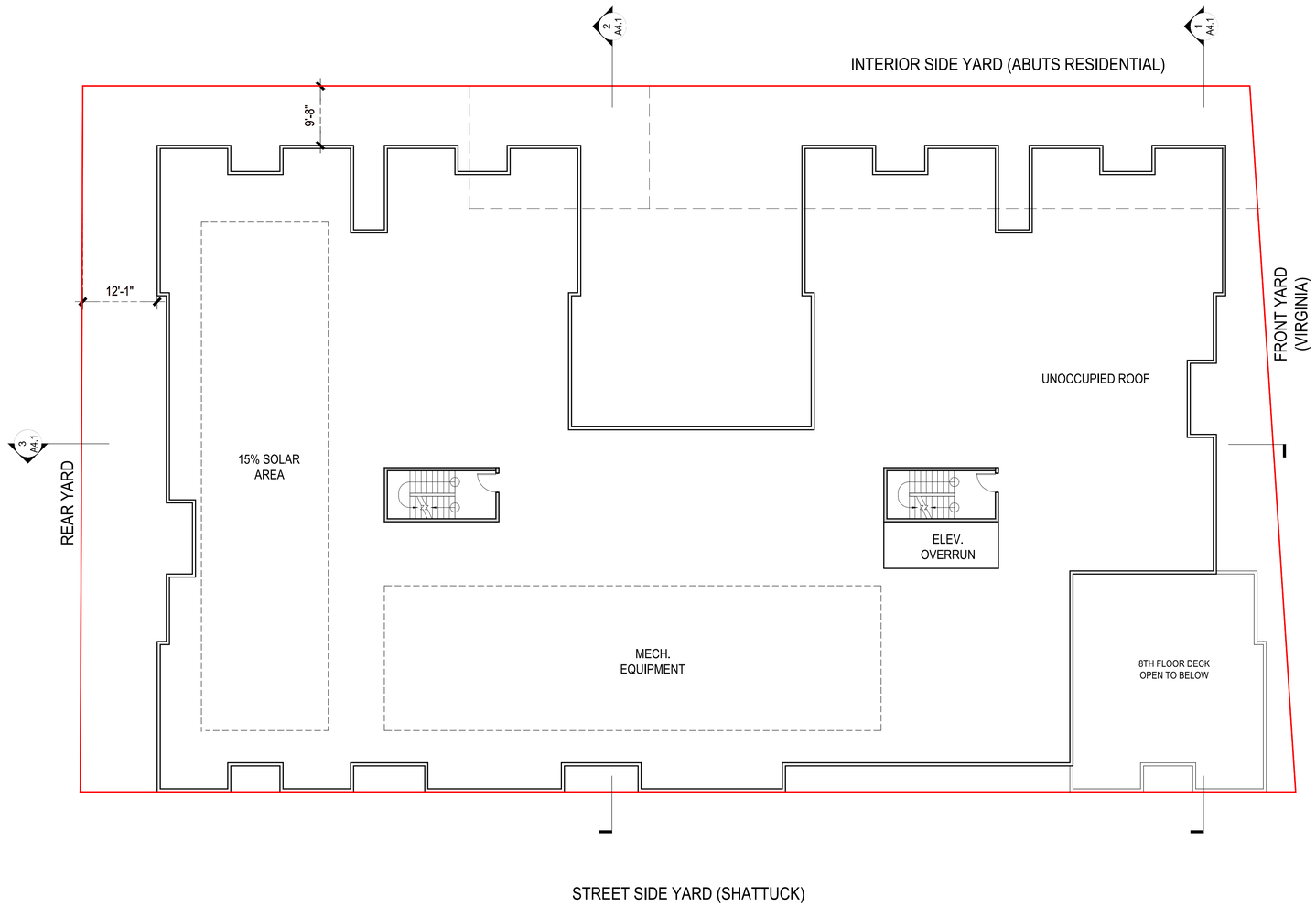
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JOB: 2341

SHEET:

PROPOSED FLOOR PLAN

A2.4



- PLAN AT ROOF
3/32" = 1'-0"

0 4 8

N

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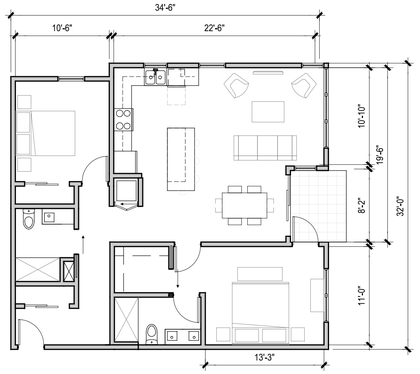
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JOB: 2341

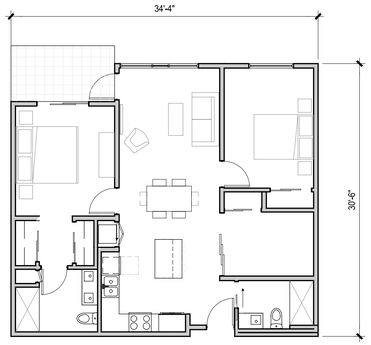
SHEET:

PROPOSED
ROOF
PLAN

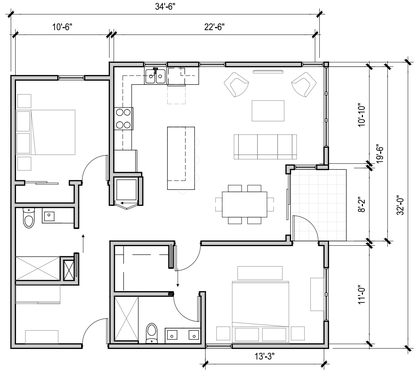
A2.5



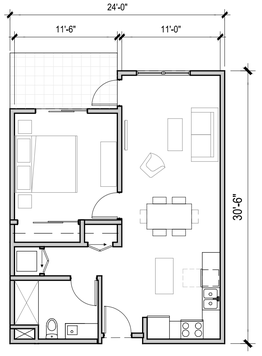
2BR CORNER UNIT AT WEST
1,075 SF



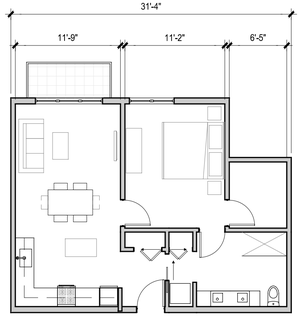
2BR PLUS OFFICE
1,000 SF



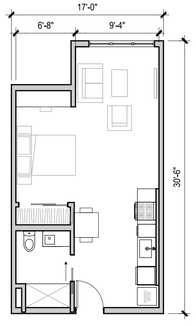
2BR CORNER UNIT AT EAST
1,075 SF



1BR
677 SF



1BR AT COURTYARD
706 SF



STUDIO
485 SF

TYPICAL UNIT PLANS

3/32" = 1'-0"

0 4 8

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JOB: 2341

SHEET:

PROPOSED
UNIT
PLANS

A2.6



1 A3.1 WEST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.1

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1 A3.2 SOUTH ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.2

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1 A3.3 EAST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.3



1 A3.4 NORTH ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.4



2 - VIRGINIA ST.

1/32"=1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

0 4 8 16 32



1 - SHATTUCK AVE.

1/32"=1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

0 4 8 16 32

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JOB: 2341

SHEET:

STREET STRIP ELEVATIONS

A3.5



4
A3.6
SHATTUCK LOOKING SOUTH - AFTER



2
-
VIRGINIA LOOKING WEST - AFTER



3
A3.6
SHATTUCK LOOKING SOUTH - BEFORE



1
-
VIRGINIA LOOKING WEST - BEFORE

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SHEET:

PHOTO MATCH VIEWS

A3.6

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1 - PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

-

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SHEET:

CONCEPTUAL RENDERING

A3.7

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1 - PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.8



1 - SIDEWALK VIEW - SHATTUCK LOOKING NORTH

-

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.9

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1 - PERSPECTIVE VIEW - SHATTUCK LOOKING SOUTHEAST
-

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.10

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1 - PERSPECTIVE VIEW - VIRGINIA LOOKING WEST
-

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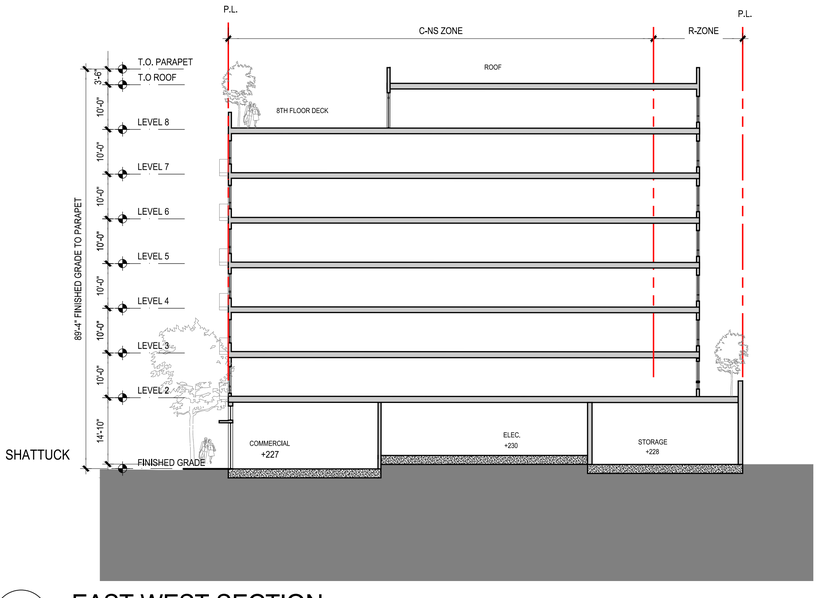
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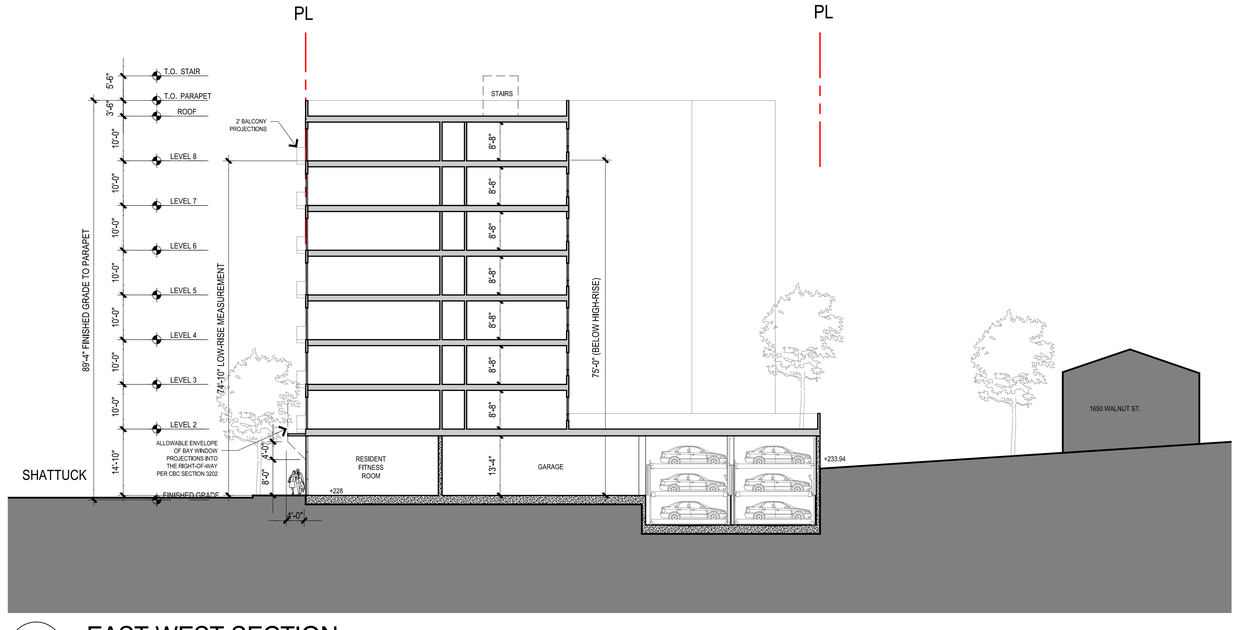
SHEET:

CONCEPTUAL RENDERING

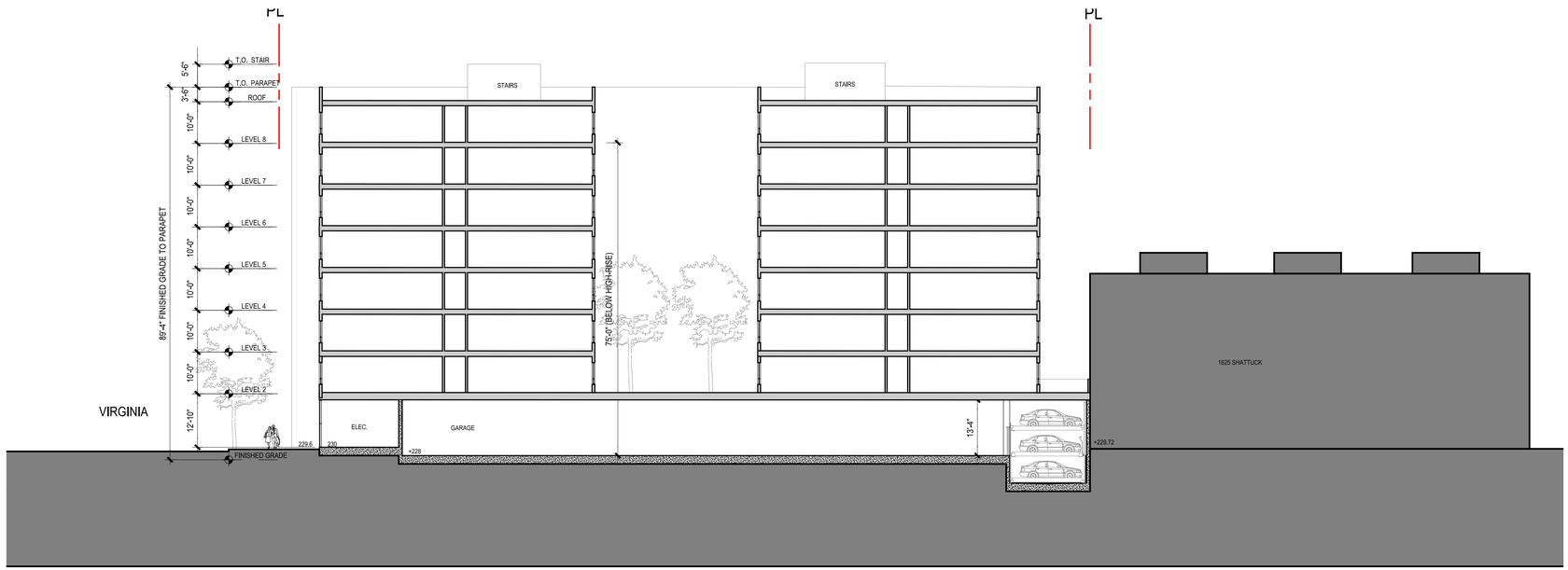
A3.11



1 - EAST WEST SECTION
1/16" = 1'-0" -



2 - EAST WEST SECTION
1/16" = 1'-0" -



3 - NORTH SOUTH SECTION
1/16" = 1'-0" -

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JOB: 2341

SHEET:

PROPOSED SECTIONS

A4.1



CUT AND FILL CALCULATIONS

	CUT/FILL AREA	AVERAGE CUT/FILL DEPTH (FT)	TOTAL VOLUME (CY)
PROPOSED BUILDING and SITE	22,335	5.25	4,343

EARTHWORK NOTES:

1. EARTHWORK QUATNITY IS A ROUGH ESTIMATE BASED ON APPROXIMATE DEPTH OF BOTTOM OF BASEMENT PARKING LEVEL.

2. EARTHWORK QUANTITIES DO NOT TAKE INTO ACCOUNT SOIL SHRINKAGE, SOIL SWELLING, TRENCH SPOILS, SITE OVER-EXCAVATION REQUIREMENTS.

1 / - PRELIMINARY GRADING PLAN

1/16" = 1'-0" -

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JOB: 2341

SHEET:

PRELIMINARY
GRADING PLAN

A5.1



METAL INFILL PANEL



WOOD LOOK SIDING



THIN BRICK



DECORATIVE METAL BALCONY



1 - WEST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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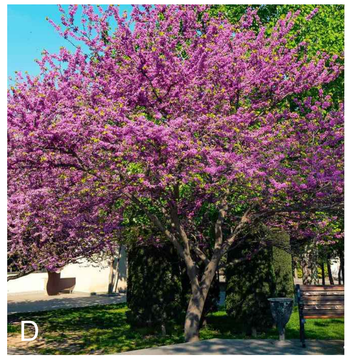
SHEET:

BUILDING MATERIALS

MAT





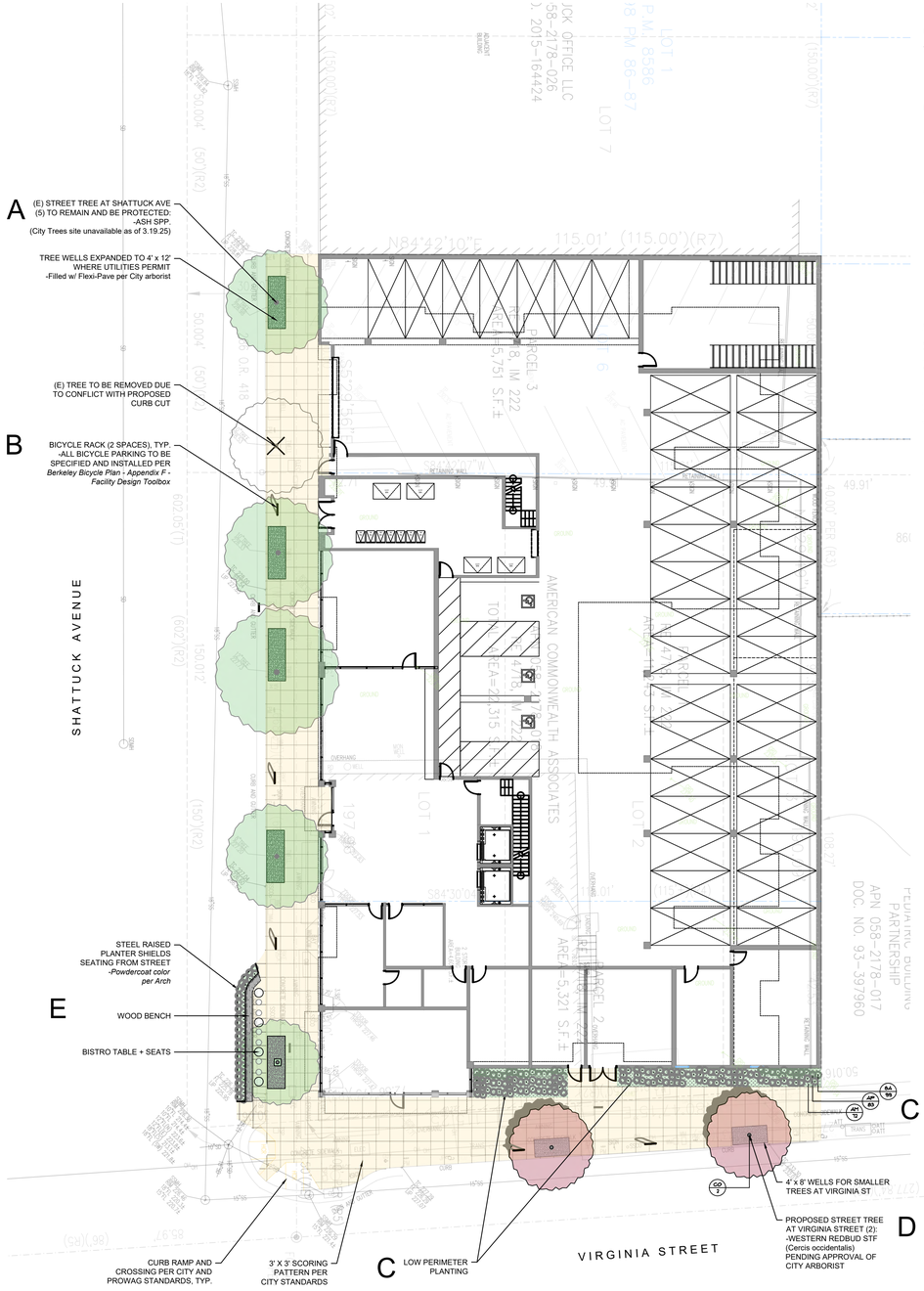












Plant List

Sche.	Latin Name	Common Name	Size	Qty	Spacing	WUCOLS	Exposure	FTP*	Notes + Pollinator Supported	CA Native
Trees										
AF	Acer negundo 'Flamingo'	Flamingo Box Elder	24" box STF	1	As Shown	M	SU, P	X	**Courtyard tree** - Specimen. *Alopmilo ortis, Atopylla pumelaro, Anacompsis cyanoptera, Callophrys augustinus*	C
CO	Cercis occidentalis	Western Redbud	24" box STF	2	As Shown	VL	SU, P	X	**Street tree on Virginia**, *Anaitopora pyramidalaba, Antipa argyropalp, Blaton flavirostris, Cercyon-tinctorius*	X
CT	Citrus x mayeri		24" box	1	As Shown	M	SU		**Roof deck tree** - Edible.	
MD	Malus domestica	Multi Grafted Apple	15 gal espalier	1	As Shown	M	SU		**Roof deck tree** - Edible.	
PT	Pittosporum tenuifolium 'Silver Sheen'	Silver Sheen Kohuhu	15 gallon	28	4'-0" o.c.	M	SU, P		**Courtyard tree** - Screening.	
Shrubs										
AA	Agave attenuata 'Boutin Blue' 'Nova'	Blue Fox Tail Agave	15 gallon	2	36"	L	any			
AH	Arctostaphylos densiflora 'Dr. Hurd'	Dr. Hurd Manzanita	15 gallon	4	As Shown	L	SU, P	X	**Courtyard shrub** - Accent. *Callophrys augustinus, Eglis pembleria, Hesperomila lagilinaeae*	C
BA	Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama Grass	1 gallon	106	36"	L	SU, P	X	Taller than the species. *Hesperia pahaska,, Hesperia uncas, Nicelmiosa rubiguli, Ochlodes sylvanoides*	C
CM	Ceanothus 'Marie Simon'	Marie Simon Ceanothus (pale pink)	15 gallon	50	60"	L	SU, P			H
CS	Cornus sericea (L. Sisterhere 'Hedgerow Gold'	Hedgerow Gold Redwig Dogwood	15 gallon	3		M	any		**Courtyard shrub** - Accent.	X
DM	Dahlia 'Moltzi Dreamer'	Moltzi Dreamer Dahlia	1 gallon	2		M	SU, PA			
RW	Rosa sanguineum 'White Icicle'	White Icicle Flowering Currant	15 gallon	2		L	any		**Courtyard shrub** - Accent. Paler flower than the species.	C
MP	Mahonia pinnata	California Holly Grape			48"	L	any		**Courtyard shrub** - Accent.	
YF	'Yucca flamentosa x yaletta 'Silver Anniversary'	Silver Anniversary Yucca (spineless)	10 gallon	3	48"	L	SU			
Groundcovers and Vines										
AM	Achillea millefolium 'Sonoma Coast'	Sonoma Coast Yarrow	1 gallon	72	18"	L	SU		*Aethes smathmoniana, Gillweia hera, Hemaris diffinis, Hoplias fatfunsis, Lachlopolis oleracea*	X
AP	Aristida purpurea	Purple Three-Awn	1 gallon	83	18"	L	SU, P		*Butterflies, bumblebees and sweat bees.*	X
CP	Calyptegia macrostegia 'Anacapa Pink'	Anacapa Pink Island Morning Glory	1 gallon	57		L, M	SU			C
DP	Dudleya pulverulenta	Chalk Dudleya	1 gallon	19	as shown	L	SU, PA		*Agonidiotes franciscana, Callophrys mossii, Cryptoblabes hemidesma*	X
EG	Erigeron glaucus 'Sea Breeze'	Sea Breeze Seaside Daisy	4" pots	33	12"	L	any	X	*Agonidiotes Fernisenna, Platyzelle williamsi, Chlorgone gaddi, Chlorgone jodis*	X
EN	Echeveria 'Nodulosa'	Painted Echeveria	1 gallon	6	as shown	L	any			https://devilmountainnursery.com/echeveria-nodulosa/
EX	Erigeron karvinskianus	Fleabane	4" pots	31	24"	L	any	X	*Smaller flower, finer foliage than Erigeron glaucus.*	
ID	Iris douglasiana	Douglas Iris	1 gallon	92	18"	L	any			X
JP	Jasminum polyanthum	Pink Jasmine	1 gallon	46		M	any			
LA	Lavandula angustifolia 'Munstead'	Munstead English Lavender	1 gallon	16	15"	L	SU		**Roof deck border** - Edible, evergreen accent.	
LC	Leymus condensatus 'Canyon Prince'	Canyon Prince Blue Wild Rye	1 gallon	21	36"	L	any	X	Blue foliage than the species.	C
PS	Passiflora edulis 'Nancy Garrison'	Nancy Garrison Passion Fruit	5 gallon	1	as shown	M	SU		**Roof deck vine** - Edible.	
SA	Salvia apiana 'Compacta'	Dwarf California White Sage	1 gallon	69	24"	L	any	X	*Hummingbirds, Xiaguida virilis, Anthrocydilla leucosticta, Agrapsha californica, Pheme subocreata*	X
SS	Sedum spathulifolium 'Cape Blanco' or 'Purpureum'	Pacific Stonecrop	1 gallon	42	12"	L	any		*Caliopillars, butterflies.*	X

Note: All plantings will be watered by an automated irrigation system compliant with City of Berkeley code. Water calculations will be documented and submitted to City for review. The proposed planting shall be WELO compliant.

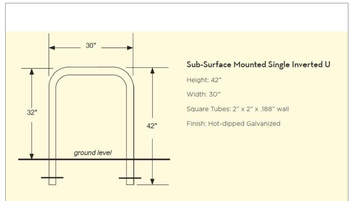
Note: approximately 85% of specified plants will be California native and wildlife-supporting.
X = California native; C = Cultivar of CA native; H = Hybrid of CA native

**Species appropriate for FTP if needed. Species selected for flow-through planters (FTP) per Stormwater C.3 Guidebook (Dabiel et. al. 2022) and San Francisco Stormwater Management Requirements and Design Guidelines (SMR).*

Berkeley to USDA Site and Sunset 17

Non-native columnar screening tree search: https://selectree.calpoly.edu/search-results?filterData=mol7meHeight=100Tree_shape=Columnar?foliage_type=Evergreen?sunset_climate_zone=17?changed=treeSizeFlag=1&resultsPerPage=50&sort=1
CA native screening tree search: https://selectree.calpoly.edu/search-results?filterData=mol7meHeight=100Tre_native=1?foliage_type=Evergreen?sunset_climate_zone=17?changed=treeNativeFlag=1?changed=treeSizeFlag=1&resultsPerPage=50&sort=1

CA native screening tree search max 20' width: https://calscape.org/search/?plant=&orderBy=&location_name=&lat=&lng=&page=1&perPage=48&plant_type%5B%5D=tree&common_size%5B%5D=Container&common_size%5B%5D=Hedge&height_from=&height_to=&width_from=&width_to=30&deciduous%5B%5D=Evergreen



North

1/16" = 1'-0"

0 8 16 32

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JOB: 2109

SHEET:

Ground Level Streetscape and UOS

L1-SS







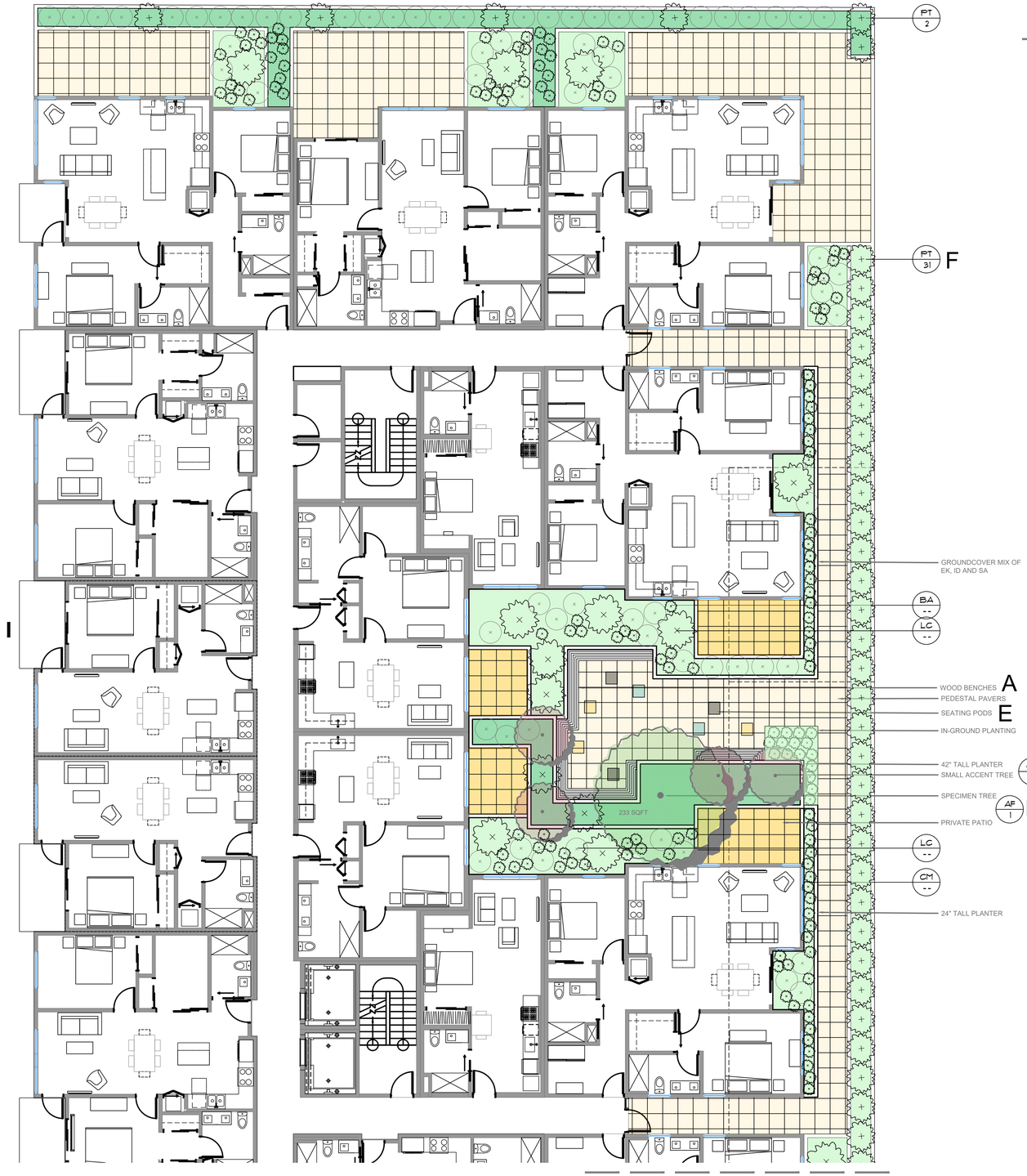


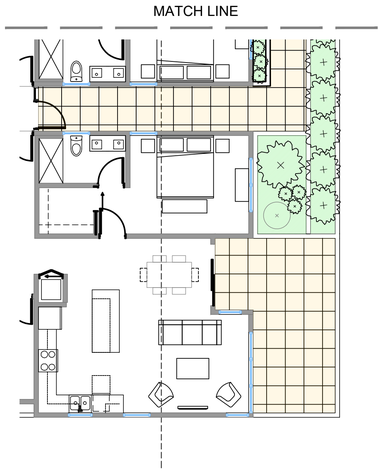














North 0 4 8 16 1/8"=1'-0"

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JOB: 2109

SHEET:

Second Level Courtyard

L2-CY



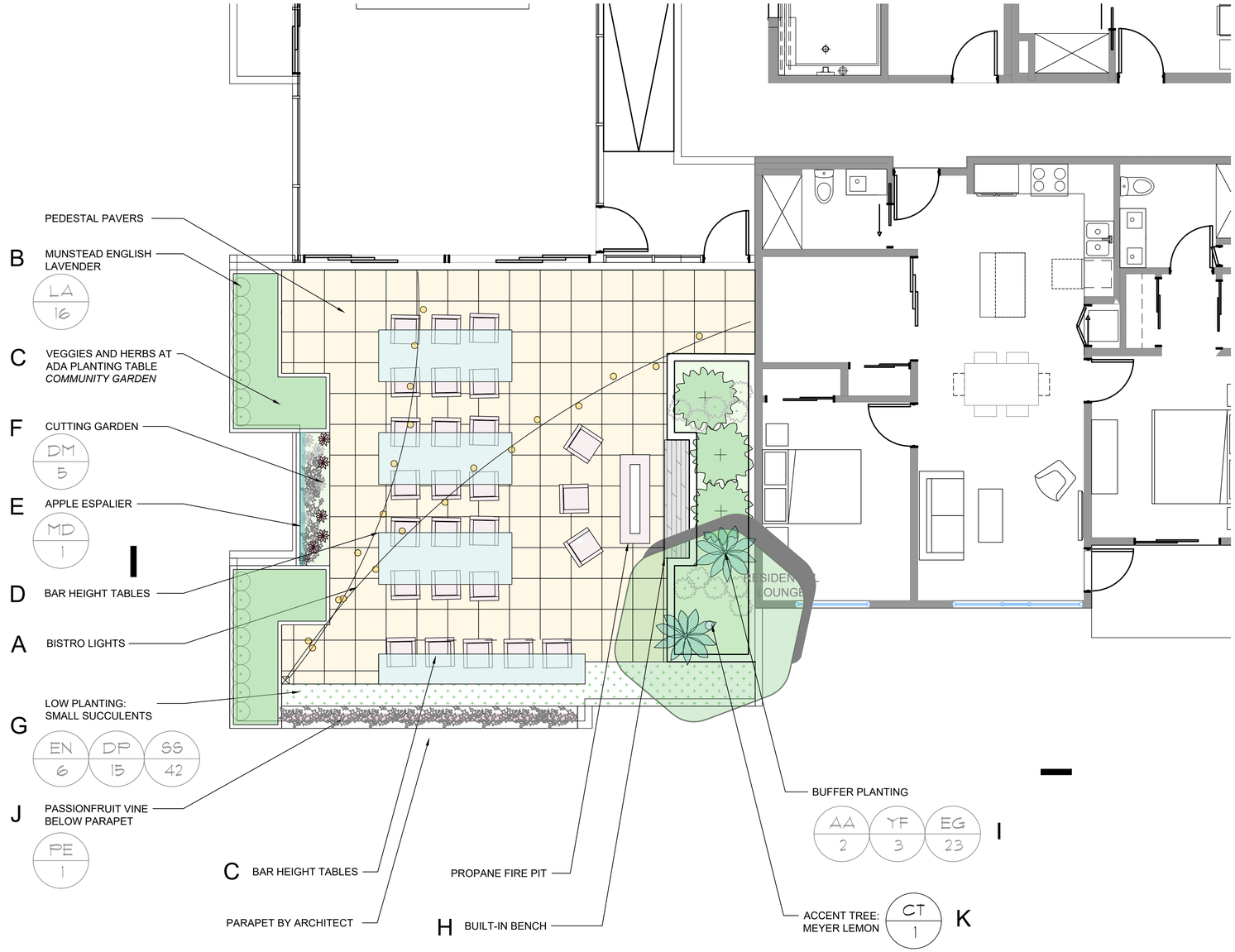
























North

1/4" = 1'-0"

0 2 4 8

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JOB: 2109

SHEET:

Eighth Level
Roof Deck

L3-RD

STREET TREE COORDINATION NOTES:

a) PROPOSED STREET TREE SPECIES, LOCATION, AND CONDITIONS SUBJECT TO ONGOING REVIEW AND APPROVAL BY THE CITY OF BERKELEY'S MANAGING CONSULTING URBAN FORESTER AND ARBORIST. ~~PROPOSED STREET TREES ARE CURRENT WITH EXISTING UTILITIES AS OF xx.xx.2024 AND~~ WILL BE SUBJECT TO ADDITIONAL REVIEW AFTER PROPOSED UTILITIES ARE FINALIZED.

b) TREE PROTECTION FENCING LOCATIONS AND DETAILS TO BE ADDED TO THE DEMOLITION PLAN IN BUILDING PERMIT SET.

c) CLEARANCE PRUNING REQUIRES PRIOR APPROVAL OF THE CITY. APPROVED CLEARANCE PRUNING SHALL BE COMPLETED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BEST MANAGEMENT PRACTICES FOR PRUNING (INTERNATIONAL SOCIETY OF ARBORICULTURE) AND THE AMERICAN NATIONAL STANDARD FOR TREE CARE OPERATIONS (Z133.1) AND PRUNING (A300, PART 1). TREES SHALL NOT BE TOPPED OR HEADED BACK. TREE PRUNING SHALL BE COMPLETED TO REDUCE LIMBS FOR CLEARANCE WHILE MAKING THE SMALLEST CUTS POSSIBLE. TREE PRUNING SHOULD BE LIMITED TO MINOR BRANCHES. BRANCH REMOVAL OR REDUCTION CUTS (THINNING CUTS) ARE TO BE EMPLOYED RATHER THAN HEADING CUTS.

d) ALL EXISTING STREET TREES (INCLUDING ANY OF THEIR BRANCHES) ADJACENT TO PLANNED CONSTRUCTION SCAFFOLDING MUST BE PROTECTED FROM MECHANICAL INJURY.

e) ROOT PRUNING REQUIRES PRIOR APPROVAL OF THE CITY AND SHALL BE SUPERVISED BY THE PROJECT ARBORIST. SEE NOTES BELOW FOR MORE INFORMATION.

STREET TREE PROTECTION DURING CONSTRUCTION NOTES:

a) ALL TREE PROTECTION REQUIREMENTS AND RESTRICTIONS SHALL BE INCLUDED IN THE CONSTRUCTION NOTES AND PRINTED ON ALL COPIES OF THE PLANS. INCLUDE THE NAME AND PHONE NUMBER OF THE PARTY THAT WILL MONITOR THE SITE AND ENSURE THE TREE PROTECTION MEASURES ARE BEING FOLLOWED; AND WHAT THE MONITORING SCHEDULE WILL BE: **NAME / PHONE / SCHEDULE**

b) TREE PROTECTION ZONES: THE CALCULATED TREE PROTECTION ZONE IS THE ENTIRE DRIPLINE OF THE TREES.**THE SPECIFIED TREE PROTECTION ZONE IS THE ENTIRE PARKWAY (TREE WELL).** NO GRADING, EXCAVATION, CONSTRUCTION OR STORAGE OF MATERIALS SHALL OCCUR WITHIN THE SPECIFIED TREE PROTECTION ZONE. NO UNDERGROUND SERVICES INCLUDING UTILITIES, SUB-DRAINS, WATER OR SEWER SHALL BE PLACED IN THE TREE PROTECTION ZONE.

c) TREE PROTECTIONS: ADD TREE PROTECTION FENCING TO PROTECT THE EXPOSED DRIPLINE WITHIN THE PARKWAY (FIGURE 2). INSTALL 6 FOOT CHAIN-LINK OR WOOD FENCING TO PROTECT THE AREA WITHIN THE TREE WELL OF ANY PROTECTED TREE IN THE DEVELOPMENT AREA. FENCING SHALL BE MOUNTED TO POSTS THAT ARE DRIVEN INTO THE GROUND (SEE FIGURES 2 AND 3). ALL STREET TREE PROTECTION FENCING MUST PROTECT ENTIRE EXPOSED SOIL AREA WITHIN EACH TREE WELL. ~~WHERE THIS IS NOT POSSIBLE BECAUSE OF EXISTING STRUCTURES, TREE ROOTS, OR OTHER OBSTACLES, CHAIN-LINK PANELS MOUNTED TO STANCHIONS AND CONNECTED TO EACH OTHER MAY BE APPROVED. IN AREAS WHERE DIFFICULT TERRAIN MAKES THIS IMPRACTICAL, ORANGE CONSTRUCTION FENCING MAY BE APPROVED.~~

d) ALL FENCING SHALL HAVE SIGNAGE STATING THE REQUIREMENTS AND RESTRICTIONS, AND THE CONTACT INFORMATION FOR THE PROJECT ARBORIST.

e) ~~WHEN ANY APPROVED CONSTRUCTION ACTIVITY WILL OCCUR WITHIN THE DRIP LINE OF A PROTECTED TREE THAT IS NOT SURROUNDED BY PROTECTIVE FENCING, THE TRUNK SHALL BE PROTECTED BY WRAPPING IT WITH STRAW TUBES (WATTLE) OR VERTICAL WOOD SLATS (EX. 2X4), UP TO A MINIMUM OF 8 FEET FROM GRADE (SEE FIGURE 1, PAGE 6). SLATS SHALL BE ANGLED TO PROTECT THE ROOT FLARE AT THE BASE OF THE TREE, AND CLOSED CELL FOAM OR EQUIVALENT MATERIAL SHALL BE USED TO PROTECT THE TRUNK OF THE TREE WHERE IT CONTACTS THE SLATS. LATERAL BRANCHES BELOW 8 FEET SHALL ALSO BE PROTECTED. IN ADDITION, THE AREA SHALL BE COVERED WITH A 6 INCH LAYER OF MULCH TOPPED WITH 3/4 INCH PLYWOOD THAT IS FASTENED TOGETHER. IF ANY LARGE OR MOTORIZED EQUIPMENT (MINI EXCAVATOR, BOBCAT®, POWERED WHEELBARROW) WILL TRAVEL OVER THIS AREA, THE PLYWOOD MUST BE A MINIMUM OF 1 INCH AND ADEQUATE FOR THE WEIGHT OF THE EQUIPMENT THAT WILL TRAVEL OVER IT. IF LARGER EQUIPMENT (BACKHOE, TRACTOR) WILL BE USED, CONSULT THE CITY ARBORIST.~~ ***CONSTRUCTION ACTIVITY REFERS TO ANY MOVEMENT OF PEOPLE, TOOLS, OR EQUIPMENT; OR STORAGE OF ANY TOOLS, EQUIPMENT, OR SUPPLIES.***

f) IRRIGATION: ADD IRRIGATION TO WET THE SOIL IN THE PARKWAY TO A DEPTH OF 12 INCHES. ONCE SOIL IS AT FIELD CAPACITY, IRRIGATION CAN BE SCALED BACK TO REPLACE THE WATER LOST THROUGH EVAPOTRANSPIRATION (ET).

g) MULCH: ADD 4 - 6 INCHES OF COURSE ORGANIC MULCH. THE MULCH SHOULD NOT COME IN CONTACT WITH THE TRUNK BUT SHOULD BE 24 INCHES AWAY FROM THE TRUNK.

h) LOCATE AND EXPOSE ANY ROOTS 2 INCHES IN DIAMETER OR GREATER THAT MAY NEED TO BE PRUNED TO FACILITATE THE PROJECT. THIS INCLUDES ANY TRENCHING THAT WILL BE DONE AS PART OF FOUNDATION OR UTILITY INSTALLATION. CONTACT THE CITY ARBORIST IN ADVANCE TO LESSEN THE AMOUNT OF TIME THAT THE ROOTS WILL BE EXPOSED. IF ROOTS MUST BE LEFT EXPOSED FOR MORE THAN THREE DAYS, CONSULT THE CITY ARBORIST. **NOTE:** THE 2 INCH DIAMETER THRESHOLD FOR ROOTS IS A GUIDELINE THAT MAY BE ADJUSTED BY THE CITY ARBORIST DEPENDING ON THE SIZE AND CONDITION OF THE TREE, AND THE LOCATION OF THE ROOTS. THE CITY ARBORIST MAY INCREASE THE TPZ, OR IMPOSE OTHER RESTRICTIONS, WHEN THE DRIPLINE OF A TREE HAS BEEN ALTERED BY PRUNING OR UNUSUAL GROWTH PATTERNS. ANY ROOT PRUNING THAT WILL OCCUR WITHIN THE PARKWAY: ALL WORK IN THE AREA WILL REQUIRE PRIOR APPROVAL AND SHALL BE SUPERVISED BY THE PROJECT ARBORIST. ROOTS SHOULD BE CUT WITH A SAW TO PROVIDE A FLAT AND SMOOTH CUT. REMOVAL OF ROOTS LARGER THAN 2 INCHES IN DIAMETER SHOULD BE AVOIDED.

i) NO STORAGE OF BUILDING MATERIALS, REFUSE, EXCAVATED SPOILS, OR DUMPING OF POISONOUS MATERIALS, IS PERMITTED WITHIN THE DRIP LINE OF ANY PROTECTED TREE. POISONOUS MATERIALS INCLUDE, BUT ARE NOT LIMITED TO, PAINT, PETROLEUM PRODUCTS, CONCRETE OR STUCCO MIX, DIRTY WATER, OR ANY OTHER MATERIAL WHICH MAY BE DELETERIOUS TO TREE HEALTH.

STREET TREE PLANTING NOTES:

1. FOR NEW PLANTING:
   a. THE CITY ARBORIST SHALL BE NOTIFIED, BY CALLING (510) 981-6660, PRIOR TO THE DELIVERY OF THE TREES FOR INSPECTION OF THEIR SIZE AND STRUCTURE.
   b. EACH TREE SHALL BE PROPERLY PLANTED AT OR JUST BELOW GRADE (<1"). SOIL AMENDMENT IS NOT RECOMMENDED. NO CONSTRUCTION RUBBLE OR NON-ORGANIC MATERIAL SHALL BE WITHIN THE TREE WELL. NATIVE SOIL IS PREFERRED.
   c. THE SURROUNDING SOIL OUTSIDE THE CONTAINER (ROOT BALL) SHOULD BE LIGHTLY COMPACTED TO ABOUT 4 INCHES BELOW GRADE WITH THE ROOT BALL HIGHER THAN THAT.
   d. 2 TO 2.5 INCHES OF BASE ROCK SHOULD BE APPLIED AROUND THE ROOT BALL LEAVING 1.5 TO 2 INCHES LEFT FOR THE MATERIAL.
   e. 15G CONTAINERS ARE APPROXIMATELY 15-16 INCHES IN DIAMETER AND THE MATERIAL SHOULD BE APPLIED TO THE APPROXIMATE EDGE OF THE ROOT BALL WITH THE TOP GRADE OF THE ROOT BALL UP TO 1 INCH BELOW THE TOP OF THE MATERIAL THAT WILL BE APPLIED.
   f. EACH NEW TREE SHALL HAVE AUTOMATIC DRIP IRRIGATION (NETAFIM PREFERRED) AND PROVIDE A MINIMUM OF 20 GALLONS PER WEEK BETWEEN MARCH 15 AND OCTOBER 15 FOR THE FIRST THREE YEARS. LARGER TREES MAY REQUIRE ADDITIONAL ~~BUBBLER~~S DRIP LINES AND/OR EMITTERS. ~~BUBBLER~~S DRIP EMITTERS SHOULD BE LOCATED ON TOP OF THE ROOT BALL WITHIN THIS 15-16 INCH CIRCLE AND NOT BE COVERED WITH MATERIAL. WHERE POSSIBLE, DRIP LINES AND EMITTERS ARE TO BE INSTALLED IN CONCENTRIC CIRCLES, STARTING 24" AWAY FROM THE TRUNK, SPACED AT 18" APART, COVERING THE ENTIRE TREE WELL.
   g. EACH EXISTING TREE TO REMAIN SHALL HAVE AUTOMATIC DRIP IRRIGATION (NETAFIM PREFERRED) AND PROVIDE A MINIMUM OF 20 GALLONS PER WEEK BETWEEN MARCH 15 AND OCTOBER 15 FOR THE FIRST THREE YEARS AFTER IT WAS PLANTED (PLANTING DATES AVAILABLE AT "CITY TREES" FROM CITY OF BERKELEY OPEN DATA, https://data.cityofberkeley.info/Natural-Resources/ City-Trees/9t35-jmin.) LARGER TREES MAY REQUIRE ADDITIONAL DRIP LINES AND/OR EMITTERS. DRIP EMITTERS SHOULD BE LOCATED AS FAR FROM THE TRUNKS OF MATURE TREES AS POSSIBLE. WHERE POSSIBLE, DRIP LINES AND EMITTERS ARE TO BE INSTALLED IN CONCENTRIC CIRCLES, STARTING 24" AWAY FROM THE TRUNK, SPACED AT 18" APART, COVERING THE ENTIRE TREE WELL.
   h. TREES THAT DIE WITHIN THE FIRST THREE YEARS MUST BE REPLACED AT THE PROPERTY OWNER'S EXPENSE.

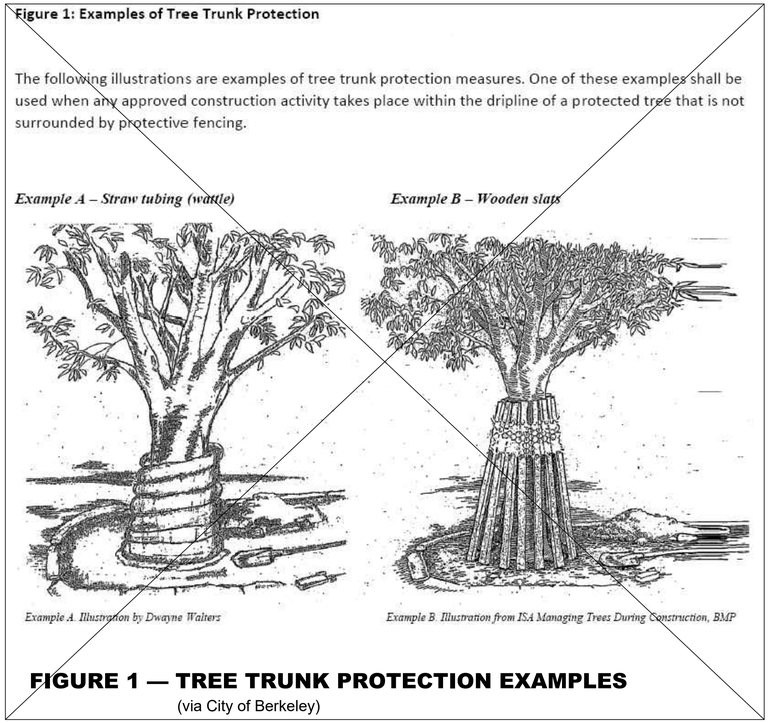


FIGURE 1 — TREE TRUNK PROTECTION EXAMPLES
(via City of Berkeley)

NOTE: As of 9.11.24, no construction activities are approved within the tree wells of any existing trees to remain. See Figures 2 and 3 for examples of acceptable tree protection. All TPF to protect entire exposed soil area within each tree well.

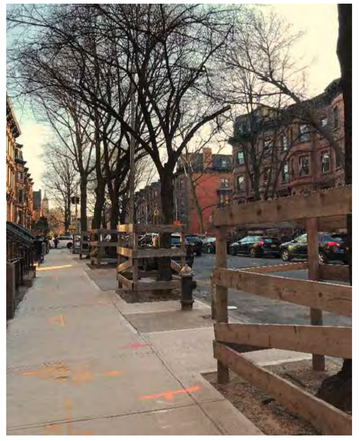


FIGURE 3 — TREE PROTECTION FENCE EXAMPLE



FIGURE 2 — TREE PROTECTION FENCE EXAMPLE
(via City of Berkeley - SEE DETAIL TP2 FOR NOTES)

SCALE FACTOR = 1



NOTES:
1. DRIVE 4X4 POSTS 24" INTO GRADE AT CORNERS OF TREE WELL; SPACE POSTS NO FURTHER THAN 5' ON CENTER.
2. SET HEIGHT OF FENCING AT 4'-6"
3. SECURE 2X6 OR 2X8 CROSS BOARDS TO FORM BARRIER TO ENTRY.
4. AFFIX LAMINATED SIGN TO CROSS BOARDS THAT READS "DO NOT ENTER, ADJUST, OR REMOVE FENCING. CONTACT CITY ARBORIST TO ADJUST OR MODIFY FENCING: (510) 981-6660 OR TREES@BERKELEYCA.GOV"

TP2 TREE PROTECTION, TYPE 2
NTS

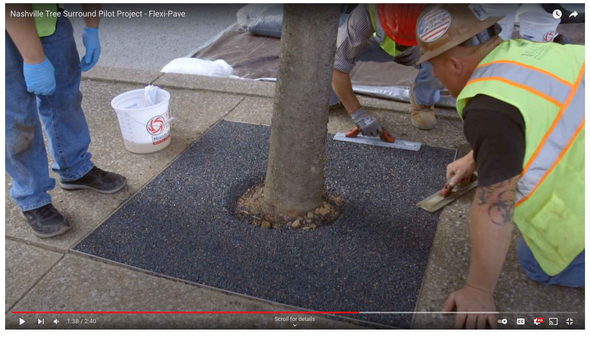


FIGURE 4 — FLEXI-PAVE EXAMPLE
(via City of Berkeley)

TRACHTENBERG ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
www.TrachtenbergArch.com

PANORAMIC 1685 SHATTUCK

Berkeley, CA

12.11.2023 SB330 SUBMISSION
04.30.2024 STRUCTURAL CONCEPT
05.31.2024 ZONING APPLICATION
09.13.2024 ZONING SUBMITTAL
04.01.2025 ZONING RESUBMITTAL
07.24.2025 ZAB HEARING SET

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JOB: 2109

SHEET:

Street Tree Notes and Details

L4-ST

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	371
	HYDROZONE #2	TREES	LOW	560

IRRIGATION WATER USE CALCULATIONS

WATER USE ESTIMATION

WATER TYPE	POTABLE
SITE ETo=	41.6

REGULAR LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME	PLANT WATER USE TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY	ETAF (PF/IE)	AREA (SQ. FT) (HA)	ETAF X AREA (HA)	ETWU (GAL/YR)	ACRE FEET/ YEAR	HCF/ YEAR	PERCENTAGE OF LANDSCAPE
1	SHRUBS/GC	LOW	0.2	DRIP	0.81	0.247	1,683	416	10,718	0.03	14.33	49%
2	SHRUBS/GC	MOD	0.5	DRIP	0.81	0.617	778	480	12,387	0.04	16.56	23%
3	TREES	LOW	0.2	BUBBLER	0.81	0.247	560	138	3,566	0.01	4.77	16%
4	TREES	MOD	0.5	BUBBLER	0.81	0.617	320	198	5,095	0.02	6.81	9%
5	VEGETABLES	HIGH	0.8	DRIP	0.81	0.988	86	85	2,191	0.01	2.93	3%
						TOTALS	3,427	1,317	33,956	0.10	45.40	100%

SPECIAL LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME											
5	VEGETABLES					1	86					3%
						TOTALS	86					3%

MAWA	GALLONS/YR	40,995
	ACRE FEET/YR	0.13
	HCF/YR	54.81
ETWU	GALLONS/YR	33,956
	ACRE FEET/YR	0.10
	HCF/YR	45.40

SITE IRRIGATION EFFICIENCY	SITE PLANT FACTOR	MAWA COMPLIANT
79.0%	0.29	YES

ETAF Calculations	
REGULAR LANDSCAPE AREAS	
TOTAL ETAF x AREA	1,317
TOTAL AREA	3,427
AVG. ETAF	38.42%

MAWA FORMULA
MAXIMUM APPLIED WATER ALLOWANCE (MAWA) GALLONS PER YEAR
MAWA = (ETo)(0.62)((LA x 0.45) + (0.55 x SLA))

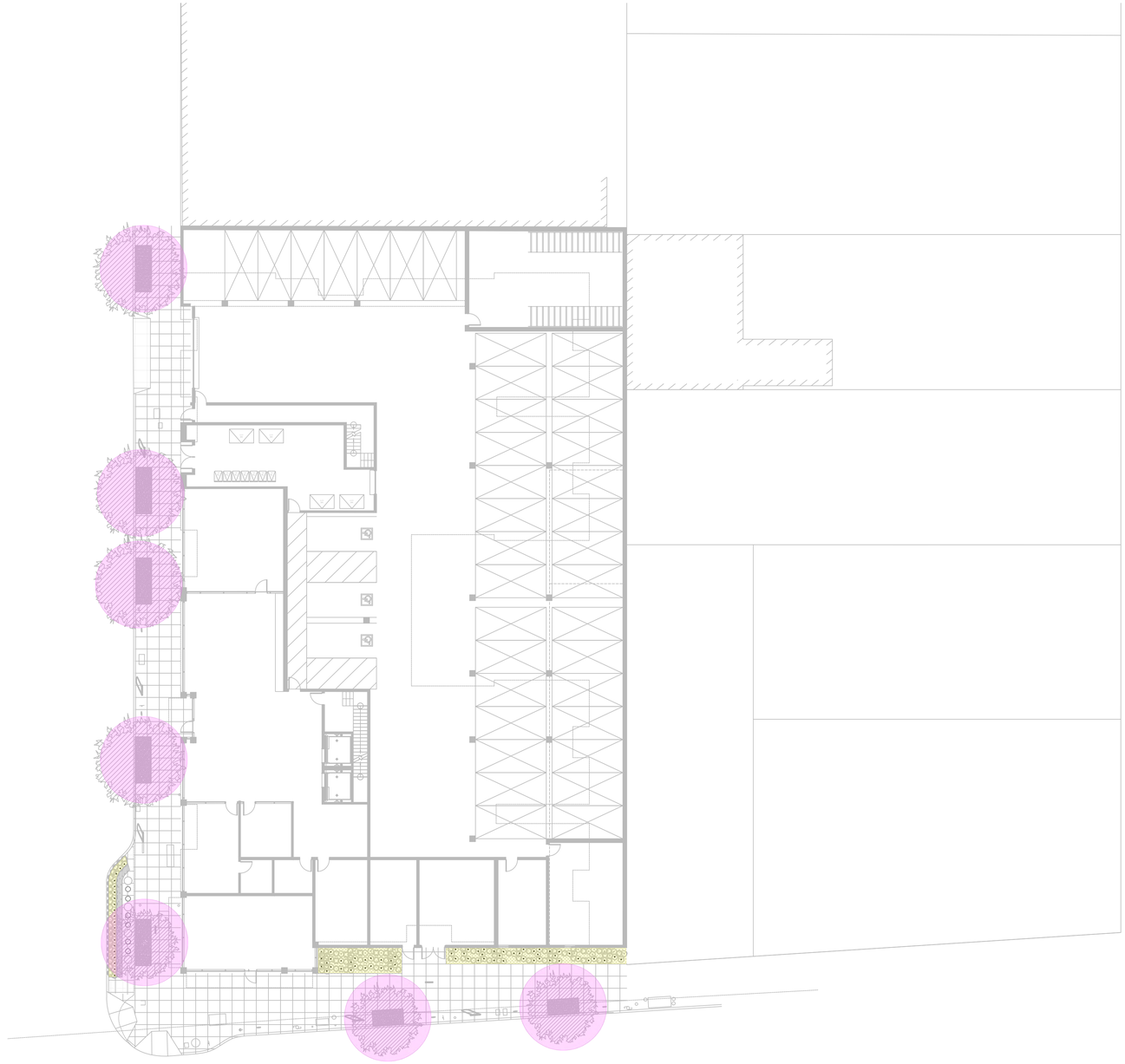
ETo = REFERENCE EVAPOTRANSPIRATION
0.55= ET ADJUSTMENT FACTOR
LA=LANDSCAPED AREA (SQUARE FEET)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)

ETWU FORMULA
ESTIMATED TOTAL WATER USE (ETWU) GALLONS PER YEAR
ETWU= ((ETO)(.62)(ETAF x LA))

ETo = REFERENCE EVAPOTRANSPIRATION
PF = PLANT FACTOR FOR HYDROZONES
HA = HYDROZONE AREA (SQ.FT)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)

IE = IRRIGATION EFFICIENCY (0.81)-BUBBLER/DRIP

IE = IRRIGATION EFFICIENCY (0.75)-ROTORS/SPRAY



Irrigation Consultant:
Russell D. Mitchell Associates, Inc.
2760 Camino Diablo
Walnut Creek, CA 94597
tel 925.939.3985 ♦ fax 925.932.5671
www.rmairrigation.com

North

1/16" = 1'-0"
0 8 16 32

TRACHTENBERG ARCHITECTS

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Berkeley, California 94710
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SHATTUCK

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JOB: 2109

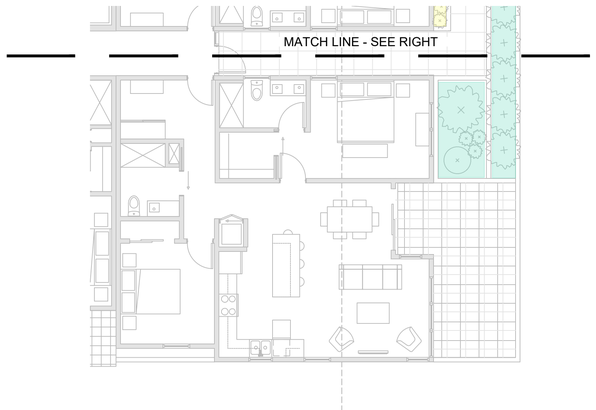
SHEET:

Ground Level
Hydrozone Plan

I1.0

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	1,163
	HYDROZONE #2	SHRUB/GC	MODERATE	778
	HYDROZONE #3	TREES	MODERATE	240





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North

3/16"=1'-0"
0 2 4 8

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JOB: 2109

SHEET:

Second Level Courtyard - Hydrozone Plan

L2.0

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	149
	HYDROZONE #2	SHRUB/GC	MODERATE	48
	HYDROZONE #3	TREES	MODERATE	80
	HYDROZONE #4	VEGETABLE/HERBS	HIGH	86



North

0 2 4 8

1/4" = 1'-0"

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ARCHITECTS

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JOB: 2109

SHEET:

Eigth Level Roof Deck - Hydrozone Plan

I3.0

ZONING ADJUSTMENTS BOARD

NOTICE OF PUBLIC HEARING

2109 Virginia Street

Use Permit #ZP2024-0066 to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance, Section 23.404.050 (Public Hearings and Decisions)

When: Thursday, September 11, 2025, 7:00 pm
Where: Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please visit: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board and click on the hearing date to access the most up-to-date meeting information, or call the Land Use Planning division (510) 981-7410.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

Land Use Planning Division
1947 Center Street, Second Floor, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
E-mail: zab@berkeleyca.gov

A. Land Use Designations:

- General Plan: Neighborhood Commercial (NC), Medium Density Residential (MDR), High Density Residential (HDR)
- Zoning: North Shattuck Commercial District (C-NS), Restricted Multiple-Family Residential District (R-2A), Multi-Family Residential District (R-4)

B. Zoning Permits Required:

- **Demolition.** Use Permit under BMC Section 23.326.070(A) **"Main Non-Residential Building"** to demolish a non-residential building
- **New Construction.** Use Permit under BMC Section 23.202.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
- **New Construction.** Use Permit under BMC Section 23.204.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
- **New Floor Area.** Use Permit under BMC Section 23.204.030(A)(1) **"Floor Area Permit Requirements"** to create new floor area of 2,000 square feet or more.
- **Parking.** Administrative Use Permit under BMC Section 23.322.070(D)(1) **"Excess Off-Street Parking"** to exceed the maximum number of off-street residential parking.
- **Building Height.** Administrative Use Permit under BMC Section 23.304.050(A) **"Projections Above Height Limits"** to exceed the allowed height limit with a rooftop projection.

C. Concessions and Waivers Requested Pursuant to State Density Bonus Law (California Government Code Section 65915):

- **Public Art In-lieu Fee.** Concession from BMC Chapter 23.316 to allow an exemption from the Percentage for Public Art on Private Projects in-lieu fee; and
- **Parking.** Concession to relocate the proposed underground parking in the base project to above grade in the proposed project.

North Shattuck Commercial District (C-NS):

- **Main Building Height**. Waiver from BMC Section 23.204.090(D)(1) "Basic Development Standards" for a mixed-use project to exceed the 35-foot maximum height limit by adding 54 feet, 4 inches, for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories**.**
- **Residential Window Setback**. Waiver from BMC Section 23.204.090(D)(4) "Residential Window Setback" to reduce the setback for a Mixed-Use building, opposite a required window in any habitable room of a residential use, to 0 feet, 0 inches where 10 feet is required.
- **Interior Side Setback.** Waiver from BMC Section 23.304.030(C)(2) "Lots Adjacent to Residential Districts" to reduce the interior side setback to 0 feet, 0 inches for the interior side where 5 feet is required.

Restricted Multiple Family Residential District (R-2A):

- **Main Building Height.** Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to exceed the 35-foot maximum by adding 54 feet, 4 inches for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories.
- **Lot Coverage.** Waiver from BMC Section 23.202.090(D)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 3-story building on a corner lot by adding 60% for a total of 100% lot coverage.
- **Interior Side Setback**. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches on the first and second story where 4 feet is required.

Multi-Family Residential District (R-4):

- **Main Building Height.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to exceed the 65-foot maximum height by adding 24 feet, 4 inches for a total of 89 feet, 4 inches and exceed the 6-story limit by adding 2 stories, for a total of 8 stories.
- **Lot Coverage.** Waiver from BMC Section 23.202.110(E)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 6-story building on a corner lot in by adding 60% for a total of 100% lot coverage.
- **Front Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the front setback to 2 feet, 10 inches on the western side of the lot and 5 feet, 8 inches on the eastern side of the lot where 15 feet is required.
- **Interior Side Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches for stories 1-2 where 4 feet is required, and provide a 9 foot, 8-inch setback for 3-8 stories, where:
  - 6 feet is required for the third story,
  - 8 feet is required for the fourth story,
  - 10 feet is required for the fifth story, and
  - 12 feet is required for the sixth story

D. CEQA Exemption Recommendation: It is staff's recommendation to the Zoning Adjustments Board that the project is exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects").

E. **Project Recommendation:** Approve Use Permit #ZP2024-0066, pursuant to BMC Section 23.406.040(D)

F. Parties Involved:

- Applicant — Isaiah Stackhouse, 2421 Fourth St., Berkeley, CA 94710
- Property Owner — American Commonwealth Associates, 1683 Shattuck Avenue, Berkeley, CA 94709

Further Information:
All application materials are available online at:
https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board.

Questions about the project should be directed to the project planner, Cecelia Mariscal, at (510) 981-7439 or cmariscal@berkeleyca.gov.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@berkeleyca.gov.

Communication Disclaimer:
Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Written Comments, Communications, and Reports:
Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@berkeleyca.gov. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board

All persons are welcome to attend the hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM, two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports #1, which is released around noon one day before the public hearing.
- **Correspondence received by 12:00 PM, the day of** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports #2, which is released around noon the day of the public hearing.
- **Correspondence received after 12:00 PM, the day of** this public hearing will be saved in the project administrative record.

Accessibility Information / ADA Disclaimer:
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@berkeleyca.gov) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:
If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within 14 days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than 90 days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that 90-day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
    a. That this belief is a basis of your appeal.
    b. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
    c. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above. If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

TRACHTENBERG ARCHITECTS
2421 Fourth Street Berkeley, CA 94710
phone: 510.649.1414
www.TrachtenbergArch.com

Neighborhood Meeting Attendance and Notes Sheet (Online)

1685 Shattuck Ave
Berkeley, CA 94709
May 23, 2024

NAME	ADDRESS	EMAIL	NOTES
Karen Streets			Project much higher and we have been here since 1972. It will be a large impact for the immediate neighborhood. How tall are the new projects down on Shattuck and University? IS – 12 stories and 8 stories built prior to state laws to combat housing crisis. Even though it's out of place and create impact resources, such as water supply? Does it have to be 8 stories? IS – We will be working with the city and the state/city zoning is what is intended here. And this is where this type of density go, to be able to house everyone in Berkeley and targeted commercial strips like this one. How about the toxics from Virginia Cleaners? IS – Lots of ways to take care of the toxics with all the regulations and Berkeley has a very robust toxics department and can help deal with issue.
Sally Sommer		s_sommer@sbcglobal.net	Community members? Students? IS – Housing for all. Units can serve families and students due to mix of unit types from studios to 3 bedrooms. Providing more parking than required? IS – This project wants to provide for families who may have cars
Suzanne Perkins			For 120 units, how many people are estimated to be living there? Is there a formula, for example 1 and 1/2 times the number of uits = 180 people. IS – There is no straight formular for this but this sounds good Are there laundry facilities planned to be sufficient? Increase use of services, concerned for making the current residents harder to use the neighborhood services. IS – Laundry room on each floor to be sufficient.
Bert Gordon			Regarding toxic issue, nothing on the record about the toxic. IS – Gets reviewed by the city during planning and construction permitting. Lots of ways for the site to be resolved with experts. We don't know the details but sites can be remediated with expert guidelines and confident this can be done. What can happen to make the project smaller? IS – The project's 131 units will provide what the state

			wants to create housing and helps the project to get build due to construction cost and financing and lending cost are also high. The 131 units help will help pay for the parking, land, and city costs. The density makes the project feasible and also of these future 131 families who are we going to tell that their units will not be built.
James Hendry			How does the building get 8 stories in the zone? IS – 7 stories of housing over ground floor lobby and commercial space, parking. It's a density bonus project which provides up to 100% bonus to projects that provide affordable housing. The city staff will review the bonus calculations. Are you planning setbacks and are any open spaces available for the public? IS- setbacks on the sidewalk and also 10' setback from the east. The sidewalk seating will be public use, but the other open spaces are only for residents Where would delivery be made? IS – Determine by Public Works Dept. They will paint out a loading zone during construction permit process Submitting in 3 weeks, so this is just a dog and pony show? IS – Still working on the design, this is an opportunity to hear the neighbors' voices. Yellow signs with city's notices and the public can attend hearings Are you intending to keep the parking spaces IS – Yes, we are. We do have to ask the city for permission this amount of parking spots. City council requires 0 but can approve ½ of the amount. 7' deep parking for the triple stack Address the toxic under the cleaners? IS – The city will issue conditions of approval of how the site gets treated. The city has a regulated agency to see if it gets exemption or regulated.
Lindsey Quock			Are these market rate units? What are the rent range? IS - Apartments for our community. We don't know the rent range. Minimum 11 LVI based on preliminary calculations to qualify for density bonus units. The project will also provide in lieu fee and may provide more units. This is something to be determined later with the city review process. When is the ground break? - It takes another year after 1.5 year of review time. The likely path would be 2- 2.5 years that this project will break ground and roughly take 18months to construct. What benefits are to the neighbors when light and views will be blocked on Virginia neighbors IS - The real benefit is providing housing and residents to help local business thrive and affordable housing fees. We did pull the project towards the boulevard with setback towards the east Has there been a shadow and light study? IS – There will be shadow study in the submittal and we are still working on those drawings and will be

			available to everyone How do we get those drawing submittals? IS – Once the project is submitted, the city planner will be sending out info and the city website will have the project application info
Melinda Lopez			Earth sinking concern? IS – Project will have a soil report. The city will have a peer review of the soil as well. They can calculate how much the land will settle over time. The soil should be quite good here. Standard mat slab foundation here. San Francisco has a lot of fill and those locations don't have stable soil

(IS = Isaiah Stackhouse)

Notes:

A yellow poster will be installed on site after project submission.

3-6 months of staff review before zoning and design review board meeting. The list of addresses from tonight was given from the city and this same list will be used from the city to send out notifications regarding the project.

From: Melinda Lopez
To: Mariscal, Cecelia
Cc: Vijesh Unnikrishnan; Burns, Anne M; karen.streets@gmail.com; lizstevick@gmail.com; gstevick@gmail.com; bgordon9962@hotmail.com; ronasidvj@gmail.com; mgapte@gmail.com; 415jazz@gmail.com; catlady_1619@hotmail.com; rhojati1@yahoo.com
Subject: Re: 2109 Virginia 5/15 DRC Agenda is on-line
Date: Monday, May 12, 2025 12:36:17 PM
Attachments: image001.png

Hello Cecelia:

Thx for the in person only meeting below.

Best,
Melinda
On Mon, May 12, 2025 at 12:27 PM Mariscal, Cecelia <CMariscal@berkeleyca.gov> wrote:

> Hi Vijesh,
>
> Unfortunately, the DRC meeting is not offered in a hybrid format, so the only option for participation is to show up in person at the North Berkeley Community Center, located at 1901 Hearst Avenue. The meeting will be held in the Gooseberry room and start promptly at 6:30 p.m. Let me know if you have additional questions.
>
> Best,
>
> Cecelia

Cecelia Mariscal (she/her/s)

Associate Planner

Planning and Development, Land Use Division

1947 Center St., 2nd Floor, Berkeley, CA 94704

Phone: (510) 981-7439

Email: cmariscal@berkeleyca.gov

In Office Days: M,T,W

Remote Days: Th,F

Planning & Development Customer Satisfaction Survey: We value your feedback! If you are a Planning & Development Department client—such as a permit applicant, permit holder, business owner, contractor or developer—please take a few minutes to complete our short survey and share your experience: Planning and Development Customer Satisfaction Survey

The Permit Service Center (PSC), including the zoning counter, is open *between 8:30 am – 2:30 pm (final check in at 2:00 pm) Monday through Thursday*.

All permit-related and Zoning services are available online. Please visit us online for more information.

From: Vijesh Unnikrishnan <unnikvij@gmail.com>
Sent: Monday, May 12, 2025 9:24 AM
To: Burns, Anne M <ABurns@berkeleyca.gov>
Cc: melindaelopez@gmail.com; karen.streets@gmail.com; lizstevick@gmail.com; gstevick@gmail.com; bgordon9962@hotmail.com; ronasidvj@gmail.com; mgapte@gmail.com; 415jazz@gmail.com; catlady_1619@hotmail.com; rhojati1@yahoo.com; Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: Re: 2109 Virginia 5/15 DRC Agenda is on-line

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Also, is this a remote meeting or will be held in person. Can you please share details on meeting location and timing - both physical and digital.

Thanks

Vijesh

On Mon, May 12, 2025 at 9:21 AM Vijesh Unnikrishnan <unnikvij@gmail.com> wrote:

> Thanks for including us in the notice, Anne. Few of us will plan to attend the session. What is the format of the session? What is expectation from us during the session on Thu? Where do we find current design materials so we can review and have comments ahead of time?

From: Mariscal, Cecelia
To: Burns, Anne M; Elizabeth Stevick
Subject: RE: 2109 Virginia 5/15 DRC Agenda is on-line
Date: Monday, May 12, 2025 3:24:00 PM
Attachments: [redacted]

Hi Elizabeth,

Constructing a multi-family building in the Commercial North Shattuck building requires a Use Permit and public hearing pursuant to Berkeley Municipal Code (BMC) 23.204.020(A). the project must meet the findings in BMC 23.406.040(E)(1)and BMC Section 23.204.090(E), as well as any other findings related to deviations from other development standards and Design Review as required by the Municipal Code. However, the project sponsor has applied for a density bonus request, which allows projects to waive development standards and build beyond the density permissible in what a Zoning District allows if providing very low-income (VLI), Low-income (LI), or Middle-income (MI) units allowed under §65915.

I hope this helps. Please let me know if you have additional questions.

Best,
Cecelia

Cecelia Mariscal (she/her/s)
Associate Planner
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7439
Email: cmariscal@berkeleyca.gov
In Office Days: M,T,W
Remote Days: Th,F

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From: Burns, Anne M <ABurns@berkeleyca.gov>
Sent: Monday, May 12, 2025 10:02 AM
To: Elizabeth Stevick <lizstevick@gmail.com>
Cc: Mariscal, Cecelia <CMariscal@berkeleyca.gov>

Subject: RE: 2109 Virginia 5/15 DRC Agenda is on-line

Hello, Elizabeth: Thank you for your email. I'll include this as late correspondence to the DRC so that they are also aware of your questions and concerns. I'm also copying our Use Permit Planner, Cecelia Mariscal, as she will be taking this project to ZAB after it has come to the DRC. ZAB will include building height in their review, instead of the DRC, as a waiver to the height standards is being requested under the State's Density Bonus laws. I am happy to include this in DRC correspondence as there are design recommendations that can lessen the visual impact of a design – such as color, material, window details and patterns, landscape. Again, thank you for your email - Anne

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From: Elizabeth Stevick <lizstevick@gmail.com>
Sent: Thursday, May 08, 2025 11:16 PM
To: Burns, Anne M <ABurns@berkeleyca.gov>
Subject: Re: 2109 Virginia 5/15 DRC Agenda is on-line

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Thank you, Anne, for reaching out. I am fine with new construction and building downtown but I wish that the City would maintain a more consistent height for the buildings
in the Gourmet area on Shattuck from Hearst to Rose Street to maintain the charm of the Gourmet Ghetto. Three stories would be more in line with what is there now.
And the fact that the building is taking away the views, the air, the sunlight from residential properties and residents who have lived in this neighborhood on Walnut Street
for over 40 years and more is unfortunate and distressing. Can something be done to limit building heights?
Elizabeth Scherer
1722 Walnut Street

On Wed, May 7, 2025 at 4:22 PM Burns, Anne M <ABurns@berkeleyca.gov> wrote:

> The design of the proposed mixed use project at the northeast corner of Virginia and Shattuck will be reviewed at next Thursday's – May 15, 2025 – Design Review Committee meeting. We did find the September 24, 2024 letter to ZAB from the North Shattuck Alliance in the corresponding Use Permit file (ZP2024-0066) and have included it in our meeting materials for next Thursday's meeting. I'm including a link to the agenda below and would welcome the opportunity to answer any questions that you have about the design review component of this proposed project. I'm also including Cecelia Mariscal on this email as she is the Use Permit Planner who will be continuing to review this project as it move towards ZAB.
>
> I will be posting two public meeting notices on the site later today. In a subsequent meeting, the Zoning Adjustments Board (ZAB) will be reviewing the Use Permit with a full Public Hearing notice. The DRC is advisory to the ZAB and will be reviewing the design of the new construction. Any recommendations that the DRC makes to

On Wed, May 7, 2025 at 4:22 PM Burns, Anne M <ABurns@berkeleyca.gov> wrote:

> The design of the proposed mixed use project at the northeast corner of Virginia and Shattuck will be reviewed at next Thursday's – May 15, 2025 – Design Review Committee meeting. We did find the September 24, 2024 letter to ZAB from the North Shattuck Alliance in the corresponding Use Permit file (ZP2024-0066) and have included it in our meeting materials for next Thursday's meeting. I'm including a link to the agenda below and would welcome the opportunity to answer any questions that you have about the design review component of this proposed project. I'm also including Cecelia Mariscal on this email as she is the Use Permit Planner who will be continuing to review this project as it move towards ZAB.
>
> I will be posting two public meeting notices on the site later today. In a subsequent meeting, the Zoning Adjustments Board (ZAB) will be reviewing the Use Permit with a full Public Hearing notice. The DRC is advisory to the ZAB and will be reviewing the design of the new construction. Any recommendations that the DRC makes to the ZAB will be reviewed, and added to or modified at ZAB during that Public Hearing if ZAB feels it is needed.
>
> All design-related public comments are welcome and can help inform DRC's discussion before any recommendation, but the ZAB will be reviewing all use and Density Bonus issues. DRC will be making a recommendation after their deliberation, not a final decision on the Use Permit application as ZAB does.
>
> Thank you. – Anne Burns, Design Review Committee Secretary, (510) 981-7415
>
> 2025-05-15_DRC_Agenda_Linked.pdf

> the ZAB will be reviewed, and added to or modified at ZAB during that Public Hearing if ZAB feels it is needed.
>
> All design-related public comments are welcome and can help inform DRC's discussion before any recommendation, but the ZAB will be reviewing all use and Density Bonus issues. DRC will be making a recommendation after their deliberation, not a final decision on the Use Permit application as ZAB does.
>
> Thank you. – Anne Burns, Design Review Committee Secretary, (510) 981-7415
>
> 2025-05-15_DRC_Agenda_Linked.pdf

--
Elizabeth Stevick Scherer
Property Manager
(510) 289-3881

From: Mariscal, Cecelia
To: Jason Scholz
Bcc: Hersch, Anne
Subject: RE: 2109 Virginia St - Status of Approvals
Date: Thursday, April 3, 2025 9:40:00 AM
Attachments: image001.png
image002.png
image003.png

That's right, the project is still under review.

Cecelia Mariscal (she/her/s)
Associate Planner
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7439
Email: cmariscal@berkeleyca.gov
In Office Days: M,T,W
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From: Jason Scholz <jscholz@dunn-realestate.com>
Sent: Wednesday, April 2, 2025 2:49 PM
To: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: RE: 2109 Virginia St - Status of Approvals

Hi Cecelia,

Thank you.

I had previously pulled up documents from the website.

It appears the owner has not received zoning permit approval?

Thanks,

Jason

From: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Sent: Wednesday, April 2, 2025 1:28 PM
To: Jason Scholz <jscholz@dunn-realestate.com>
Subject: RE: 2109 Virginia St - Status of Approvals

Hi Jason,

Thank you for your message. Application submittal items and project status can be viewed through our Citizen Access Portal linked, here. Please see the attached screenshot guide to help you navigate the site. Please let me know if you have additional questions.

Best,
Cecelia

Cecelia Mariscal (she/her/s)
Associate Planner
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7439
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From: Jason Scholz <jscholz@dunn-realestate.com>
Sent: Tuesday, April 1, 2025 12:43 PM
To: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: 2109 Virginia St - Status of Approvals

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Hi Cecelia,

Good afternoon.

I understand you are one of the planning contacts for the referenced project.

I am working on an analysis for the project.

Is it possible to provide the current status of the approvals, or if more convenient do you have a moment on the phone?

Thanks,

Jason

JASON SCHOLZ, MAI

DUNN & ASSOCIATES
1901 OLYMPIC BOULEVARD, SUITE 230
WALNUT CREEK, CALIFORNIA 94596

PHONE: (925) 472-5852
FAX: (925) 472-5855
E-MAIL: jscholz@dunn-realestate.com
Web Site: www.dunnandassociates.net

Virus-free.www.avg.com

From: Melinda Lopez
To: Mariscal, Cecelia
Subject: Re: 2109 Virginia (ZP2024-0066) - Proposed development inquiry
Date: Tuesday, July 9, 2024 6:03:10 PM

On Tue, Jul 9, 2024 at 5:28 PM Mariscal, Cecelia <CMariscal@berkeleyca.gov> wrote:

Hello Cecelia:

Many thanks for your detailed response.

Have a great week!

Best regards,

Melinda

> Hi Melinda,
>
> Thank you for your message. The proposed project is currently under review; however, there are missing items that are still required for a complete submittal. Members of the public can track a project's progress through the City's Citizen Portal Access, linked here. I've attached a screenshot guide to this email to help you navigate the portal more easily. As noted in your email communication, the project includes the former "Virginia Cleaners" which includes contaminants of concern (Hydrocarbon solvents) and requires remedial/clean-up action by the California Department of Toxic Substances. Please note that although the site is contaminated, it has not been identified as a "Superfund" site. For more information on Superfund sites, please visit the EPA's website, which is linked here. Due to the site's existing contamination, the City required a Phase I assessment report, which can be viewed along with the other Zoning Project Submittal Requirements through the Citizen Access Portal.
>
> The timeline for review by the Zoning Adjustments Board Due is indeterminate at the moment. The applicant must first submit the additionally required application contents for review and then staff will work to determine the appropriate CEQA review. The project review is paused until the additional contents are submitted by the applicant. You can track the project through our Online Portal or reach out to me periodically. Additionally, I regularly work the walk-in Zoning Counter, on the 3rd floor at 1947 Center Street every Monday from 12:30–2:30 p.m. (last check-in at 2 p.m.) where anyone can drop by to inquire about the project's status.
>
> Once the project is deemed complete, the CEQA status is determined, and the analysis is complete, the project will be put on the calendar for the Zoning Adjustments Board, where anyone from the public can comment on the project. If the project were to be approved, there is a 14-day appeal period that begins once the notice is posted, and anyone from the public can appeal the project. Please see the information on our website regarding the appeal

process linked here.

Lastly, the proposed development has an SB330 State Density. State Bill No. 330, also known as the Housing Crisis Act, was enacted in 2019 to address the housing shortage. The bill aims to achieve this through streamlined permit approval, allowing projects to build units beyond what local development standards allow when offering low-income and middle-income units, and constraining the power of the land use decision-making body to deny a project a housing project or deny a housing development project at a lesser density than what is being proposed unless it could be proven that it would have an adverse impact on public health and safety. There is currently no case law that establishes a threshold.

I hope this information has answered your questions. Please feel free to reach out with any additional queries or visit the zoning counter on Monday from 12:30 to 2:30 p.m. We are here to support you and ensure you are fully informed about the project.

Best,
Cecelia

From: Melinda Lopez <melindaelopez@gmail.com>
Sent: Monday, June 24, 2024 3:54 PM
To: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: 2109 Virginia - Proposed development inquiry

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello Cecilia:

I was born in Berkeley and a long time resident of our properties in North Berkeley of over 60 years.

We are all concerned about the pending proposed development in our single-family homes residential properties of which we have enjoyed over the years the privacy, charm and safety.

We have a few questions:

1. How do we comment on the project?

2. Are there any hearings on the project coming up?

3. Are there any deadlines for comments?

4. Has any toxic studies been done on this former Superfund site which had a fire caused by Virginia Cleaners (now moved across the street to Shattuck/Cedar street)?

5. we are pro-housing in our backyard but inquiring on why the City approves an 8-story building of 132 units/93 parking spaces?

6. Also, if the City approved all the potential ADUS, our survey indicates several thousand units would be added, well distributed through single-family home areas. Is this large-scale intrusive development really needed at this time in our small scale community?

Hope to hear from you soon on our concerns.

Thank you for your time and consideration.

Sincerely,

Melinda E. Lopez

North Shattuck Alliance

From:	Mariscal, Cecelia
To:	Vijesh Unnikrishnan
Cc:	Hersch, Anne; Melinda Lopez; Glen Stevick; Nan Noonan; Elizabeth Stevick; Michael Apte; Mark Williams; Bert Gordon; Rohini Kumar; rhojati1@yahoo.com; Karen Streets
Subject:	RE: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Multi-Family Homes, No. ZP-2018-0172.
Date:	Thursday, October 3, 2024 3:40:56 PM

Members of the North Shattuck Alliance,

Thank you for your message. As you have pointed out, the project site was inhabited by the Virginia Cleaners from approximately 1920-1967, which rendered the site contaminated due to its use of an underground storage tank for Stoddard solvent. The presence of hydrocarbon solvents was the confirmed chemical of concern at the site, and it was added to the Cortese List as a result. The project was remediated/cleaned up in 1987 and granted case closure by the Department of Toxic Substances and Chemicals (DTSC) in 1987 and the San Francisco Regional Water Quality Control Board (RFRWQCB) in 1999. However, due to the absence of documentation of post-excavation soil confirmation sampling, vapor concentrations below permissible thresholds for residential use could not be confirmed, resulting in a Phase II assessment and subsequent report published on August 14, 2024. The Phase II report concluded that subsurface impacts were consistent with historical site use and the subsurface conditions described in the closure letter. No recommended land use restrictions or continuing obligations were associated with the initial case closure, and since the Phase II assessment results were consistent with the findings in the case closure letter, no further assessment or regulatory oversight is recommended. An Initial Study pursuant to the California Environmental Quality Act Guidelines (CEQA) will be required to determine the project's potential environmental impacts. The Phase I and Phase II assessment reports can be viewed along with the other Zoning Project Submittal Requirements through the Citizen Access Portal.

Constructing a multi-family building in the Commercial North Shattuck building requires a Use Permit and public hearing pursuant to Berkeley Municipal Code (BMC) 23.204.020(A). the project must meet the findings in BMC 23.406.040(E)(1)and BMC Section 23.204.090(E), as well as any other findings related to deviations from other development standards and Design Review as required by the Municipal Code. The project sponsor has applied for a density bonus request, which allows projects to waive development standards and build beyond the density permissible in what a Zoning District allows if providing very low-income (VLI), Low-income (LI), or Middle-income (MI) units allowed under §65915.

This is also a housing development project allowed under State Bill No 330, also known as the Housing Crisis Act, enacted in 2019. The law locks in development standards from the date of application filing and limits the authority of the land use decision-making body to deny a project a housing project or reduce density unless findings are made demonstrating that there is an adverse impact on public health and safety.

Yellow project information signs are posted on the property, and a community outreach meeting, required by the Zoning Project Submittal Requirements for large projects, was held virtually on May 23, 2024. The records show that Melinda Lopez, who was copied on your email as a North Shattuck Alliance affiliate, was in attendance. I recommend reaching out to her to get more details on what was discussed in this meeting and to review the notes from the community outreach meeting, which can be viewed along with other submittal items in the

Citizen Access Portal linked here.

If you are interested, the Housing Community Development website, linked here, allows you to track the addition of housing units by jurisdiction.

I hope this information is helpful. Please let me know if you have additional questions.

Best,
Cecelia

From: Vijesh Unnikrishnan <unnikvij@gmail.com >
Sent: Tuesday, September 24, 2024 7:45 PM
To: Kate.Chatfield@sen.ca.gov; Tregub, Igor <ITregub@berkeleyca.gov>; Berkeley Mayor's Office <Mayor@berkeleyca.gov>; Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Cc: Melinda Lopez <melindaelopez@gmail.com>; Glen Stevick <gstevick@gmail.com>; Nan Noonan <catlady_1619@hotmail.com>; Elizabeth Stevick <lizstevick@gmail.com>; Michael Apte <mgapte@gmail.com>; Mark Williams <415jazz@gmail.com>; Bert Gordon <bgordon9962@hotmail.com>; Rohini Kumar <ronasidvj@gmail.com>; rhojati1@yahoo.com; Karen Streets <karen.streets@gmail.com>; Bolotina, Olga <OBolotina@berkeleyca.gov>
Subject: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Multi-Family Homes, No. ZP-2018-0172.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Cecelia Mariscal-

We, the residents of North Shattuck Alliance, wish to formally submit our petition to the ZAB with regards to the proposed project at 2109 Virginia. The attached document lays out our concerns and requests to the city council and the ZAB. We sincerely request that you consider this petition in its entirety and provide us a written acknowledgement as well as a plan to address our concerns at the earliest.

cc: Igor Tregub, Berkeley District 4 Council Member, Jessie Arreguin, Mayor of Berkeley, Kate Chatfield, Chief of Staff and Legislative Director, Housing Issue Area Lead for Senator Nancy Skinner District 9.

We look forward to hearing from you on next steps towards a resolution of the matters raised.

Regards,
Vijesh Unnikrishnan
Representing Residents of North Shattuck Alliance
1632 Walnut Street, Berkeley 94709
Ph: 612-207-3788

North Shattuck Alliance

Member Emails:
melindaelopez@gmail.com
karen.streets@gmail.com
unnikvij@gmail.com
lizstevick@gmail.com
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catlady_1619@hotmail.com
rhojati1@yahoo.com

September 24, 2024

By Electronic Mail

ZAB Board
2180 Milvia Street
Berkeley, CA. 94704
cmariscal@berkeleyca.gov

CC: Council Member District 4, Mayor of Berkeley, Rep. California Senate District 9 Nancy Skinner

RE: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Multi-Family Homes, No. ZP-2018-0172.

Dear ZAB, Cecelia Mariscal,

We are the neighbors adjacent to the proposed 8-story building at 2109 Virginia St. We are very supportive of adding housing and many of us have restored properties, provided housing and proposed smart fill-in housing in our neighborhood.

We have several concerns regarding the 2109 Virginia Street project:

- There appears to have been outdated cleanup and measurement protocols, dating back over 30 years, were utilized to assess and manage the toxic waste generated by the historical commercial operations of Virginia Cleaners on the proposed development site. These protocols may have been inappropriately applied to classify the site as safe for construction

- There appears to have been environmental, safety, and intrusion of privacy posed by the project to existing two-story single and multi-unit homes adjacent to the proposed large disparity of size and volume of the 8-story building that has yet to be researched and evaluated before the permit approval is granted

- There appears to have been concerns around significant duress to quality of life and safety of current residents, many of them elderly, living in the immediate city block of the proposed building, due to deficiency in parking, police, utilities, and other public needs demanded by the introduction of almost 100+ additional units which has not been researched and evaluated before the permit approval is granted

- There appears to have been inconsistent use of design and zoning requirements such as gradual story/height step-down rules and other design rules approved to be applied to high-density parts of Berkeley being applied to low density parts of the proposed site without proper research and evaluation before the design should be considered ready for review.

- There appears to have been no consideration of the concrete urban heat island effects being created by this project without removal of open space with virtually no offsets being researched and evaluated as part of the proposed design being considered for permitting

- There appears to have been no consideration of the smart infill housing that has already occurred in Berkeley, which has added more such units that most other cities in California and specifically District 4 which has added more such units than any other Districts in Berkeley. In fact, residents along Walnut Street in District 4 have added smart infill housing (6 out of 9 residents on this petition on walnut street have added infill housing) and hence request the housing density per city block be used as a measure of equity and fairness to be researched and assessed factoring in the existing smart infill housing provisioned in district 4 and more specifically in the proposed city block to ensure balance of density of housing distribution per city block in Berkeley

- There appears to be no consideration of the advantages of smart infill into single family home areas, which would provide to lower income residents the numerous positive characteristics of single-family home areas (lower crime, lower pollution, higher income, more greenery, less concrete and better health and hence must be part of the evaluation of proposed housing plan to incorporate the societal and economic enablement assessments factoring existing smart infill housing vs. proposed 8 story complex.[1]

We, Berkeley residents of North Shattuck Alliance , oppose this proposed project in its form as submitted and request the ZAB and city council to enforce judgment and good common sense to guide the approval of this project. Without appropriate action from the city, we would [will?] have no recourse left but to pursue legal action against the approval of the [a] permit.

Detailed points of residents of North Shattuck Alliance Memorandum

1. **SB 330 Housing Crisis Act of 2019**
   As long-term residents of Berkeley, tenants and homeowners, we have all first-hand experience and witnessed the significant economic and emotional pressure the housing crisis in the Bay Area and the state of California. The historic act that was passed by the state, is a testament to the courage of Sacramento to change the course of housing shortfalls in our community

2. **Accessory Dwelling Unit Ordinance in the City of Berkeley**
   City of Berkeley has been at the forefront of encouraging innovative approaches and formats to put a dent in the housing crisis, such as supportive ADU ordinance passed by the city. ADUs

[1] Single-Family Zoning in California: A Statewide Analysis, A California Zoning Atlas Report, Stephen Menendian, Shahan Shahid Nawaz & Samir Gambhir, Othering & Belonging Institute, May 22, 2024, https://belonging.berkeley.edu/single-family-zoning-california-statewide-analysis.

according to innumerable policy experts are affordable, low cost to develop, environmentally friendly, safe and smart in infilling neighborhoods with housing density. According to certain estimates, continued supportive policies for ADUs that protect homeowner and rental rights can yield close to 5000 new housing units in Berkeley – which is roughly 60% of the city's goals set through 2030. Several residents in our community, provide ADUs, even sometimes overcoming adversities from the planning department. 6 out of 9 residents in this petition have provided in-fill housing in their properties.

However, the SB 330 act has also resulted in unintended consequences, which are untenable for our community and if faced, probably untenable for residents and even lawmakers across the city, county and state.

3. **Minimal regulatory requirements for property size expansion**
   Height step-down between the proposed 8 story apartments and one and two-story single-family and muti-unit homes in our neighborhood is essential to ensure a balanced transition between differing building scales. Studies show that abrupt height differences can cause significant overshadowing, leading to a reduction in sunlight by up to 50% for adjacent properties, negatively affecting residents' quality of life[2]. In addition, step-down designs help maintain neighborhood privacy by limiting direct sightlines from taller buildings into single-family yards and homes. Research from urban design studies also suggests that transitioning heights can reduce wind tunnel effects common in densely built areas, improving pedestrian comfort by lowering wind speeds by 15-20%[3]. Overall, this approach fosters a visually harmonious streetscape and protects the character and property values of residential neighborhoods. Especially in a neighborhood, where there is a significant portion of elderly residents who are aging-in-place, the proposed construction puts a threat and likely force many of us to be displaced from our homes due to safety and quality of life impairment.
   Ask– the city must request analysis and evaluation of sunlight and wind effects on quality of life and safety of residents in the immediate vicinity of proposed structure and/or reduce proposed building size to mitigate risks

4. **Inadequate and incoherent design decisions**
   The design choices for the proposed apartment project raises significant concerns. For instance, the inclusion of a car park for 93 vehicles directly contradicts Berkeley's push for walkable, transit-oriented housing, as exemplified by the University Avenue project. Prioritizing such extensive parking will only encourage more car ownership and traffic, which runs counter to Berkeley's goals for sustainable, pedestrian-friendly development. Additionally, the elimination of setbacks, justified solely by the inclusion of low-income housing, introduces serious risks for resident safety by restricting accessibility for fire and emergency personnel. Given the likely price point of these units, it's highly likely that many residents will be families and higher-income individuals who per studies have shown to own two cars, further increasing the parking burden on nearby streets. This will lead to more cars circling for parking, especially in this locale where elderly citizens and schoolchildren from Berkeley Arts Magnet Elementary School inhabit posing significant safety concerns.

[2] https://www.mdpi.com/1660-4601/17/14/5014
[3] https://windtechconsult.com/20-seriously-effective-wind-mitigation-strategies-for-your-next-project/

Ask – the city must request analysis and evaluation of realistic demands of likely residents and family structure, their car ownership, proposed parking slots and the impact on nearby street parking availability to ensure the right balance of transit-orientated housing goals are met without endangering current residents safety in walkability and convenience to accessible street parking in the vicinity and/or reduce proposed building size to mitigate risks

5. **Lack of congruence with the community**
   The current design proposal along Shattuck lacks the thoughtful integration needed to complement the unique, small-business-friendly nature of North Berkeley. Iconic places like the Cheeseboard Collective, which embodies Berkeley's values of independence, employee ownership, and prioritizing community over profit, are vital to the area's cultural and historical significance. A large-scale, developer-driven project with ground floor commercial storefronts risks disrupting this community-centric character. These new high-rises that are appearing in Berkeley, have not been able to attract local community-based businesses due to their high rent demands and therefore being leased by large national chains Adding commercial storefronts on Virginia Street—a completely residential area—raises concerns about maintaining the neighborhood's tranquility and balance. Just as it would be illogical to place a large-scale housing development in the heart of a commercial district like 4th Street, introducing commercial activity on a quiet residential street would disrupt the established character of the area. And with the likely rent burden, such a storefront being occupied by a national chain like a pizza hut or a seven-eleven or a clothing store is incongruent. Thoughtful design choices that align with community values are essential for maintaining safety, accessibility, and the neighborhood's integrity.
   Ask – the city must require re-layout of the proposed commercial storefronts away from Virginia street and include analysis and evaluation of the rent burden on such an establishment and ensure the rent is controlled to make the storefronts affordable to local businesses (representative businesses such as Poulet, GoingPlaces) versus national chains

6. **Urban heat islands and their environmental impact**
   High-density clusters of tall apartment buildings exacerbate the urban heat island (UHI) effect, disproportionately impacting marginalized communities and worsening climate change. These towering structures, often made of heat-absorbing materials like concrete and steel, trap heat in urban areas, making cities significantly warmer—by as much as 12°F compared to lower density regions.[4] The urban heat island effects already existing in Berkeley can be viewed using the hot stop mapping available on Climate Central's website[5,6]. This not only increases energy consumption through higher demand for air conditioning, but also leads to more greenhouse gas emissions, fueling the climate crisis. What's more, these heat islands disproportionately affect low-income and working-class communities, where green spaces and cooling infrastructure are often lacking. By prioritizing sustainable, human-centered urban planning -

[4] https://journalism.columbia.edu/news/urban-heat-island-effect-making-new-yorkers-hotter-study-finds

[5] https://journalism.columbia.edu/news/urban-heat-island-effect-making-new-yorkers-hotter-study-finds.

[6] https://climatecentral.observablehq.cloud/urban-heat-hot-spots/conus-map

such as reducing building density, integrating renewable energy solutions, and expanding green spaces—we can fight back against climate injustice and create healthier, more equitable cities for all.
Ask – the city must require a heat island effect analysis of the proposed structure and its environmental impact including the overall impact on environmental burden to the community and its residents health and quality of life and/or reduce proposed building size to mitigate risks

7. **Developer friendly policies at the disregard of residents**
While Berkeley housing code allows flexibility in how affordable units are distributed within a development, this approach is fundamentally unenforceable. Developers can easily prioritize profit by placing all affordable units on the less desirable lower floors while reserving the more valuable upper floors for high-paying buyers. There's no effective mechanism in place to ensure a fair distribution of affordable units, and without stricter regulations, developers are likely to exploit this loophole. This leads to a situation where promises of affordability are undermined by market-driven interests, and the concerns of existing neighborhoods about towering eight-story buildings next to single-family homes are completely disregarded. Ultimately, this approach benefits developers, not the broader community, and leaves too much room for manipulation.
Ask – the city must amend its design requirement policy around affordable housing allotment to within a building to pre-set and stipulate how many unites on which floor and of what design type (ex. 1, 2, 3 bedrooms) to ensure developers cannot game the system and/or reduce proposed building size to mitigate risks

8. **Opaque permitting, review and approval process**
The opaque zoning process for developers compared to everyday citizens creates significant issues for the community. When developers propose projects, there is often minimal communication, with only a notice posted on the proposed site providing an email and phone number for contact. In contrast, when residents want to make even a small addition to their property, they must go through multiple rounds of notifications, obtain signatures from neighbors, and follow several bureaucratic steps. This inconsistency in the process is problematic, especially for the diverse community that lives in the neighborhood, including elderly residents aging in place, working families, single parents, and those who are not tech-savvy. The lack of clear, accessible communication in zoning matters makes the process exclusionary and ableist, effectively undermining due process. Major projects that can disrupt the neighborhood should not be sprung upon residents without proper, transparent engagement. Lastly, the City is not being transparent in terms of the housing it has provided compared to other Cites and how the new housing has been distributed throughout the City.
Ask – the city must provide density increase analysis and evaluation for proposed building factoring in how the proposed building affects the fair and equitable increase in density versus other similar neighborhoods in District 4 and other districts within the city

Conclusion:

Berkeley has an average vacancy rate of 9-13%, meaning around 5,000 rental units are currently unoccupied out of 50,000 total. Despite the introduction of a vacancy tax in 2024, it is unclear whether this will effectively incentivize landlords to release these units into the market. Current incentives encourage property owners to keep units off the market, and simply building more housing—particularly under the banner of affordable housing—won't guarantee these units are

made available at low-income rates. Large developers, especially those who sell the finished housing to commercial property management firms, often exploit legal loopholes due to their significant financial and legal resources, making it difficult to achieve true affordability. Claims that state law and Berkeley's middle housing policy will empower small developers to build small multi-unit projects or duplexes that align with the ethos of the city are largely inaccurate. As a detailed analysis highlights, 25 developers are responsible for building 25% of all housing units in the U.S., even though there are 60,000 developers nationwide[7]. This trend is driven by large developers' access to public markets and capital, enabling them to undertake giant projects—far from what Berkeley envisions with its housing goals. Experts, including the Berkeley Rental Board Chair, remain skeptical that building large market-rate units will significantly improve affordability[8]. In summary, we believe un-fettered development with disregard to the community is not the answer to fixing current distorted housing policies and perverse incentives.

We, the community of North Shattuck Alliance, should not be at the receiving end of well-meaning housing policies that create unintended consequences. We sincerely request the city and state government to help us preserve our rights and our homes by addressing the requested asks at the earliest. We are willing to work closely with the city and the developer to achieve an amicable resolution that addresses our concerns.

[7] https://www.noahpinion.blog/p/why-small-developers-are-getting

[8] https://www.berkeleyside.org/2023/10/23/berkeley-affordable-housing-construction

On Tue, Jul 22, 2025 at 3:37 PM John Lopez <johnlopez8801@gmail.com> wrote:

To: Zoning Adjustments Board (ZAB)

From: John Lopez 1618 Walnut Street

Re: July 24, 2025 Agenda Item 7. A.

Project:2109 Virginia St. ZZP2024-0066

Request the ZAB to consider more study of the size and scope of this proposed project. **The current zoning for the C-NS North Shattuck Commercial District sets a maximum height of 35 feet and 3 stories for non-residential and mixed-use projects, and 28 feet and 2 stories for residential-only projects**

To avoid irreversible mistakes to the surrounding neighborhoods please consider some of these points:

1. The view study must include streets and views or estimated views from houses and apartment buildings. The views from their windows and yards that will be obstructed must be included.
2. Study noise pollution from open windows, HVAC, and Commercial use needs more study.
3. Study underground parking exhaust on air quality at location and neighborhood.
4. Study impact of Guest / Customer parking in residential neighborhoods and associated air and noise pollution.
5. Study the alternative of a lower height of 3-6 stories. 89 feet is too high for the character of the surrounding neighborhood.
6. Study if there are Aquifers under any section of the proposed project.
7. Maybe outside of this discussion but study Hospitals and First responder staffing and medical response. Police, Fire, and Paramedics will remain the same or is there a plan to increase? I hope more studies for all the large increases in Berkeley's population with the large projects being proposed and approved.

w/ attchmts

Date: July 24, 2025

To: The Zoning Adjustments Board (ZAB) - July 24 Meeting

From: Melinda E. Lopez, North Shattuck Alliance of concerned neighbors on Walnut Street, Berkeley, California 94709

Subject: Concerns Regarding 2109 Virginia Development Proposal of an 8-Story Building (110 units, 109 Parking) Adjacent to Two-Story Single-Multi-Family Homes – Use Permit for a Project at 2109 Virginia Street - ZAB App # ZP2024-0066

Dear Members of the Zoning Adjustments Board,

We, the undersigned neighbors and residents of the surrounding North Berkeley community, are writing to express our significant concerns regarding the proposed 8-story, 110-unit development at 2109 Virginia Street, which also includes 109 parking spaces. We understand that our submission is past the formal deadline, but we respectfully request that this letter and any accompanying documentation be entered into the record for the July 24th ZAB meeting.

Primary Concerns:

1. **Geotechnical and Soil Stability:**
    - The area surrounding 2109 Virginia, including the adjacent streets of Cedar, Walnut, and Shattuck, has not been thoroughly evaluated in recent public geotechnical studies.
    - We are concerned about potential risks of soil instability, settlement, or lateral movement affecting neighboring historic and residential properties, particularly those on Walnut Street.
2. **Scale and Massing Incompatibility:**
    - An 8-story building is significantly out of scale with the immediate neighborhood, which primarily consists of 1-3 story buildings.
    - The visual impact and shadowing effects on nearby residences and community spaces must be more carefully reviewed.
3. **Traffic and Parking Impact:**
    - The proposed 109 parking spaces raise concerns about increased vehicular traffic and congestion on nearby narrow streets.
    - We request a thorough and publicly accessible traffic impact analysis.

4. **Environmental and CEQA Review:**
    - It is unclear whether all CEQA-required assessments have been completed and made available for public review.
    - We request the full publication of CEQA-related findings and mitigation measures, including potential impacts on local air quality, noise, and water runoff.
5. **Community Process and Transparency:**
    - We respectfully request greater transparency and opportunities for community input throughout the development review process.
    - Consideration should be given to alternative designs that better reflect the character and infrastructure capacity of the neighborhood.

We appreciate your service and the opportunity to express our concerns, and we urge you to delay any final decision until a more comprehensive review—including soil studies, CEQA documentation, and additional community input—is completed.

Sincerely,

Melinda E. Lopez

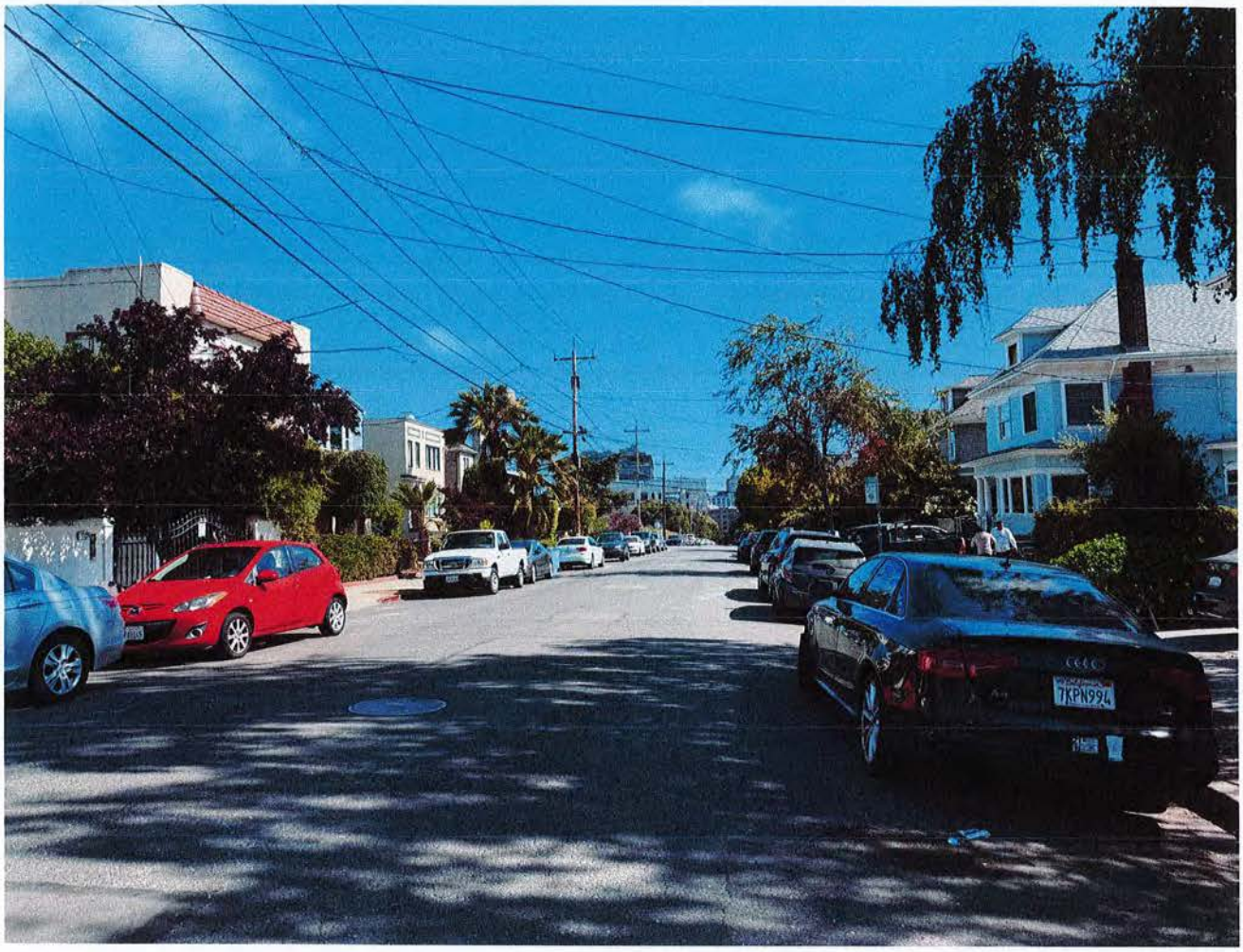
Melinda E. Lopez
North Shattuck Alliance
Member emails:

melindaelopez@gmail.com; johnlopez8801@gmail.com; karen.streets@gmail.com; unnikvij@gmail.com;lizstevick@gmail.com;gstevick@gmail.com;bgordon9962@hotmail.com;ronasidivj@gmail.com; mgapte@gmail.com;415jazz@gmail.com;catlady_1619@hotmail.com; rhojati1@yahoo.com

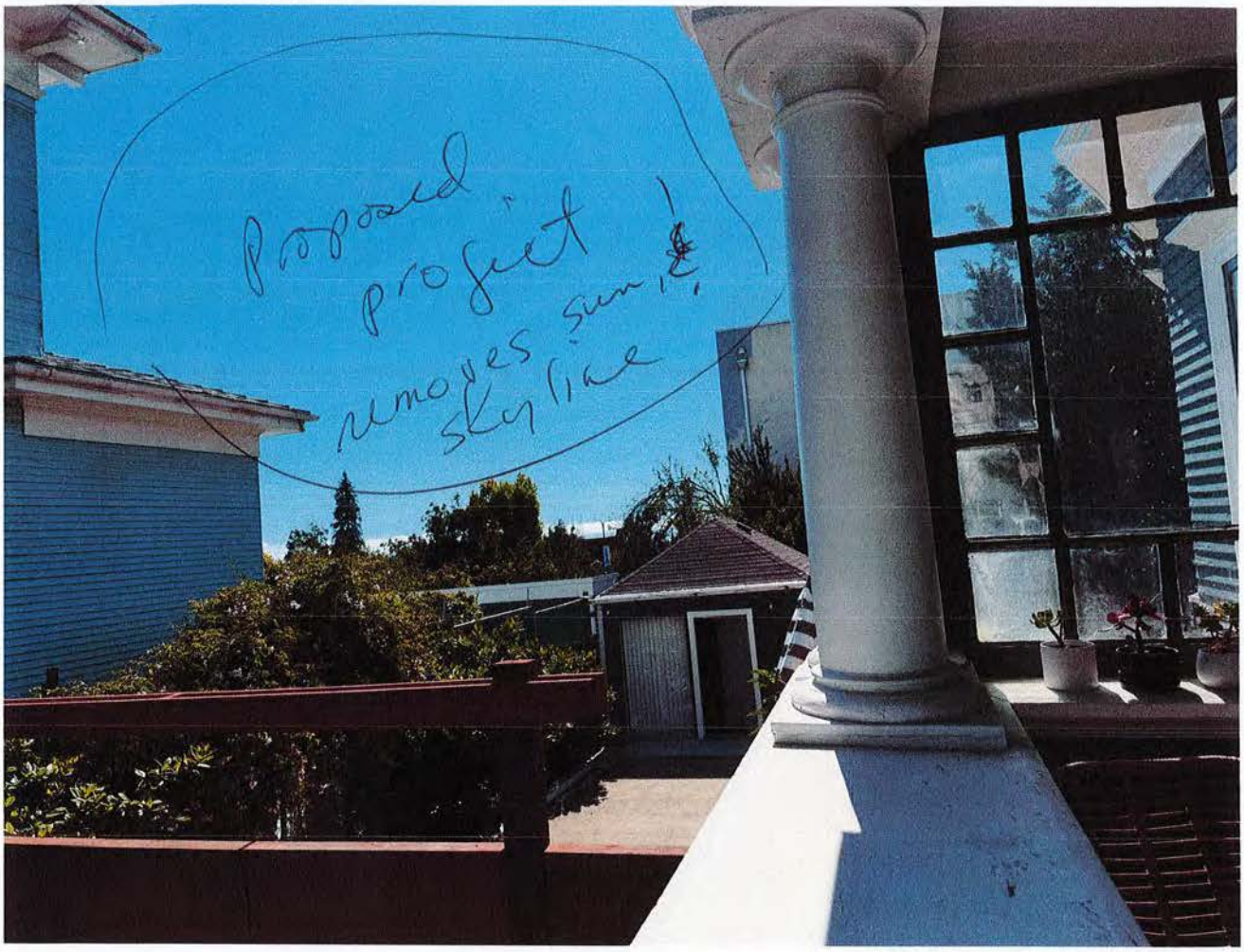
cc: igor@igortregub.com;mayor@berkelyca.gov; senator.grayson@senate.ca.gov; governor@governor.ca.gov



Walnut Street
2 story dwellings



Walnut Street



Wd Land St

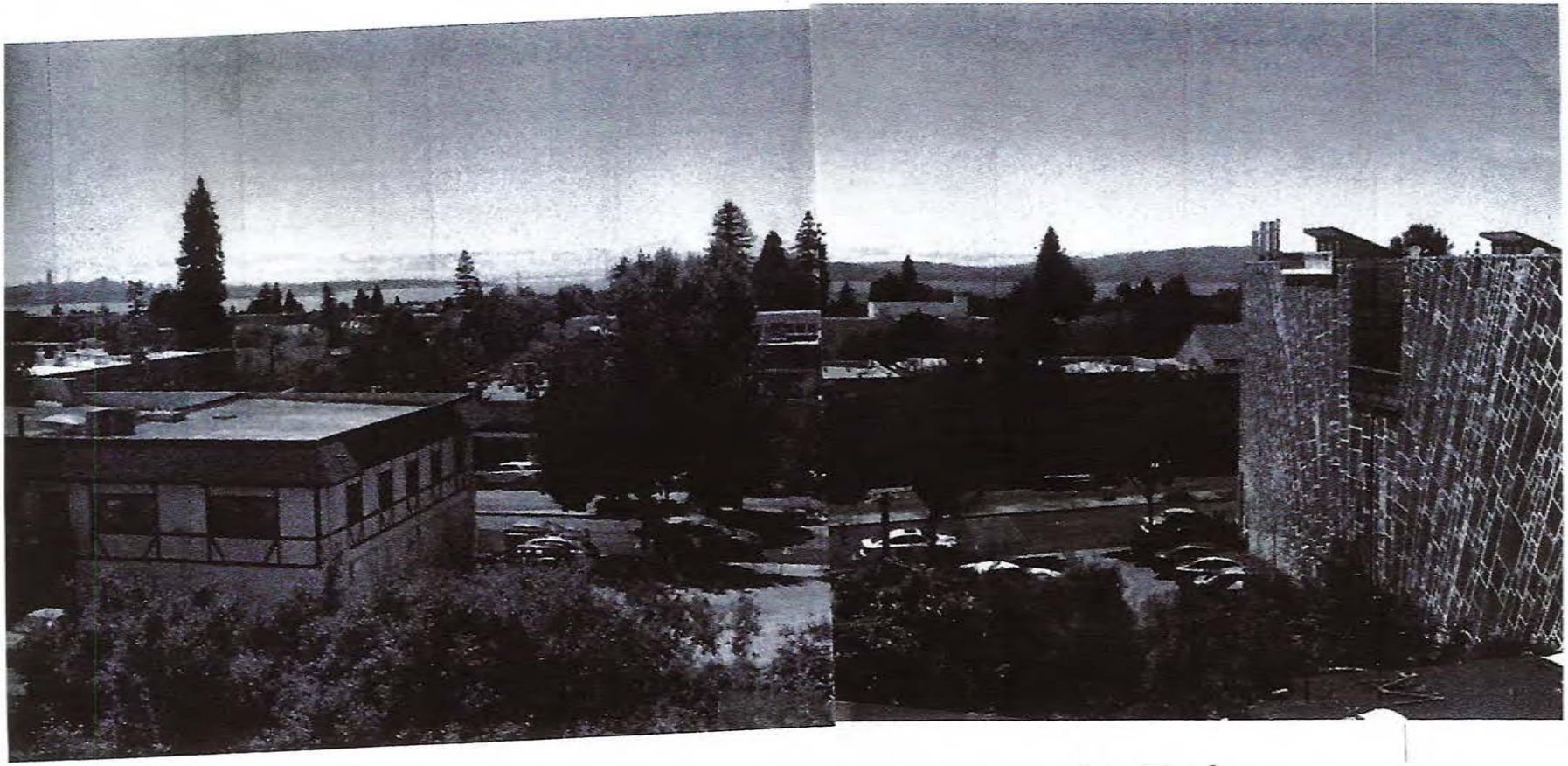
Residence

July 25, 2025

Elizabeth Scherer, 1636 Walnut Street, near Virginia Street
Resident for 46 years in this neighborhood, and former Commissioner

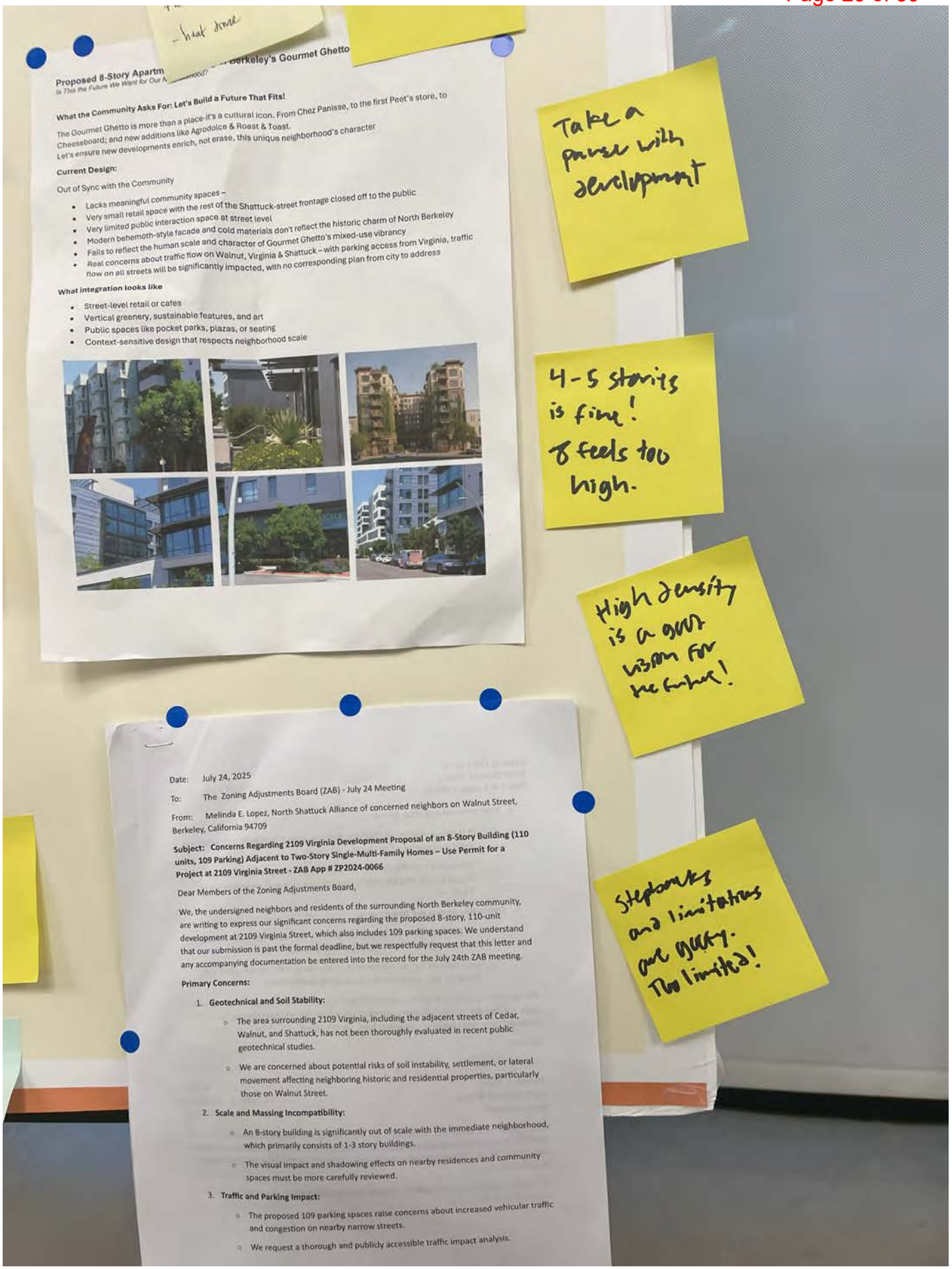
Many single-family homes in this area will be impacted. We are not downtown. We have mostly two to three story buildings. The blocking of the view will not only impact the residents close by with homes, but all homes on the north side. The Hills will see a large unattractive cement building sticking out like a tooth cutting their views. Those looking up will now have their views of the hills blocked as well.

We know that this new building will benefit from being in the attractive Gourmet Ghetto, but they will contribute nothing. It is a take, take, take situation. Let's not allow that to happen! Instead let's wait for a developer who comes in with plans for a beautiful 2 to 3-story building, adding shops, restaurants, and beautiful architecture like the historic Peets building. The developers boast they will have a coffee shop for the residents. That's it! No shops, restaurants, nothing to add. Who benefits from that? We already have two fabulous coffee shops on the block, the French café and the Guerilla Café and one block away is a big new coffee shop. What makes us bent on building these inappropriate complexes? The cities which have held out are now so happy they did. We should avoid any money transfer schemes coming at the expense of current residents. Living in the Gourmet Ghetto area is highly valued. Don't take away the beauty and specialness of the community. A seven or eight story is too high for any residential area and it is a travesty if it is right next to your home. It will reduce property values. Remember that often the initially presented plan is much different from the finalized project as the developers will continually take any advantage possible. There is potential for increased noise and shadows. Temperatures (global warming) will rise with more cement and a huge ugly high block of cement.



When we build, let us think that we build forever. Let it not be for present delight nor for present use alone. Let it be such work as our descendants will thank us for; and let us think, as we lay stone on stone, that a time is to come when those stones will be held sacred because our hands have touched them, and that men will say, as they look upon the labor and wrought substance of them, 'See! This our fathers did for us.

John Ruskin


Proposed 8-Story Apartm
Is This the Future We Want for Our
Berkeley's Gourmet Ghetto
What the Community Asks For: Let's Build a Future That Fits!
The Gourmet Ghetto is more than a place-it's a cultural icon. From Chez Panisse, to the first Peet's store, to Cheeseboard; and new additions like Agrodolce & Roast & Toast.
Let's ensure new developments enrich, not erase, this unique neighborhood's character
Current Design:
Out of Sync with the Community
Lacks meaningful community spaces –
Very small retail space with the rest of the Shattuck-street frontage closed off to the public
Very limited public interaction space at street level
Modern behemoth-style facade and cold materials don't reflect the historic charm of North Berkeley
Fails to reflect the human scale and character of Gourmet Ghetto's mixed-use vibrancy
Real concerns about traffic flow on Walnut, Virginia & Shattuck – with parking access from Virginia, traffic flow on all streets will be significantly impacted, with no corresponding plan from city to address
What integration looks like
Street-level retail or cafes
Vertical greenery, sustainable features, and art
Public spaces like pocket parks, plazas, or seating
Context-sensitive design that respects neighborhood scale
Take a pause with development
4-5 stories is fine! 8 feels too high.
High density is a good vision for the future!
Date: July 24, 2025
To: The Zoning Adjustments Board (ZAB) - July 24 Meeting
From: Melinda E. Lopez, North Shattuck Alliance of concerned neighbors on Walnut Street, Berkeley, California 94709
Subject: Concerns Regarding 2109 Virginia Development Proposal of an 8-Story Building (110 units, 109 Parking) Adjacent to Two-Story Single-Multi-Family Homes – Use Permit for a Project at 2109 Virginia Street - ZAB App # ZP2024-0066
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Primary Concerns:
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We are concerned about potential risks of soil instability, settlement, or lateral movement affecting neighboring historic and residential properties, particularly those on Walnut Street.
2. Scale and Massing Incompatibility:
An 8-story building is significantly out of scale with the immediate neighborhood, which primarily consists of 1-3 story buildings.
The visual impact and shadowing effects on nearby residences and community spaces must be more carefully reviewed.
3. Traffic and Parking Impact:
The proposed 109 parking spaces raise concerns about increased vehicular traffic and congestion on nearby narrow streets.
We request a thorough and publicly accessible traffic impact analysis.
Stepbacks and limitations are okay. Too limited!

Date: July 25, 2025 Re: **2109 Virginia Street**

Elizabeth Scherer, 1636 Walnut Street, Resident for 46 years in this neighborhood

Many single-family homes in this area will be impacted. We are not downtown. We have mostly two to three story buildings. The blocking of the view will not only impact the residents close by with homes, but all homes on the north side. Many will see a large unattractive cement building sticking out like a tooth cutting out their views. Those looking up from the flats or from the city will now have their views of the hills blocked as well.

We know this new building will benefit from being in the attractive Gourmet Ghetto, but what will they contribute? Nothing! It will detract! It's a take, take situation. Let's not allow that to happen! Instead, let's wait for a developer with plans for a beautiful 2 to 3-story building, adding shops, restaurants, and beautiful architecture like the historic Peets building. The developers boast a coffee shop for the residents. That's it! No shops, restaurants, nothing to add. Who benefits from that? We already have two fabulous coffee shops on the block, the French café and the Guerilla Café and one block away is a big new coffee shop. What makes us bent on building these inappropriate complexes? The cities which have held out are now so happy they did. We should avoid any money transfer schemes coming at the expense of current residents. Living in the Gourmet Ghetto area is highly valued. Don't take away the beauty and specialness of the community. A seven or eight story is too high for any residential area and it is a travesty if it is right next to your home. It will reduce property values. Remember that often the initially presented plan is much different from the finalized project as the developers will continually take any advantage possible. There is potential for increased noise and shadows. Temperatures (global warming) will rise with more cement and a huge ugly high block of cement.

Neighborhood Character: A 7-story or 8-story building can significantly alter the visual landscape and character of a neighborhood, potentially clashing with the existing scale and aesthetic of smaller buildings.

Infrastructure Strain: Increased density can strain existing infrastructure like water, sewer, and electrical systems. Traffic congestion and parking availability may also worsen.

Property Values: While some properties may benefit from increased demand, others, particularly those with views obstructed by the taller building, may see a decrease in value.

Shadows and Light: The taller building could cast long shadows, impacting sunlight access for surrounding properties and potentially affecting landscaping or solar panel efficiency.

Noise Pollution: Construction and occupancy of a larger building can lead to increase noise levels.

ENVIRONMENTAL CONSISTENCY ANALYSIS PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15183 AND 15162

2109 VIRGINIA STREET PROJECT

BERKELEY, CALIFORNIA

LSA

August 2025

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ENVIRONMENTAL CONSISTENCY ANALYSIS PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15183 AND 15162

2109 VIRGINIA STREET PROJECT

BERKELEY, CALIFORNIA

Submitted to:

Cecelia Mariscal, Associate Planner
City of Berkeley
Planning and Development Department
Land Use Division
1947 Center Street, 2nd Floor
Berkeley, California 94704

Prepared by:

LSA
157 Park Place
Pt. Richmond, California 94801
(510) 236-6810

Project No. CBE1906.18

August 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

2,3,7,8-TCDD	2, 3, 7, 8-tetrachloro-dibenzodioxin
AAQS	ambient air quality standards
AB	Assembly Bill
ABAG	Association of Bay Area Governments
AC Transit	Alameda-Contra Costa County Transit
ACM	asbestos-containing material
Air District	Bay Area Air District
APN	Assessor's Parcel Number
BART	Bay Area Rapid Transit
Basin Plan	Water Quality Control Plan
bgs	below ground surface
BMC	Berkeley Municipal Code
BMPs	best management practices
Cal/EPA	California Environmental Protection Agency
Cal/OSHA	California Occupational Safety and Health
CalEEMod	California Emissions Estimator Model
CALGreen Code	California Green Building Standards Code
California Register	California Register of Historical Resources
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CGS	California Geological Society
CH_4	methane

City	City of Berkeley
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
C-NS zone	North Shattuck Commercial zone
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent
COA	Condition of Approval
CREC	Controlled Recognized Environmental Condition
CWA	Clean Water Act
dB	decibels
dBA	A-weighted decibels
DDT	dichlorodiphenyltrichloroethane
DIR	California Department of Industrial Relations
DOC	California Department of Conservation
DOSH	Division of Occupational Safety and Health
DPM	diesel exhaust particulate matter
DTSC	Department of Toxic Substances Control
DWR	California Department of Water Resources
EBMUD	East Bay Municipal Utility District
EIR	Environmental Impact Report
EMA	Environmental Management Area
EMFAC2021	Emission Factor model
EPA	United States Environmental Protection Agency
ESL	Environmental Screening Level
FEMA	Federal Emergency Management Agency
FESA	federal Endangered Species Act
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Authority

GHG	greenhouse gas
gpd	gallons per day
GSP	Groundwater Sustainability Plan
GWP	Global Warming Potential
HASP	Health and Safety Plan
HCD	California Department of Housing and Community Development
HFCs	hydrofluorocarbons
HMBP	Hazardous Materials Business Plan
Housing Element	2023-2031 Housing Element Update
Housing Element EIR	2023-2031 Housing Element Update Draft Environmental Impact Report
HRE	Historical Resources Evaluation
HVAC	heating, ventilation, and air conditioning
I-580	Interstate 580
I-80	Interstate 80
ITE	Institute of Transportation Engineers
J Number	Air District Job Number
LBP	lead-based paint
LCI	Governor's Office of Land Use and Climate Innovation
L_{dn}	day-night average noise level
L_{eq}	equivalent continuous sound level
L_{max}	maximum instantaneous sound level
LOS	level of service
LUST	leaking underground storage tank
mgd	million gallons per day
MRP	Municipal Regional Stormwater NPDES Permit
MWWTP	Main Wastewater Treatment Plant
N_2O	nitrous oxide
ND/MND	Negative/Mitigated Negative Declaration
NOD	Notice of Determination
NO_X	nitrogen oxides

NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
OSHA	Occupational Safety and Health Administration
PCBs	polychlorinated biphenyls
PCE	perchloroethylene
PFCs	perfluorocarbons
Phase I ESA	Phase I Environmental Site Assessment
Phase II ESA	Phase II Environmental Site Assessment
PM	particulate matter
PM_{10}	particulate matter less than 10 microns in size
$PM_{2.5}$	particulate matter less than 2.5 microns in size
POTW	publicly owned treatment works
PRC	Public Resources Code
proposed project	2109 Virginia Street Project
R-2A zone	Restricted Multiple-Family Residential zone
R-4 zone	Multiple-Family Residential zone
RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Needs Assessment
RMS	root-mean-square
ROGs	reactive organic gases
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SDSs	Safety Data Sheets
SF_6	sulfur hexafluoride
SGMP	Soil and Groundwater Management Plan
SRA	State Responsibility Area
Stormwater Requirements Checklist	City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist
SWRCB	State Water Resources Control Board
TACs	toxic air contaminants
TMD	Toxics Management Division

TMDLs	Total Maximum Daily Loads
TPA	transit priority area
TPH	total petroleum hydrocarbons
USDOT	United States Department of Transportation
USFWS	United States Fish and Wildlife Service
VdB	vibration velocity decibels
VDECS	Verified Diesel Emission Control Strategies
VEC	vapor intrusion condition
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	vehicle miles traveled
vpd	vehicles per day
vph	vehicles per hour
WEAP	Worker Environmental Awareness Program
WSMP 2040 Plan	Water Supply Management Program 2040 Plan
ZAB	Zoning Adjustments Board

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1.0 PROJECT INFORMATION

1. **Project Title:**

   2109 Virginia Street Project

2. **Lead Agency Name and Address:**

   City of Berkeley
   Planning and Development Department
   Land Use Planning Division
   1947 Center Street, 2nd Floor
   Berkeley, California 94704

3. **Contact Person and Phone Number:**

   Cecelia Mariscal, Associate Planner
   Email: cmariscal@berkeleyca.gov
   Phone: (510) 981-7439

4. **Project Location:**

   The project site is located at 2109 Virginia Street (Assessor's Parcel Number [APN] 058-2178-18) in Berkeley, Alameda County, California.

5. **Project Sponsor's Name and Address:**

   Trachtenberg Architects
   2421 Fourth Street
   Berkeley, California 94710
   Phone: (510) 649-1414

6. **General Plan Designation:**

   Neighborhood Commercial

7. **Zoning:**

   North Shattuck Commercial (C-NS)
   Multiple-Family Residential (R-4)
   Restricted Multiple-Family Residential (R-2A)

8. **Project Description:**

   The proposed project would include the demolition of the existing approximately 4,604-square-foot, two-story commercial building on the project site, and construction of a new eight-story mixed-use residential building consisting of 112,969 square feet of residential space and 690 square feet of commercial space in the southwest corner of the ground floor. The new mixed-use residential building would consist of a total of 110 dwelling units, including 9 very low-income units and 9 middle-income units. In addition, each unit would include a private balcony, providing a total of 3,240 square feet of private outdoor space. The proposed project also

includes a shared 4,912-square-foot courtyard area on the second floor for use by residents containing: 1,965 square feet of landscaped area; a shared 1,030-square-foot roof deck on the eighth floor, containing 412 square feet of landscaped area; a solar array on the roof; and 109 vehicle and 97 bicycle parking spaces. The ground floor would also include the residential lobby, the leasing office, the mail room, and a storage area. Landscaping would also be provided along the project site frontages on Shattuck Avenue and Virginia Street. Overall, the proposed project would provide a total of 9,182 square feet of usable open space and landscaped area. Refer to Section 3.0 for a complete description of the project.

9. **Surrounding Land Uses and Setting:**

   The project site is generally surrounded by existing development, including single- and multi-family residential and commercial uses.

10. **Other Public Agencies Whose Approval is Required (e.g., permits, financial approval, or participation agreements):**

    East Bay Municipal Utility District (EBMUD) regarding proposed utility connections.

b

2.0 INTRODUCTION

This consistency evaluation compares the potential environmental effects of the proposed 2109 Virginia Street Project (proposed project) with the scope of analysis and identified environmental impacts in the program-level Final Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update (Housing Element),[1,2] certified on January 18, 2023 (Housing Element EIR) by the City of Berkeley (City). The purpose of this analysis is to determine whether the proposed project: (a) falls within the scope of the Housing Element EIR; (b) is consistent with the findings of the Housing Element EIR; and (c) would result in any potential impacts during project construction or operation that were not previously analyzed in the Housing Element EIR or that are unique or peculiar to the project site. This evaluation has been prepared pursuant to *State CEQA Guidelines* Sections 15183 and 15162. As discussed in Section 4.0 of this document and further explained in Sections 5.0 and 6.0, the proposed project is consistent with the Housing Element EIR and no new or more severe impacts would result. Therefore, a Notice of Determination (NOD) may be filed for the project.

2.1 PURPOSE OF STATE CEQA GUIDELINES SECTIONS 15183 AND 15162 CONSISTENCY ANALYSIS

This consistency analysis is prepared pursuant to *State CEQA Guidelines* Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), which provides that projects "consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." These provisions streamline the review of such projects and reduce the need to prepare repetitive environmental studies.

Pursuant to *State CEQA Guidelines* Section 15183, the public agency shall limit its examination of environmental effects to those which the agency determines, in an Initial Study or other analysis:

1. Are peculiar to the project or the parcel on which the project would be located;
2. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent;
3. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action; or
4. Are previously identified significant effects which, as a result of substantial new information not known at the time of EIR certification, are determined to have a more severe adverse impact than discussed in the prior EIR.

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1 Berkeley, City of. 2022. *City of Berkeley 2023-2031 Housing Element Update Draft Environmental Impact Report, SCH No. 2022010331*. August.

2 Berkeley, City of. 2023. *City of Berkeley Housing Element Update 2023-2031*. January. Amended February 17, 2023.

In addition, in accordance with the California Environmental Quality Act (CEQA), as set forth in Public Resources Code (PRC) Section 21166 and *State CEQA Guidelines* Section 15162, no subsequent or supplemental EIR or other environmental analysis shall be required unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was adopted, shows any of the following:

    a. The project will have one or more significant effects not discussed in the previous EIR;

    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

    d. Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative (see *State CEQA Guidelines* Section 15162(a) and also PRC Section 21166).

2.2 PROJECT CONSISTENCY WITH A COMMUNITY PLAN, GENERAL PLAN, OR ZONING

On January 18, 2023, the City of Berkeley City Council approved the City's 2023-2031 Housing Element Update following certification of the Housing Element EIR. The Housing Element identifies the City's housing needs and outlines the specific goals, policies, and programs to address them. Importantly, the Housing Element quantifies how many new housing units the City needs to accommodate growth in the region as part of the Regional Housing Needs Assessment (RHNA). As part of the Housing Element, the City identified adequate land with appropriate zoning and development standards to accommodate the City's RHNA allocation (i.e., Opportunity Sites). The Opportunity Sites identified in the Housing Element include vacant or underutilized sites with near-term potential for residential or mixed-use development. The project site was identified as an Opportunity Site for residential development in the Housing Element. Refer to Section 3.3 of this document for additional information regarding the relationship between the proposed project and the City's General Plan.

3.0 PROJECT DESCRIPTION

The following section describes the proposed 2109 Virginia Street Project (proposed project) that is the subject of this consistency evaluation, which has been prepared pursuant to *State CEQA Guidelines* Section 15183 (Projects Consistent with a Community Plan or Zoning) and Section 15162 (Subsequent EIRs and Negative Declarations). The proposed project involves the construction of a new mixed-use residential building on a site that was identified as an Opportunity Site for residential development in the City of Berkeley (City) 2023-2031 Housing Element Update and in the City's 2023-2031 Housing Element Update Draft Environmental Impact Report (Housing Element EIR). The City of Berkeley is the lead agency for review of the proposed project under the California Environmental Quality Act (CEQA).

3.1 PROJECT SITE

The following section describes the project location, existing conditions, surrounding land uses, and the regulatory setting.

3.1.1 Project Location

The approximately 0.51-acre project site is located at 2109 Virginia Street (Assessor's Parcel Number [APN] 058-2178-18) in Berkeley, Alameda County, California. The project site is bounded by commercial uses to the north, single-family residential uses to the east, Virginia Street to the south, and Shattuck Avenue to the west.

Regional vehicular access to the project site is provided by Interstate 80 (I-80) and Interstate 580 (I-580) via University Avenue. Local access is provided primarily via Shattuck Avenue and Virginia Street. Shattuck Avenue is designated as a Major Street[3] in the City's General Plan. Transit in the project vicinity includes the extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit, including Lines 7, 18, and FS, which provide service along Shattuck Avenue.[4] The closest bus stop is at Virginia Street and Shattuck Avenue, approximately 70 feet south of the project site.

Figure 3-1 shows the regional and local context of the project site.

3.1.2 Existing Conditions

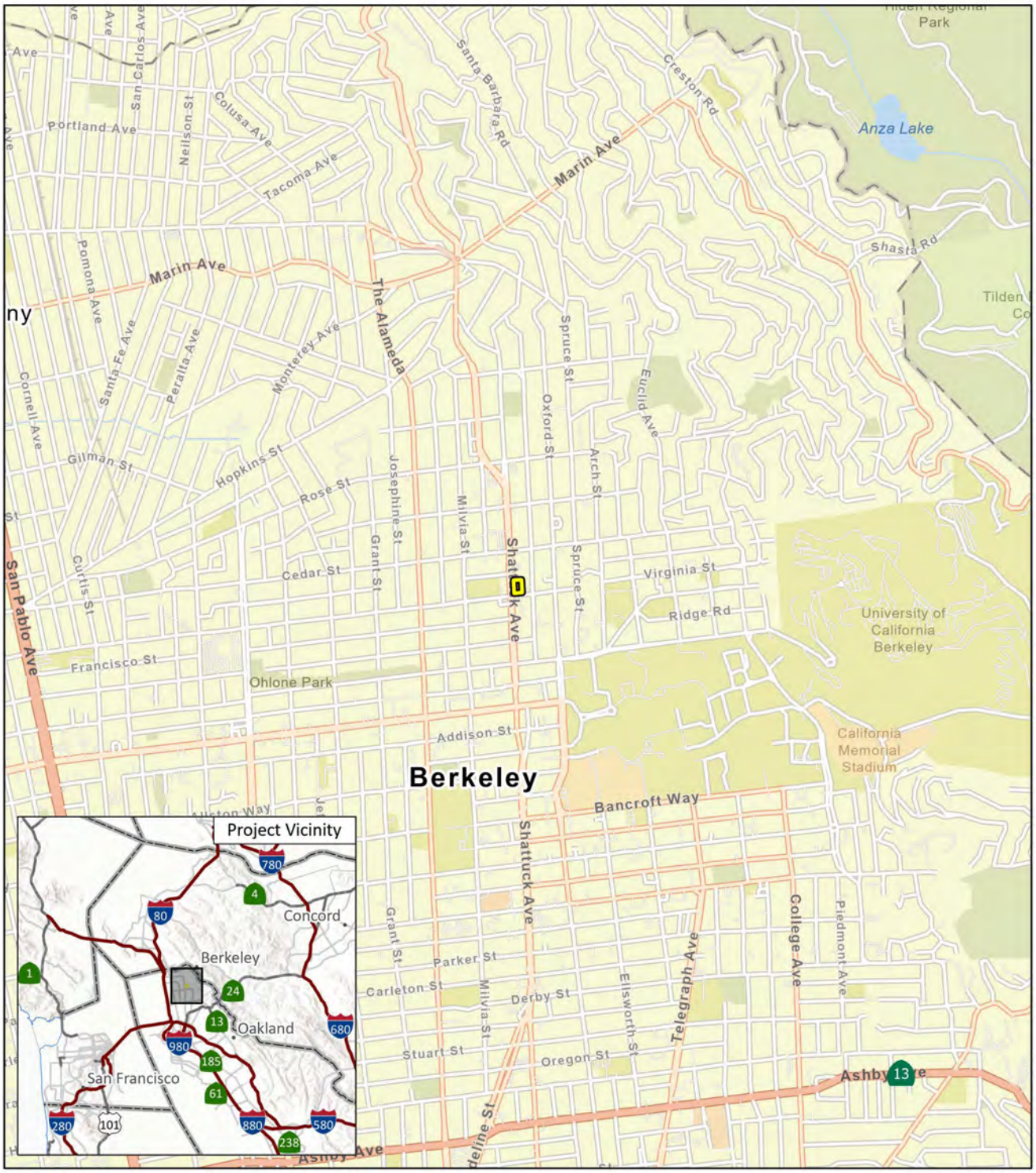
The southwestern portion of the project site is currently developed with an approximately 4,604-square-foot, two-story commercial building. The remainder of the project site consists of a paved surface parking lot. Vegetation on the project site is limited to street trees along Shattuck Avenue.

Figure 3-2 depicts an aerial photograph of the project site and surrounding land uses.

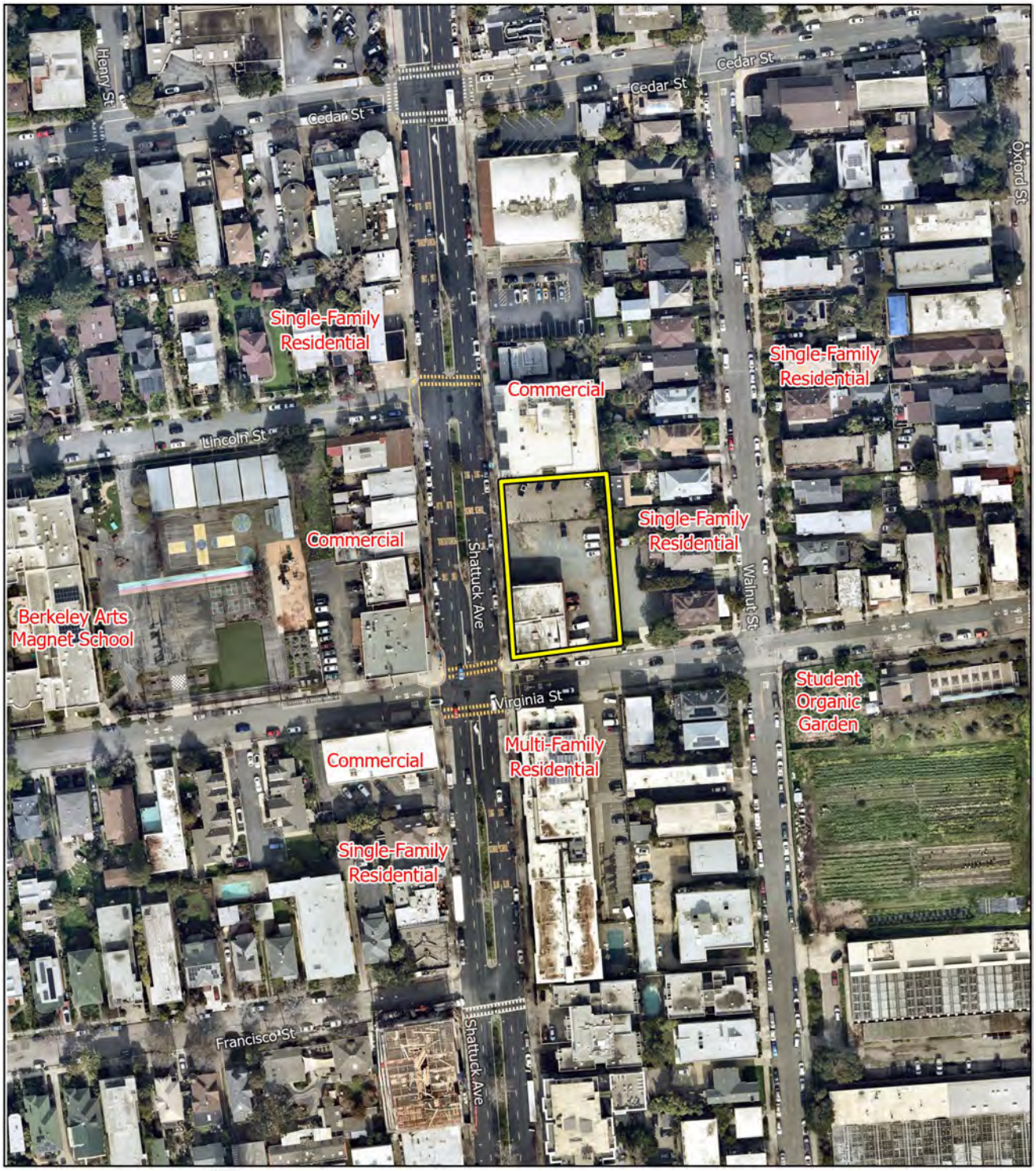
[3] Major Streets serve the movement of automobiles, trucks, buses, pedestrians, and bicycles across the city, connecting to the regional transportation network, and to other jurisdictions.

[4] Alameda-Contra Costa County Transit. 2024. Maps & Schedule. Website: https://www.actransit.org/maps-schedules (accessed March 2025).

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Project Vicinity
Concord
Berkeley
Oakland
San Francisco
Project Location
Berkeley
Ohlone Park
University of California Berkeley
California Memorial Stadium
Anza Lake
Marin Ave
Shattuck Ave
Bancroft Way
Addison St
Ashby Ave
Telegraph Ave
College Ave
Ridge Rd
Virginia St
Cedar St
Rose St
Francisco St
Stuart St
Oregon St
Derby St
Carleton St
Parker St
Grant St
Milvia St
Spruce St
Oxford St
Arch St
Euclid Ave
The Alameda
Josephine St
Hopkins St
Gilman St
Monterey Ave
Peralta Ave
Santa Fe Ave
Cornell Ave
Curtis St
San Pablo Ave
Pomona Ave
Portland Ave
Tacoma Ave
Colusa Ave
Neilson St
San Carlos Ave
Santa Barbara Rd
Creston Rd
Shasta Rd
Tilden Park
Piedmont Ave
Elmsworth St
Derby St
Milvia St
Addison St
Ashby Ave
LSA
FIGURE 3-1
0
1000
2000
FEET
SOURCE: Esri World Street Map (2025)
I:\C\CBE1906.18\GIS\Pro\2109 Virginia Street\2109 Virginia Street.aprx (3/14/2025)
2109 Virginia Street
Project Location and Regional Vicinity

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FIGURE 3-2

SOURCE: Nearmap (2/15/2025)

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2109 Virginia Street

Aerial Photograph of the Project Site

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3.1.3 Surrounding Land Uses

As shown on Figure 3-2, the project site is surrounded by existing development, including single- and multi-family residential and commercial uses. Virginia Street bounds the project site to the south, followed by the University Park Apartments complex, and Shattuck Avenue bounds the project site to the west. The Student Organic Garden is located approximately 0.04 mile southeast of the project site, across Virginia Street, and the Berkeley Arts Magnet School is located 0.04 mile west of the project site, across Shattuck Avenue.

3.1.4 Regulatory Setting

The City's General Plan designates the project site as Neighborhood Commercial. Areas designated as Neighborhood Commercial in the city are generally characterized by pedestrian-oriented, neighborhood-serving commercial development and multi-family residential structures. These areas are typically located on two-lane streets with on-street parking and transit, and the appropriate uses for these areas include local-serving commercial, residential, office, community service, and institutional.[5]

The project site is located within three zoning districts: (1) 19,788 square feet of the project site are in the North Shattuck Commercial (C-NS) zone; (2) 1,970 square feet are in the Multiple-Family Residential (R-4) zone; and (3) 584 square feet are in the Restricted Multiple-Family Residential (R-2A) zone. As outlined in Section 23.204.090 of the Berkeley Municipal Code (BMC), the purpose of the C-NS zone is to encourage the maintenance and establishment of retail and service activities that provide goods and services to serve the residents of the adjacent and outlying neighborhoods, provide locations for other activities compatible with these commercial activities, promote compatibility between such commercial areas and adjacent residential neighborhoods, and encourage an adequate commercial and residential mix along Shattuck Avenue.[6] As outlined in Sections 23.202.110 and 23.202.090 of the BMC, respectively, the purpose of the R-4 zone is to make available housing for persons who desire both convenience of location and a reasonable amount of usable open space. The purpose of the R-2A zone is to make available housing for persons who desire apartment-type accommodations with a maximum of open space.[7,8]

The project site has also been identified as an Opportunity Site for residential development in the City's 2023-2031 Housing Element Update.

3.2 PROPOSED PROJECT

The proposed project would demolish the existing 4,604-square-foot, two-story commercial building on site and would construct an eight-story mixed-use residential building consisting of 112,969 square feet of residential space and 690 square feet of commercial space in the southwest corner of

5 Berkeley, City of. 2001b. General Plan, Land Use Element. December 18.
6 Berkeley, City of. n.d. Berkeley Municipal Code, Chapter 23.204, Commercial Districts, Section 23.204.090, C-NS North Shattuck Commercial District.
7 Berkeley, City of. n.d. Berkeley Municipal Code, Chapter 23.202, Residential Districts, Section 23.202.110, R-4 Multi-Family Residential District.
8 Berkeley, City of. n.d. Berkeley Municipal Code, Chapter 23.202, Residential Districts, Section 23.202.090, R-2A Restricted Multiple-Family Residential District.

the ground floor. The proposed project is utilizing a 100 percent density bonus pursuant to the State Density Bonus Law and would include 110 dwelling units with a mix of 9 very low-income units and 9 middle-income units. As shown in Table 3.A, overall, the proposed project would include 14 studio units, 28 one-bedroom units, and 68 two-bedroom units. In addition, each unit would include a private balcony, providing a total of 3,240 square feet of private balcony space.

Table 3.A: Summary of Proposed Units

Floor	Studio	1-Bedroom	2-Bedroom	2-Bedroom + Office	Total Units
Ground Level	-	-	-	-	0
Second Floor	2	4	6	4	16
Third Floor	2	4	6	4	16
Fourth Floor	2	4	6	4	16
Fifth Floor	2	4	6	4	16
Sixth Floor	2	4	6	4	16
Seventh Floor	2	4	6	4	16
Eighth Floor	2	4	5	3	14
Total	**14**	**28**	**41**	**27**	**110**

Source: Trachtenberg Architects (2025)

In addition, the proposed project would include a shared 4,912-square-foot courtyard area on the second floor for use by residents, a shared 1,030-square-foot roof deck on the eighth floor, a solar array on the roof, and vehicle and bicycle parking spaces. The ground floor would also include the residential lobby, the leasing office, the mail room, and a storage area.

Figure 3-3 depicts the proposed floor plans for the proposed project, including for the ground level, second through seventh floors, eight floor, and the proposed roof plan.

3.2.1 Access and Parking

As shown on Figure 3-3, the proposed project would be accessed via a driveway from Shattuck Avenue that would provide access to the proposed garage on the ground floor. The proposed garage would provide up to 109 vehicle parking spaces for residents. The proposed project would also provide 97 bicycle parking spaces, including 59 secure bicycle parking spaces located in a bike room in the northeast corner of the project site.

In addition, a new curb ramp and crossing is proposed for the corner of Virginia Street and Shattuck Avenue. The proposed curb ramp and crossing would be constructed pursuant to City standards.

3.2.2 Open Space and Landscaping

As discussed above, the proposed project would include a shared 4,912-square-foot courtyard area on the second floor for use by residents, containing 1,965 square feet of landscaped area, and a shared 1,030-square-foot roof deck on the eighth floor, containing 412 square feet of landscaped area. The proposed courtyard area on the second floor would feature a variety of trees and other ornamental plan species and a central sitting nook. The roof deck on the eighth floor would feature landscaped vegetation, a gathering area, and a fire pit.



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FIGURE 3-3
Page 1 of 3

0 20 40
FEET

SOURCE: Stackhouse De La Pena Trachtenberg Architects
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2109 Virginia Street
Proposed Floor Plans - Ground and Level 2



LSA

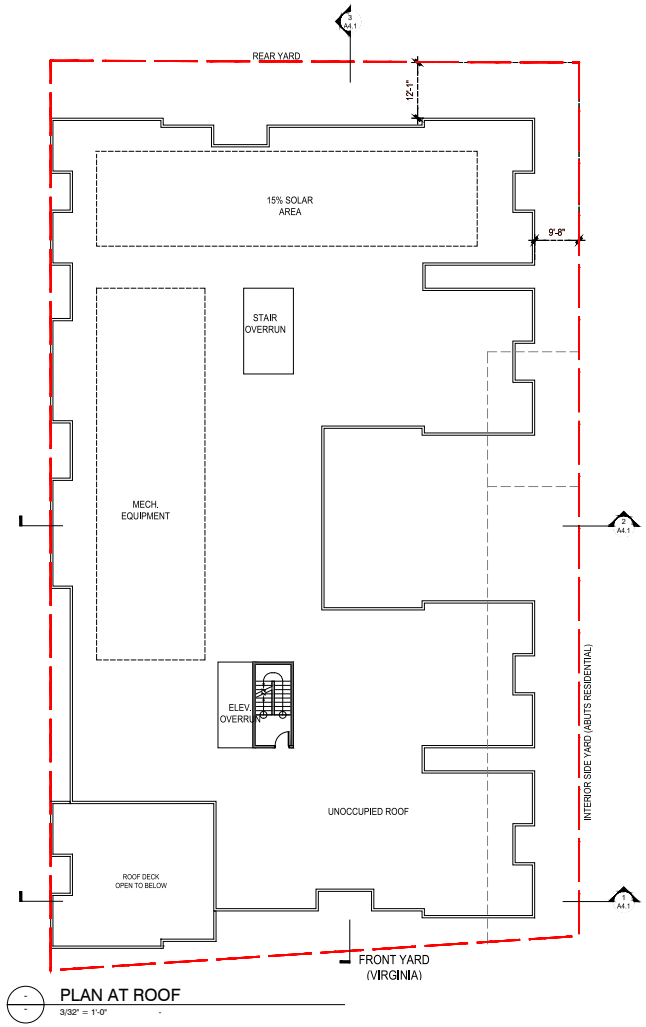
FIGURE 3-3
Page 2 of 3

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0 20 40
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SOURCE: Stackhouse De La Pena Trachtenberg Architects
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2109 Virginia Street
Proposed Floor Plans - Levels 3, 7, and 8



LSA

FIGURE 3-3
Page 3 of 3

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SOURCE: Stackhouse De La Pena Trachtenberg Architects
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2109 Virginia Street
Proposed Floor Plans - Roof Level

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Landscaping would also be provided along the project site frontages on Shattuck Avenue and Virginia Street, as depicted on Figure 3-4. As shown on Figure 3-4, all but one of the existing street trees along Shattuck Avenue would be protected in place, and two new street trees would be planted along Virginia Street.

Overall, the proposed project would provide a total of 9,182 square feet of usable open space and landscaped area.

3.2.3 Utilities and Infrastructure

The project site is located in an urban area that is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, gas, and telecommunications infrastructure. The proposed project would connect to the existing utility infrastructure in the surrounding area, including existing water and wastewater lines in Virginia Street and Shattuck Avenue.

Under existing conditions, stormwater from the project site is collected on site and discharged to stormwater infrastructure in the surrounding area. Upon construction of the proposed project, stormwater from the project site would be directed to the proposed vegetated areas and treated by flow-through planters (biotreatment) before being discharged to the existing stormwater infrastructure in the surrounding area, similar to existing conditions.

The proposed project would also include connections to the existing electricity and natural gas infrastructure in the surrounding area.

3.2.4 Demolition and Construction

Proposed project construction would include site preparation, installation of utilities, paving, building construction, landscaping, and architectural coating activities. The proposed project would be constructed over approximately 21 months, with construction anticipated to begin in March 2026. Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. The entire 0.51-acre project site is anticipated to be disturbed during construction activities, and project construction would result in approximately 4,343 cubic yards of exported soil.

3.2.5 Project Approvals

The proposed project is subject to action by the City of Berkeley's Zoning Adjustments Board (ZAB). The proposed project would require the following discretionary entitlements from the City of Berkeley, per the BMC:

- Administrative Use Permit, pursuant to BMC 23.322.070(D)(1), for exceeding the parking maximum
- Administrative Use Permit, pursuant to BMC Section 23.326.070, to demolish a non-residential building
- Use Permit, pursuant to BMC 23.326.070(A), for demolition of a non-residential main building

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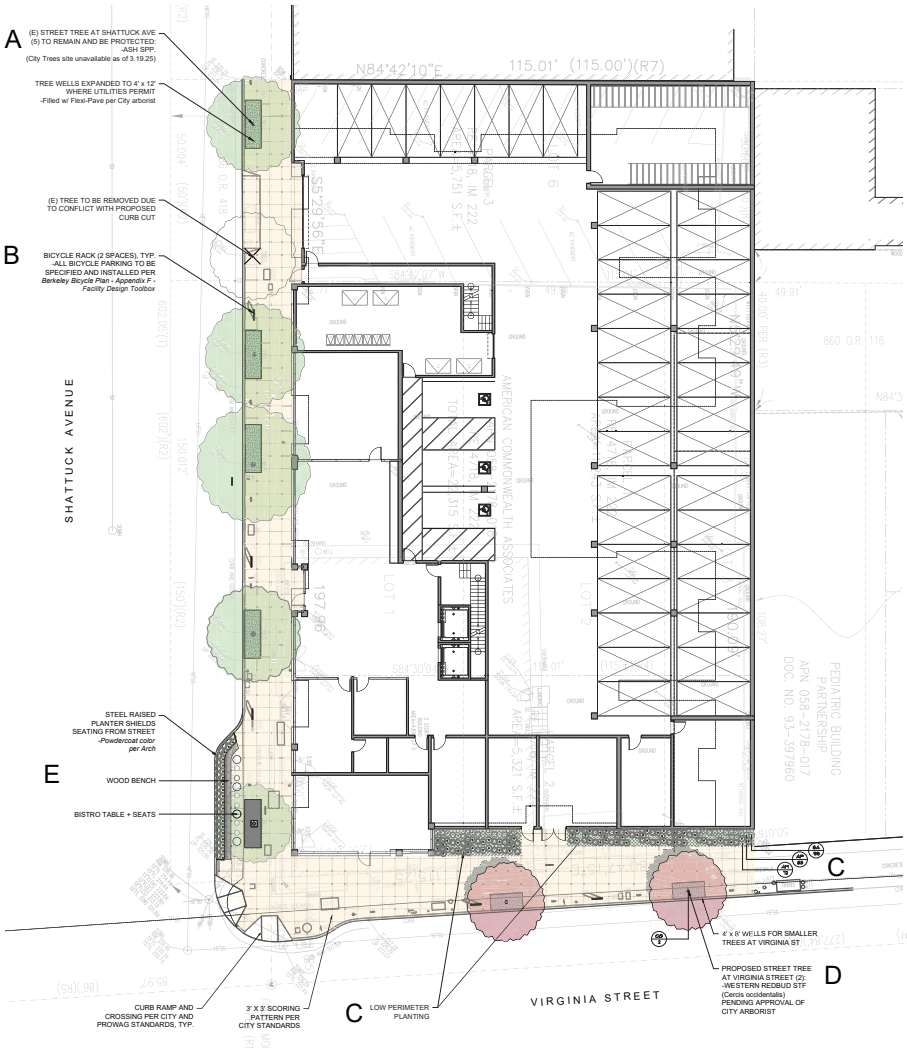












LSA

FIGURE 3-4

NO SCALE

SOURCE: Trachtenberg Architects

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2109 Virginia Street

Proposed Landscape Plan

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- Use Permit, pursuant to BMC 23.204.020(A), for construction of a multi-family building
- Use Permit, pursuant to BMC 23.204.304(A), for construction of 2,000 square feet of new floor area

In addition, the project sponsor is requesting a waiver/modification of the height limit, building stories, lot coverage, building footprint, and setback development standards under the State Density Bonus Law (Government Code Section 65915(e)). This will be processed by the City in conjunction with the permits described above.

Proposed project development, if approved, would also be subject to the City of Berkeley's standard Conditions of Approval (COA), pursuant to BMC 23B.32.040.D and consistent with the findings made by ZAB for approval of the project and issuance of the requested Administrative Use Permit. Applicable COAs related to the protection of the environment are identified in Table 7.B in Section 7.0, Applicable Housing Element EIR Mitigation Measures and Regulatory Compliance Measures, and are summarized in the appropriate topical sections. Each COA is titled pursuant to the subject area it addresses.

While the City is the CEQA Lead Agency for the proposed project, other agencies also have discretionary authority related to the project or serve as a responsible and/or trustee agency in connection to the proposed project. The proposed project may also require approval from the East Bay Municipal Utility District (EBMUD) regarding proposed utility connections.

3.3 RELATIONSHIP TO CITY OF BERKELEY GENERAL PLAN

On January 18, 2023, the City of Berkeley City Council approved the City of Berkeley 2023-2031 Housing Element Update (Housing Element). The Housing Element identifies the City's housing needs and outlines the specific goals, policies, and programs to address them. Importantly, the Housing Element quantifies how many new housing units the City needs to accommodate growth in the region as part of the Regional Housing Needs Assessment (RHNA). As shown in Table 3.B below, the City of Berkeley must construct 8,934 new housing units by 2031 to meet its housing allocation. The proposed project represents approximately 1.2 percent of the total housing units.

Table 3.B: City of Berkeley RHNA for 2023-2031

	Extremely/Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
RHNA	2,446	1,408	1,416	3,664	8,934
Percent Total (%)	27.4	15.8	15.8	41.0	100.0

Source: 2023-2031 Housing Element Update (City of Berkeley 2023).
RHNA = Regional Housing Needs Assessment

As part of the Housing Element, the City identified adequate land with appropriate zoning and development standards to accommodate the City's RHNA allocation (i.e., Opportunity Sites). The Opportunity Sites identified in the Housing Element include vacant or underutilized sites with near-term potential for residential or mixed-use development.

The Housing Element was determined by the City Council to be in substantial compliance with State Housing Element Law on January 18, 2023. On February 28, 2023, the California Department of Housing and Community Development (HCD) also found the City's 2023-2031 Housing Element Update to be in substantial compliance with State Housing Element Law. An EIR was prepared for the Housing Element Update in August 2022 (SCH No. 2022010331), which was certified by the City Council on January 18, 2023 (Resolution No. 70,669-N.S).

4.0 CEQA ENVIRONMENTAL CHECKLIST

4.1 AESTHETICS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

4.1.1 Housing Element EIR Analysis

Section 4.1 of the 2023-2031 Housing Element Update Draft Environmental Impact Report (Housing Element EIR) analyzed potential impacts related to aesthetics. The Housing Element EIR determined that all impacts related to aesthetics would be less than significant, and no mitigation was prescribed. Although implementation of the Housing Element would alter the development pattern of the city such that scenic views of and from public viewpoints could be adversely affected, development pursuant to the 2023-2031 Housing Element Update (Housing Element) would occur on individual sites and would be limited.

In addition, the Housing Element EIR determined that most of the sites in the Housing Element that were identified for future development are located within a transit priority area (TPA), and aesthetic impacts in those areas cannot be considered to be significant impacts, pursuant to Senate Bill (SB) 743 (Public Resources Code [PRC] Section 21099). There are also no designated or eligible Scenic Highways in the city or with significant views of the city, and the Housing Element EIR determined that with compliance with existing regulations, including Berkeley Municipal Code (BMC) Sections 23.304.100 and 23.304.130, future development under the Housing Element would not conflict with applicable zoning and other regulations governing scenic quality or substantially add to existing light and glare in the city.

4.1.2 Project Impacts

PRC Section 21099(d) provides that, among other items, “aesthetics… impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area

shall not be considered significant impacts on the environment." Accordingly, aesthetics is no longer to be considered in determining if a project has the potential to result in significant environmental effects for projects that meet all of the following three criteria:

1. The project is residential, mixed-use residential, or an employment center.
2. The project is on an infill site.[9]
3. The project is in a transit priority area.[10]

The proposed project would result in the development of a new eight-story, mixed-use residential building containing a total of 110 dwelling units and approximately 690 square feet of commercial space on an infill site. Transit in the project vicinity includes the extensive bus transit service provided by Alameda-Contra Costa County Transit (AC Transit). The project site is located within a transit priority area because it is within 0.5 mile of several intersecting major bus routes, including Lines 7, 18, and FS. Line 7 provides bus service from the El Cerrito del Norte Bay Area Rapid Transit (BART) Transit Center to Downtown Berkeley, Line 18 provides bus service from University Village in Albany to the Lake Merritt BART Transit Center, and Line FS provides bus service from Solano Avenue and Colusa Street to the Salesforce Transit Center in San Francisco.[11] These lines provide service at a frequency of less than 15 minutes during the morning and afternoon peak commute periods. In addition, as shown on the Household VMT Per Capita and Home-Work VMT Per Worker maps in the *City of Berkeley Transportation VMT Criteria and Thresholds*,[12] the project site is located within a TPA.

Because the proposed project meets each of the above three criteria, aesthetic impacts are not required to be considered in determining the significance of project impacts under the California Environmental Quality Act (CEQA). Project elements that relate to changes to aesthetic conditions at the site and vicinity, such as proposed building heights, architecture, effects of new light and glare, etc., will be considered as part of the planning approval process, including through design review. In addition, the proposed project would be required to adhere to the City of Berkeley (City) standard Condition of Approval (COA) for Exterior Lighting, below, which requires all exterior lighting to be energy efficient where feasible, and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

> ***COA: Exterior Lighting.*** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

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9 PRC Section 21099(a) defines an "infill site" as a lot located within an urban area that has been previously developed, or a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

10 PRC Section 21099(a) defines a "transit priority area" as an area within 0.5 mile of an existing or planned major transit stop. A "major transit stop" is defined in Section 21064.3 of the California Public Resources Code as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency or service interval of 15 minutes or less during the morning and afternoon peak commute periods.

11 Alameda-Contra Costa County Transit (AC Transit). 2024. *Maps & Schedules.* Website: https://www.actransit.org/maps-schedules (accessed March 2025).

12 Berkeley, City of. 2020. *City of Berkeley Transportation VMT Criteria and Thresholds*. June 29.

The proposed project would have no impact, either individually or cumulatively, on aesthetics.

4.1.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to aesthetics. Impacts related to aesthetics would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.2 AGRICULTURE AND FORESTRY RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				
Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

4.2.1 Housing Element EIR Analysis

Section 1.6 of the Housing Element EIR discussed issues determined to have a less than significant impact due to the unique conditions of the city and were therefore not analyzed in further detail in the Housing Element EIR, including agricultural and forestry resources. The Housing Element EIR states that the city does not have agricultural or forest lands, and the City's General Plan and Zoning Map do not contain agricultural or forestry land designations. In addition, the Housing Element EIR determined that the city is classified as urban and built-up land under the California Department of Conservation's (DOC) Farmland Mapping and Monitoring Program (FMMP) and there is no Williamson Act contract land within the city.

4.2.2 Project Impacts

The project site and vicinity are located within an urban area of the city that does not contain prime farmland, unique farmland, or farmland of Statewide importance;[13] forest land; or land under a Williamson Act contract.[14] In addition, the area is not zoned for any agricultural uses. The proposed project would have no impact, either individually or cumulatively, on agricultural or forest resources.

4.2.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to agricultural or forestry resources. Impacts on agricultural and forestry resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

13 California Department of Conservation (DOC). 2022. *California Important Farmland Finder* (map). Website: https://maps.conservation.ca.gov/dlrp/ciff (accessed March 2025).

14 California Department of Conservation (DOC). 2023. *California Williamson Act Enrollment Finder*. Website: https://maps.conservation.ca.gov/dlrp/WilliamsonAct/ (accessed March 2025).

4.3 AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations.

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☐	☒
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
d. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒

4.3.1 Housing Element EIR Analysis

Section 4.2 of the Housing Element EIR analyzed potential impacts related to air quality. The Housing Element EIR determined that all impacts related to air quality would either be less than significant or less than significant with incorporation of prescribed mitigation measures. The Housing Element EIR determined that implementation of the Housing Element would not conflict with the control measures within the 2017 Clean Air Plan, and the vehicle miles traveled (VMT) increase from implementation of the Housing Element would be less than the projected population increase. In addition, development facilitated by the Housing Element would not create objectionable odors that could affect a substantial number of people. Therefore, implementation of the Housing Element would not conflict with or obstruct implementation of applicable air quality plans or result in objectionable odors, and no mitigation was prescribed.

The Housing Element EIR also determined that construction facilitated by the Housing Element would temporarily increase air pollutant emissions, which would affect local air quality. However, implementation of Mitigation Measure AQ-1, which requires compliance with the current Bay Area Air District (Air District) basic control measures for reducing construction emissions of PM_{10}, and adherence to the City's COAs would reduce construction emissions such that impacts would be less than significant.

In addition, the Housing Element EIR determined that construction activities for individual projects facilitated by the Housing Element lasting longer than 2 months or located within 1,000 feet of sensitive receptors could expose sensitive receptors to substantial pollutant concentrations. Additionally, development facilitated by the Housing Element would site new sensitive land uses near Interstate 580/Interstate 80 (I-580/I-80), which may expose them to substantial pollutant concentrations. However, implementation of Mitigation Measure AQ-2, which requires construction

health risk assessments for projects where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than 2 months and would not utilize Tier 4 and/or alternative fuel construction equipment. Mitigation Measure AQ-3, which details design features for residential development located within 1,000 feet of I-580/I-80 or on a lot that fronts on a section of roadway with 10,000 vehicles per day or more, would reduce this impact to less than significant.

4.3.2 Project Impacts

The information and analysis in this section is based on the Air Quality Analysis Technical Memorandum[15] prepared for the proposed project. This report is provided as Appendix A.

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

The applicable air quality plan is the Air District's 2017 Clean Air Plan, which defines control strategies to reduce emissions and ambient concentrations of air pollutants, safeguard public health by reducing exposure to air pollutants that pose the greatest heath risk (with an emphasis on protecting the communities most heavily affected by air pollution), and reduce greenhouse gas (GHG) emissions to protect the climate. Consistency with the 2017 Clean Air Plan can be determined if the project (1) supports the goals of the Clean Air Plan, (2) includes applicable control measures from the Clean Air Plan, and (3) would not disrupt or hinder implementation of any control measures from the Clean Air Plan.

Clean Air Plan Goals. The primary goals of the Air District's 2017 Clean Air Plan are to attain air quality standards, reduce population exposure and protect public health in the Bay Area, and reduce GHG emissions and protect the climate.

The Air District has established significance thresholds for project construction and operational impacts at a level at which the cumulative impact of exceeding these thresholds would have an adverse impact on the region's attainment of air quality standards. The health and hazards thresholds were established to help protect public health. As discussed below, construction and operation of the proposed project would not result in the generation of criteria air pollutants that would exceed Air District thresholds of significance after the implementation of mitigation. Therefore, the proposed project would not conflict with the 2017 Clean Air Plan goals.

Clean Air Plan Control Measures. The control strategies of the 2017 Clean Air Plan include measures in the following categories: Stationary Source Measures, Transportation Measures, Energy Measures, Building Measures, Agriculture Measures, Natural and Working Lands Measures, Waste Management Measures, Water Measures, and Super-GHG Pollutants Measures. The proposed project's compliance with each of these control measures is discussed below:

- **Stationary Source Control Measures:** The Stationary Source Control Measures, which are designed to reduce emissions from stationary sources such as metal melting facilities, cement kilns, refineries, and glass furnaces, are incorporated into rules adopted by the Air District and then enforced by the Air District Permit and Inspection programs. Since the proposed project

[15] LSA Associates, Inc. 2025. Air Quality Analysis Technical Memorandum for the 2109 Virginia Street Project. August 15.

would not include any of these stationary sources, the Stationary Source Control Measures of the 2017 Clean Air Plan are not applicable to the proposed project.

- **Transportation Control Measures:** The Air District identifies Transportation Control Measures as part of the 2017 Clean Air Plan to decrease emissions of criteria pollutants, toxic air contaminants (TACs), and GHGs by reducing demand for motor vehicle travel, promoting efficient vehicles and transit service, decarbonizing transportation fuels, and electrifying motor vehicles and equipment. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. The proposed project would locate residential uses within walking or bicycling distance to surrounding commercial shopping areas, thereby reducing the demand for travel by single-occupancy vehicles. The proposed project would also provide paved pedestrian pathways that would circle around the perimeter of the proposed development and that would provide access to Virginia Street and Shattuck Avenue, which would increase connectivity with the surrounding areas. In addition, existing bus stations and other high-quality transit services are within 0.5 mile of the project site along Shattuck Avenue (refer to Section 4.1.2). Therefore, the proposed project would support the ability to use alternative modes of transportation, would promote initiatives to reduce vehicle trips and vehicle miles traveled, and would increase the use of alternate means of transportation. Therefore, the proposed project would not conflict with the identified Transportation Control Measures of the 2017 Clean Air Plan.**Energy Control Measures:** The 2017 Clean Air Plan also includes Energy Control Measures, which are designed to reduce emissions of criteria air pollutants, TACs, and GHGs by decreasing the amount of electricity consumed in the Bay Area and decreasing the carbon intensity of the electricity used by switching to less GHG-intensive fuel sources for electricity generation. Since these measures apply to electrical utility providers and local government agencies (and not individual projects), the Energy Control Measures of the 2017 Clean Air Plan are not applicable to the proposed project.

- **Building Control Measures:** The Air District has authority to regulate emissions from certain sources in buildings such as boilers and water heaters but has limited authority to regulate buildings themselves. Therefore, the strategies in the Building Control Measures for this sector focus on working with local governments that do have authority over local building codes so as to facilitate adoption of best GHG control practices and policies. The proposed project would be required to comply with the latest Title 24 standards of the California Code of Regulations (CCR) regarding energy conservation and green building standards. Therefore, the proposed project would not conflict with any of the Building Control Measures.

- **Agriculture Control Measures:** The Agriculture Control Measures are designed to primarily reduce emissions of methane. Since the project does not include any agricultural activities, the Agriculture Control Measures of the 2017 Clean Air Plan do not apply to the proposed project.

- **Natural and Working Lands Control Measures:** The Natural and Working Lands Control Measures focus on increasing carbon sequestration on rangelands and wetlands and encouraging local governments to adopt ordinances that promote urban tree plantings. Since the proposed project does not include the disturbance of any rangelands or wetlands, the

Natural and Working Lands Control Measures of the Clean Air Plan do not apply to the proposed project.

- **Waste Management Control Measures:** The Waste Management Control Measures focus on reducing or capturing methane emissions from landfills and composting facilities, diverting organic materials away from landfills, and increasing waste diversion rates through efforts to reduce, reuse, and recycle. The proposed project would comply with local requirements for waste management (e.g., recycling and composting services). Therefore, the proposed project would be consistent with the Waste Management Control Measures of the 2017 Clean Air Plan.

- **Water Control Measures:** The Water Control Measures focus on reducing emissions of criteria pollutants, TACs, and GHGs by encouraging water conservation, limiting GHG emissions from publicly owned treatment works (POTW), and promoting the use of biogas recovery systems. Since these measures apply to POTWs and local government agencies (and not individual projects), the Water Control Measures are not applicable to the proposed project.

- **Super GHG Control Measures:** The Super-GHG Control Measures are designed to facilitate the adoption of best GHG control practices and policies through the Air District and local government agencies. Since these measures do not apply to individual projects, the Super-GHG Control Measures do not apply to the proposed project.

Clean Air Plan Implementation. As discussed above, the proposed project would generally implement the applicable measures outlined in the 2017 Clean Air Plan, including Transportation Control Measures. Therefore, the proposed project would not conflict with or obstruct implementation of the applicable air quality plan.

b) Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

The Air District is currently designated as a nonattainment area for State and federal ozone standards and federal particulate matter (PM) ambient air quality standards (AAQS). The Air District's nonattainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of AAQS. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant.

In developing thresholds of significance for air pollutants, the Air District considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Therefore, additional analysis to assess cumulative impacts is unnecessary. The following analysis assesses the potential project-level construction- and operation-related air quality impacts.

Construction Emissions. During construction, short-term degradation of air quality may occur due to the release of particulate emissions generated by demolition, grading, building, paving, and other activities. Emissions from construction equipment are also anticipated and would include carbon monoxide (CO), nitrogen oxides (NO_X), reactive organic gases (ROGs), directly emitted particulate matter (particulate matter less than 2.5 microns and 10 microns in size [$PM_{2.5}$ and PM_{10}, respectively]), and toxic air contaminants (TACs) (e.g., diesel exhaust particulate matter [DPM]).

Project construction activities would include demolition, site preparation, grading, building, paving, and architectural coating (painting). Construction-related effects on air quality from the proposed project would be greatest during demolition, grading, and site preparation phases due to the disturbance of soils. If not properly controlled, these activities would temporarily generate particulate emissions. Sources of fugitive dust would include disturbed soils at the construction site. Unless properly controlled, vehicles leaving the site would deposit dirt and mud on local streets, which could be an additional source of airborne dust after it dries. PM_{10} emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. PM_{10} emissions would depend on soil moisture, silt content of soil, wind speed, and the amount of operating equipment. Larger dust particles would settle near the source, while fine particles would disperse over greater distances from the construction site.

Water or other soil stabilizers can be used to control dust, resulting in emission reductions of 50 percent or more. The Air District has established standard measures for reducing fugitive dust emissions (PM_{10}). With the implementation of these basic best management practices (BMPs), fugitive dust emissions from construction activities would not result in adverse air quality impacts. In addition, the City of Berkeley has established *COA: Public Works – Implement Air District-Recommended Measures During Construction*, which requires the implementation of the Air District's basic BMPs.

In addition to dust-related PM_{10} emissions, heavy trucks and construction equipment powered by gasoline and diesel engines would generate CO, NO_X, ROGs, and some soot particulate ($PM_{2.5}$ and PM_{10}) in exhaust emissions. If construction activities were to increase traffic congestion in the area, CO and other emissions from traffic would increase slightly while those vehicles idle in traffic. These emissions would be temporary in nature and limited to the immediate area surrounding the construction site.

The California Emissions Estimator Model (CalEEMod) was used to calculate emissions from on-site construction equipment and emissions from worker and vehicle trips to the site. Construction-related emissions are presented in Table 4.3.A, below.

Table 4.3.A: Project Construction Emissions

Project Construction	Average Daily Pollutant Emissions (lbs/day)					
	ROGs	NO_X	Exhaust PM_{10}	Fugitive Dust PM_{10}	Exhaust $PM_{2.5}$	Fugitive Dust $PM_{2.5}$
2026	0.3	6.4	0.2	0.6	0.2	0.2
2027	4.8	7.3	0.3	0.6	0.2	0.1
Maximum Average Daily Emissions	**4.8**	**7.3**	**0.3**	**0.6**	**0.2**	**0.2**
Air District Thresholds	**54.0**	**54.0**	**82.0**	**BMP**	**54.0**	**BMP**
Exceeds Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Source: Compiled by LSA (August 2025).
Air District = Bay Area Air District
BMP = best management practice
lbs/day = pounds per day
NO_X = nitrogen oxides
$PM_{2.5}$ = particulate matter 2.5 microns or less in size
PM_{10} = particulate matter 10 microns or less in size
ROGs = reactive organic gases

As shown in Table 4.3.A, construction emissions associated with the project would not exceed the Air District's thresholds for ROGs, NO_X, CO, exhaust PM_{10}, and exhaust $PM_{2.5}$ emissions. In addition to the Air District regulations, the City requires the implementation of *COA: Public Works – Implement Air District-Recommended Measures During Construction*, which are consistent with the Air District's requirements for fugitive dust impacts. The City also requires the implementation of *COA: Air Quality – Diesel Particulate Matter Controls During Construction* to require cleaner construction equipment for projects with construction lasting more than 2 months. With implementation of these COAs, which are outlined below, construction impacts would be less than significant.

> ***COA: Public Works – Implement Air District-Recommended Measures During Construction.*** For all proposed projects, Air District recommends implementing all the Basic Best Management Practices, listed below to meet the best management practices threshold for fugitive dust:
>
> - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
> - All haul trucks transporting soil, sand, or other loose material off site shall be covered.
> - All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
> - All vehicle speeds on unpaved roads shall be limited to 15 mph.
> - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
> - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne

toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly-visible sign shall be posted with the telephone number and person to contact at the City of Berkeley regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

COA: Air Quality – Diesel Particulate Matter Controls During Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

a. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from Air District and Office of Environmental Health Hazard Assessment (OEHHA). The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

b. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

   In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

   - An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
   - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

The proposed project would be required to comply with the above City-required COAs, which are consistent with Housing Element EIR Mitigation Measure AQ-1, requiring compliance with the Air District's basic control measures for reducing construction emissions of PM_{10}. The Air District's Basic BMPs would be implemented during the construction period through compliance with the City's COA.

Also refer to Section 4.3.2.c, below, which discusses potential health risk impacts to sensitive receptors during project construction. In compliance with *COA: Air Quality – Diesel Particulate Matter Controls During Construction*, the proposed project would use at least Tier 2 equipment in conjunction with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type during project construction and will prepare a Construction Emission Minimization Plan. The City has determined that implementation of these measures reduce emissions to such an extent that sensitive receptors would not be exposed to substantial pollutant concentrations during project construction. As such, construction of the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or State AAQS, and impacts would be less than significant.

Operational Emissions. Long-term air pollutant emission impacts are those associated with mobile sources (e.g., vehicle trips), energy sources (e.g., natural gas), and area sources (e.g., architectural coatings and the use of landscape maintenance equipment) related to the proposed project. Mobile source emissions include ROG and NO_X emissions that contribute to the formation of ozone. Additionally, PM_{10} emissions result from running exhaust, tire and brake wear, and the entrainment of dust into the atmosphere from vehicles traveling on paved roadways. Energy source emissions would generally result from activities in buildings for which natural gas is used. Typically, area source emissions consist of direct sources of air emissions located at the project site, including architectural coatings, consumer products, and the use of landscape maintenance equipment.

As discussed above, the Air District has developed screening criteria to provide lead agencies with a conservative indication of whether a proposed project would result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency would not need to perform a detailed air quality assessment of the proposed project's emissions. These screening levels are generally representative without any form of mitigation measures taken into consideration. In addition, the screening criteria do not account for project design features, attributes, or local development requirements that could also result in lower emissions.

For operational criteria pollutants, the Air District screening size for Apartment Housing land uses is 638 units and for Strip Mall land uses is 204,000 square feet. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. Based on the Air District's screening criteria, operational activities associated with the proposed project are not anticipated to exceed established thresholds; therefore, operation of the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project is in non-attainment under applicable federal or State AAQS. Impacts would be less than significant, and no mitigation is required.

Long-Term Microscale (CO Hot Spot) Analysis. Emissions and ambient concentrations of CO have decreased dramatically in the Bay Area with the introduction of the catalytic converter in 1975. No exceedances of the State or federal CO standards have been recorded at Bay Area monitoring stations since 1991. The Air District's CEQA Guidelines include recommended methodologies for quantifying concentrations of localized CO levels for proposed transportation projects. A screening level analysis using guidance from the Air District CEQA Guidelines was performed to determine the impacts of the proposed project. The screening methodology provides a conservative indication for

whether the implementation of a proposed project would result in significant CO emissions. According to the Air District's CEQA Guidelines, a proposed project would result in a less than significant impact to localized CO concentrations if the following screening criteria are met:

- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, and the regional transportation plan and local congestion management agency plans.
- Project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
- The project would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, or below-grade roadway).

Implementation of the proposed project would not conflict with the policies or programs of the Alameda County Transportation Commission. Based on the size of the project, the proposed project did not meet the criteria for an evaluation of study area intersection or roadway segment level of service (LOS). The proposed project includes the construction of a parking garage; therefore, the applicable screening threshold would be 24,000 vehicles per hour (vph). The proposed project would generate 561 average daily trips, including 37 AM peak-hour trips and 36 PM peak-hour trips. Therefore, based on the average daily trips generated by the proposed project, it is anticipated that the project's contribution to peak-hour traffic volumes at intersections in the vicinity of the project site and within the parking garage would be well below 24,000 vph. As such, the CO concentrations are not expected to significantly increase as a result of the project, and the proposed project would not result in localized CO concentrations that exceed State or federal standards.

c) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Sensitive receptors are defined as people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptor locations include schools, parks and playgrounds, daycare centers, nursing homes, hospitals, and residential dwelling units. The closest sensitive receptor to the project site includes a single-family home located immediately east of the project site at approximately 40 feet measured from the project eastern boundary to the residential building façade.

Construction Emissions. Construction activities can expose sensitive receptors to airborne particulates and fugitive dust as well as a small quantity of construction equipment pollutants (i.e., diesel-fueled vehicles and equipment). Construction contractors would be required to implement *COA: Public Works – Implement Air District-Recommended Measures During Construction*. Additionally, given the proximity of the nearby receptors, the City would also require implementation of *COA: Air Quality – Diesel Particulate Matter Controls During Construction* to

ensure the proposed project would not result in a significant health risk impact to nearby sensitive receptors.

As provided above, the Housing Element EIR prescribed Mitigation Measure AQ-2, which requires construction health risk assessments for projects where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than 2 months, and would not utilize Tier 4 and/or alternative fuel construction equipment. The project sponsor has not prepared a health risk assessment; however, consistent with *COA: Air Quality – Diesel Particulate Matter Controls During Construction*, the proposed project would use at least Tier 2 equipment in conjunction with the most effective VDECS available for the engine type during project construction and will prepare a Construction Emission Minimization Plan. The City has determined that implementation of these measures reduce emissions to such an extent that sensitive receptors would not be exposed to substantial pollutant concentrations during project construction. Therefore, with implementation of *COA: Air Quality – Diesel Particulate Matter Controls During Construction*, project construction health risk impacts would be less than significant, and Housing Element EIR Mitigation Measure AQ-2 would not be applicable to the proposed project.

Operational Emissions. Land uses that have the potential to expose sensitive receptors to TACs include distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and large gas dispensing facilities. In addition, various commercial and industrial processes have the potential to emit TACs associated with the use of diesel-fueled trucks or equipment. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. The proposed project does not include any uses that would generate a substantial amount of DPM emissions from off-road equipment use or truck idling that would result in the generation of a substantial amount of TACs. In addition, as identified above, operational activities associated with the proposed project are not anticipated to exceed the Air District's established thresholds; thus, operation of the proposed project is not expected to have a significant impact on sensitive receptors. As such, once operational, the proposed project would not be a source of substantial emissions. The proposed project would not expose sensitive receptors to substantial levels of TACs.

In addition, because the project site is within 1,000 feet of a roadway with more than 10,000 vehicles per day (vpd) (i.e., Shattuck Avenue)[16], the proposed project would be required to implement Housing Element EIR Mitigation Measure AQ-3, which details design features for residential development located within 1,000 feet of I-580/I-80 or on a lot that fronts on a section of roadway with 10,000 vpd or more. Project design features would include installing a HVAC system with high efficiency particulate filters (HEPA), weatherproofed windows, and ongoing maintenance of the HVAC and infiltration systems. With implementation of Housing Element EIR Mitigation Measure AQ-3, impacts associated with exposing sensitive land uses to substantial pollutant concentrations would be less than significant.

16 City of Berkeley. 2001. Berkeley General Plan, Transportation Element. December 18.

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

During construction, the various diesel-powered vehicles and equipment in use on site would create localized odors. These odors would be temporary and are not likely to be noticeable for extended periods of time beyond the project site.

Odor-generating land uses typically include wastewater treatment plants, landfills, and food manufacturing facilities. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. Therefore, the proposed land uses would not be considered potential generators of odor that could affect a substantial number of people. Additionally, the proposed uses that would be developed within the project site are not expected to produce any offensive odors that would result in frequent odor complaints. The proposed project would also include trash enclosures, which would reduce any potential for odors from project-related waste. Therefore, the proposed project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

4.3.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to air quality. Impacts related to air quality would remain less than significant with the incorporation of mitigation, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.4 BIOLOGICAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

4.4.1 Housing Element EIR Analysis

Section 4.3 of the Housing Element EIR analyzed potential impacts related to biological resources. The Housing Element EIR determined that all impacts on biological resources would either be less than significant or no impact would occur. No mitigation measures were prescribed because future development would be subject to the policies contained in the City's General Plan, including Policies EM-1, EM-3, and EM-5, which encourage the City to adopt and implement environmental management programs, promote the City's environmental management and sustainability policies and programs and encourage other cities in the region to establish similar or better policies and programs, and promote and encourage compliance with "green" building standards, as well as the City's *COA: Nesting Birds*, which prohibits vegetation removal during the general avian nesting season (February 1 to August 31) and requires that preconstruction nesting bird surveys be performed.

In addition, future development projects would also be subject to State and federal laws, regulations, and management policies regarding biological resources (e.g., federal Endangered

Species Act [FESA]) and would be reviewed to determine whether their impacts fall within the scope of the Housing Element EIR, or if additional site-specific environmental review will be required. Therefore, the Housing Element EIR determined that potential impacts on special-status species would be less than significant. In addition, the Housing Element EIR indicated that although some riparian areas may occur within or adjacent to the city, the specific development areas identified in the Housing Element are in already developed urban areas and no impacts to riparian areas are anticipated. The Housing Element EIR determined that the majority of the housing opportunity sites are located on infill sites that are already developed with structures and/or parking and are not proximate to wetlands or waterways. For development that would occur in these areas, Berkeley's creek protection ordinance (BMC Chapter 17.08) and permitting pursuant to Section 404/401 of the Clean Water Act (CWA), Section 1600 *et seq.* of the California Fish and Game Code, and the Porter-Cologne Water Quality Control Act would be required. Therefore, the Housing Element EIR determined that compliance with these existing regulations would ensure impacts to wetlands would be less than significant.

In addition, the Housing Element EIR determined that impacts related to migratory corridors and inconsistency with local policies or ordinances protecting biological resources would be less than significant with adherence to existing regulations, including General Plan Policies EM-28, EM-29, and EM-30, BMC Chapter 17.08, the City's bird safety requirements, and the City's Tree Ordinance (BMC No. 6,509-N-S).

4.4.2 Project Impacts

The 0.51-acre site is located in a highly urbanized area of Berkeley and situated among existing commercial and residential uses. Due to previous disturbance of the project site and the surrounding urban area, use of the project site by wildlife is expected to be limited. Vegetation on the project site is limited to street trees along Shattuck Avenue.

To establish existing conditions related to biological resources, the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDB)[17] was reviewed for lists of special-status species that have occurred or could occur within 0.5 mile of the project site.

Special-Status Plants and Wildlife. A total of six special-status wildlife species and two special-status plant species have CNDDB occurrences within 0.5 mile of the project site, as provided in Table 4.4.A.

Table 4.4.A: Special-Status Species Within 0.5 Mile of the Project Site

Species	Taxonomic Group	Status[1]
Animals		
Pallid bat (*Antrozous pallidus*)	Mammal	-/CSC
Hoary bat (*Lasiurus cinereus*)	Mammal	None[2]
Big free-tailed bat (*Nyctinomops macrotis*)	Mammal	-/CSC
Crotch's bumble bee (*Bombus crotchii)*	Insect	-/CE
Bridges' coast range shoulderband (*Helminthoglypta nickliniana bridgesi*)	Mollusk	None[2]

[17] California Department of Fish and Wildlife (CDFW). 2022. California Natural Diversity Database, commercial version dated April 30, 2022. Biogeographic Data Branch, Sacramento.

Table 4.4.A: Special-Status Species Within 0.5 Mile of the Project Site

Species	Taxonomic Group	Status[1]
Pacific walker (*Pomotiopsis californica*)	Mollusk	None[2]
Plants		
Dark eyed gilia (*Gilia millefoliata)*	Dicot	1B.2
Marin knotweed (*Polygonum marinense*)	Dicot	3.1

Source: Compiled by LSA (2025).

[1] Federal/State
CE = Candidate Endangered
CSC = California Species of Special Concern
1B.2 = Plants rare, threatened, or endangered in California and elsewhere; fairly threatened in California
3.1 = Plants moderately rare, threatened, or endangered in California

[2] This species is not listed on the Federal or State Endangered/Threatened Species list but is included on the State of California Natural Resources Agency Department of Fish and Wildlife CNDDB Special Animals List (April 2024).

CNDDB = California Natural Diversity Database

Riparian Habitat or Other Sensitive Natural Communities. The CNDDB contains no occurrences for sensitive natural communities within 0.5 mile of the project site. In addition, there are no sensitive natural communities or riparian habitat on the project site.

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The proposed project would result in redevelopment of the project site with commercial and residential uses. The project site has negligible value as habitat for any species listed as endangered or threatened by the FESA or California Endangered Species Act (CESA). The site is entirely paved and developed with the on site building; therefore, none of the special-status plant species are expected to occur on the site. Similarly, no suitable habitat (e.g., streams, marshes, or chaparral) for most of the special-status wildlife in the area occurs on the site.

The existing building on the project site is not expected to provide habitat or roosting sites for bats due to the highly urbanized surrounding area and because it is not abandoned or vacant, which is usually where bats roost. Therefore, the demolition of the existing structure would not result in impacts on bat species.

The proposed project would develop the project site with a new eight-story building, which could increase the potential for bird strikes. However, the proposed project would be required to adhere to BMC Section 23.304.150, which details the City's bird safe building requirements. As stated in BMC Section 23.304.150, transparent or reflective material (e.g., windows) associated with future development of the project site would be required to either have an American Bird Conservancy Threat Factor Rating of 30 or less or undergo pattern glazing treatment. In addition, all panes with exterior screens, shutters, or shading devices would be required to be installed permanently over windows, structures, and building features such that there is no gap larger than 9 inches in any single dimension.

In addition, all native birds and their nests, regardless of their regulatory status, are protected by the California Fish and Game Code. If conducted during the breeding season (February through August), vegetation removal and other demolition or construction activities could directly impact nesting birds by removing trees and/or vegetation or structures that support active nests. Implementation of *COA: Avoid Disturbance of Nesting Birds* would ensure that potential impacts to special-status species would be less than significant.

> ***COA: Avoid Disturbance of Nesting Birds*.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/ nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

With adherence to all applicable City requirements, including BMC Section 23.304.150 and *COA: Avoid Disturbance of Nesting Birds*, potential impacts associated with special-status species would not occur.

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The proposed project would not adversely affect any sensitive natural communities or riparian habitat, which is absent from the project site. There would be no impact to riparian habitats or sensitive natural communities.

c) Would the project have a substantial adverse effect on state or federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

According to the United States Fish and Wildlife Service (USFWS) National Wetlands Inventory,[18] no protected wetlands are present on the project site. The proposed project would have no impact related to State or federally protected wetlands.

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The project site is not located within a migratory wildlife movement corridor. Most of the species that likely use the site are "generalists" that are adept at moving through urban landscapes. However, trees, shrubs, other vegetation, and structures have the potential to support nests of many common native bird species. All native birds and their nests, regardless of their regulatory status, are protected by the California Fish and Game Code. If conducted during the breeding season (February through August), vegetation removal and other demolition or construction activities could directly impact nesting birds by removing trees and/or vegetation, or structures that support active nests. As discussed above under Section 4.4.a, implementation of *COA: Avoid Disturbance of Nesting Birds* would ensure that there would be no impacts to nesting birds.

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

BMC Section 12.44.020[19] protects certain trees, including street trees, within the city. As discussed above, street trees are present along Shattuck Avenue. The trees are considered protected trees under BMC Section 12.44.020. As shown on Figure 3-4, all but one of the existing street trees along Shattuck Avenue would be protected in place and two new trees would be planted along Virginia Street.

Construction of the proposed project would comply with the City's Tree Preservation Guidelines, including the establishment of a tree protection zone, tree protection fencing, adding irrigation and

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18 United States Fish and Wildlife Service (USFWS). *National Wetlands Inventory*. Website: https://fws primary.wim.usgs.gov/wetlands/apps/wetlands-mapper/ (accessed March 2025).

19 BMC Section 12.44.020: It unlawful for any person to cut, trim, remove, mutilate, injure or in any way impair the growth of any tree, shrub or plant being or growing in or on any public property within the City, or to cause or permit the same to be done. Provided, however, that in the event that any person desires permission to cut, trim, remove or in any way impair the natural growth of any such tree, shrub or plant, application shall first be made to the Director of Recreation and Parks for a permit therefor. Upon receipt of such application, the Director of Recreation and Parks may cause an inspection to be made and may thereafter issue or refuse to issue a permit for such work. Provided, further, that whenever it is deemed necessary by the Director of Recreation and Parks, he may require the work specified in said application, or any part thereof, to be done under his supervision, and the cost of such supervision shall be borne by the project sponsor if so determined by the Director of Recreation and Parks.

mulch, and specifications for if any root pruning occurs. Further, the proposed project would replace the one removed street tree in accordance with the City's Tree Planting Location Standards.[20]

The proposed project would not conflict with any local policies or ordinances protecting biological resources, and no potential impacts to protected trees would occur.

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The project area is not subject to any adopted habitat conservation plan or natural community conservation plan. As such, the proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Plan, or other approved local, regional, or State habitat conservation plan, and no impact would occur.

4.4.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to biological resources. Impacts on biological resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

[20] Berkeley, City of. 2022b. *Tree Planting Location Standards.* February.

4.5 CULTURAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☒	☐	☐	☐
b. Cause a substantial adverse change in the significance of an archeological resource pursuant to §15064.5?	☐	☐	☐	☒
c. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

4.5.1 Housing Element EIR Analysis

Section 4.4 of the Housing Element EIR analyzed potential impacts related to cultural resources. The Housing Element EIR determined that potential impacts on archeological resources, including human remains, would be less than significant; however, impacts to historical resources were determined to be significant and unavoidable even with implementation of mitigation measures. The Housing Element EIR also identified a cumulatively considerable impact related to historical resources.

The Housing Element EIR determined that although development facilitated by the Housing Element could adversely affect identified and previously unidentified archeological resources, including human remains, adherence to the City's *COA: Archeological Resources* and *COA: Human Remains* would ensure impacts would be less than significant.

The Housing Element EIR also determined that future development facilitated by the Housing Element could result in the material impairment of a historical resource if demolition of a historical structure occurs as part of that future development. The City has adopted regulations that would apply to future development facilitated by the Housing Element, including the City's Landmarks Preservation Commission ordinance, which provides procedures for the local designation of historical resources. The ordinance also includes a provision for a permit review, which allows the Landmarks Preservation Commission to review and approve any construction, alteration, or demolition of a designated landmark, buildings in designated historic districts, and structures of merit. In addition, the Housing Element EIR prescribed Mitigation Measure CUL-1, which requires the City to conduct a citywide historic context statement and a cultural resource survey to identify historic resources, and Mitigation Measure CUL-2, which requires a historical resources assessment be prepared for projects that are subject to discretionary review when a historical-age building or structure that has not been previously evaluated is present. However, even with implementation of the prescribed mitigation measures, the Housing Element EIR determined that existing and eligible historical resources could still be materially impaired by future development because specific actions intended for the reduction of impacts to historical resources could be deemed infeasible. Therefore, the Housing Element EIR determined that impacts to historical resources would be significant and unavoidable.

4.5.2 Project Impacts

a) Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

The records search of the Northwest Information Center (NWIC) database indicates there is one potentially historic resource (i.e., the existing commercial building) located on the project site and one historic resource (i.e., a historic building located at 1540 Shattuck Avenue) within 0.25 mile of the project site. In addition, the NWIC record search results identified 10 cultural reports that have been previously conducted within the 0.25-mile study area and 18 previously conducted cultural reports have included a portion of the project site within their search radius.

Pursuant to Housing Element EIR Mitigation Measure CUL-2, a Historical Resources Evaluation (HRE) was prepared [21] to evaluate the existing structure's eligibility for listing in the California Register of Historical Resources (California Register) and whether the existing structure meets the criteria for designation as a City of Berkeley Landmark and/or Structure of Merit. This report was peer reviewed by LSA.

The HRE found that the existing structure, which was initially built in 1906, was remodeled several times, and various parts of the building are incongruous in form. As such, the building represents various architectural styles. In addition, the structure suffered a number of fires during its history, the last of which (in 1981) destroyed almost the entire building. Only the portion of the building fronting Shattuck Avenue was repaired/reconstructed, and it was given an entirely different architectural treatment than it previously had. The HRE did not find a significant connection to historically significant events or people. Therefore, the HRE concluded that the existing building does not appear eligible for listing in the California Register, or as a candidate Berkeley Landmark, or as a Structure of Merit due to a general lack of historical significance relating to events or people, which is exacerbated by its substantial loss of integrity and subsequent inability to represent any of its history prior to 1981.

Because no historical resources as defined by *State CEQA Guidelines* Section 15064.5(b)(2)(A)(B) are present at the project site, implementation of the proposed project would not cause a substantial adverse change in the significance of a historical resource.

b) Would the project cause a substantial adverse change in the significance of an archeological resource pursuant to §15064.5?

The search of the NWIC database indicates there are no previously recorded archeological cultural resources at the project site. Therefore, no archeological resources are currently known to exist on the project site. However, the proposed project would include excavation to a depth of approximately 6 feet below the ground surface. Ground-disturbing activities could have a substantial adverse change on unrecorded buried archeological deposits that qualify as historical resources, as defined in *State CEQA Guidelines* Section 15064.5, and could materially impair pre-

[21] Left Coast Architectural History. 2024. *Historical Resources Evaluation*. April 23.

contact archeological deposits. However, the proposed project would be required to comply with the City's *COA: Archeological Resources,* which addresses this potential impact.

> ***COA: Archeological Resources.*** *(Ongoing throughout demolition, grading, and/or construction).* Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archeological resources accidentally discovered during construction" should be instituted. Therefore:
>
> A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archeologist, historian or paleontologist to assess the significance of the find.
>
> B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
>
> C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
>
> D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
>
> E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

Implementation of the appropriate procedures required by *COA: Archeological Resources* for the treatment of archeological resources and deposits would ensure that these resources are protected if encountered at the project site during construction by including stop work procedures in the event of a find as well as handling procedures. With this COA in place, the project would have no impact on archeological resources.

c) Would the project disturb any humans remains, including those interred outside of formal cemeteries?

No human remains have been identified at the project site; however, the proposed project would require excavation to a depth of approximately 5 feet below the ground surface. Ground-disturbing activities could disturb, and in turn have a substantial adverse change on, unrecorded human remains. However, the proposed project would be required to comply with the City's *COA: Human Remains*, which addresses this potential impact.

> ***COA: Human Remains.*** (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt, and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

Implementation of the appropriate procedures required under State law and by *COA: Human Remains* for the treatment of Native American remains would ensure that descendant communities have significant input in the treatment and final disposition of human remains, if encountered at the project site during construction. With these regulations and conditions of approval in place, the project would have no impact on human remains, including those interred outside of formal cemeteries.

4.5.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to cultural resources, including historical resources. Impacts on archeological resources would remain less than significant, and impacts on historical resources would remain significant and unavoidable as identified in the Housing Element EIR. Because the proposed project would result in no impact on historic resources, the proposed project would not contribute to, exacerbate, or increase the significant unavoidable impact identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.6 ENERGY

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation?	☐	☐	☐	☒
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

4.6.1 Housing Element EIR Analysis

Section 4.5 of the Housing Element EIR analyzed potential impacts related to energy. The Housing Element EIR determined that all impacts related to energy would be less than significant, and no mitigation was prescribed. The Housing Element EIR determined that although construction and operation of future development facilitated by the Housing Element would require temporary and long-term consumption of energy resources, future development would not result in the wasteful, inefficient, or unnecessary consumption of energy resources with adherence to State and local regulations. In addition, the Housing Element EIR determined that the Housing Element would be consistent with the State plans and General Plan policies related to energy efficiency and utilizing renewable energy.

4.6.2 Project Impacts

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation?

Construction Energy Use. The anticipated construction schedule assumes that construction of the proposed project would begin in March 2026 and last for approximately 21 months. The proposed project would require demolition, grading, site preparation, and building activities during construction.

Proposed project construction would require energy for the manufacture and transportation of building materials, preparation of the site for grading activities, and building construction. Petroleum fuels (e.g., diesel and gasoline) would be the primary sources of energy for these activities. To increase energy efficiency on the site during project construction, idling times would be restricted to 5 minutes or less and construction workers would be required to shut off idle equipment, as required by *COA: Public Works – Implement Air District-Recommended Measures During Construction*. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the State's available energy sources.

Operational Energy Use. Typically, energy consumption is associated with fuel used for vehicle trips and electricity and natural gas use.

The proposed project would be required to comply with the latest California Energy Code and California Green Building Standards Code (CALGreen Code) standards, including any locally adopted amendments, and would include solar panels, which would help to reduce energy consumption. In 2018, SB 100 was passed, which committed California to generating all electricity from carbon-free sources by 2045. While the proposed project would include natural gas, the project would be required to comply with State building code requirements as Title 24 advances to implement the building decarbonization goals. In addition, the proposed project also would use new modern appliances and equipment, in accordance with the Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608). The expected energy consumption during operation of the proposed project would be consistent with typical usage rates for residential uses; however, energy consumption is largely a function of personal choice and the physical structure and layout of buildings. It can be assumed that implementation of the proposed project would result in additional energy demand in the project area; however, as the proposed project would be located in a primarily developed urban area, the proposed project is not expected to result in wasteful, inefficient, or unnecessary consumption of electricity or natural gas resources.

The proposed project would also result in energy usage associated with gasoline for project-related trips. The proposed project would generate a net increase of 436 average daily trips. Based on fuel consumption obtained from the California Air Resources Board (CARB) Emission Factor model (EMFAC2021), approximately 540.5 million gallons of gasoline and approximately 156.2 million gallons of diesel fuel will be consumed from vehicle trips in Alameda County in 2024. Therefore, based on the total fuel usage in Alameda County and the minimal increase in average daily trips, vehicle trips associated with the proposed project would negligibly increase the annual fuel use in Alameda County. Additionally, the project site is served by existing sidewalks along Shattuck Avenue and Virginia Street and is located within 0.5 mile of several intersecting major bus routes, including AC Transit Lines 7, 18, and FS. The proposed project would also provide 97 secure bicycle parking spaces for the proposed residential uses in a covered bike storage area. Therefore, the project would support the ability of residents and employees to use alternative modes of transportation. As such, fuel consumption associated with vehicle trips generated by project operations would not be considered inefficient, wasteful, or unnecessary in comparison to other similar developments in the region.

Given the location of the project and proposed improvements, implementation of the proposed project would not result in a substantial increase in electricity, natural gas, or transportation-related energy, such that it would result in a wasteful, inefficient, or unnecessary consumption of energy resources and there would be no impact.

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

In 2002, the State Legislature passed SB 1389, which required the California Energy Commission (CEC) to develop an integrated energy plan every 2 years for electricity, natural gas, and transportation fuels for the California Energy Policy Report. The plan calls for the State to assist in the transformation of the transportation system to improve air quality, reduce congestion, and increase the efficient use of fuel supplies with the least environmental and energy costs. To further this policy, the plan identifies a number of strategies, including assistance to public agencies and

fleet operators, in implementing incentive programs for zero-emission vehicles and their infrastructure needs, as well as encouragement of urban designs that reduce VMT and accommodate pedestrian and bicycle access.

The most recently adopted CEC energy report is the 2024 Integrated Energy Policy Report Update.[22] The 2024 Integrated Energy Policy Report Update provides the results of the CEC's assessments of a variety of energy issues facing California. Many of these issues will require action if the State is to meet its climate, energy, air quality, and other environmental goals while maintaining energy reliability and controlling costs. The 2024 Integrated Energy Policy Report Update covers a broad range of topics, including implementation of SB 350, integrated resource planning, distributed energy resources, transportation electrification, solutions to increase resiliency in the electricity sector, energy efficiency barriers faced by disadvantaged communities, demand response, transmission and landscape-scale planning, the California Energy Demand Preliminary Forecast, the preliminary transportation energy demand forecast, renewable gas (in response to SB 1383), updates on Northern California electricity reliability, natural gas outlook, and climate adaptation and resiliency.

Locally, the Berkeley City Council adopted a Climate Action Plan (CAP) in 2009 and has made additional commitments regarding renewable energy and energy efficiency including:

- 100 percent renewable electricity by 2035;
- Net-Zero Carbon Emissions by 2045 in alignment with Governor Brown's Executive Order B-55-18;
- Declaring a Climate Emergency and resolving to become a Fossil Fuel Free City; and the
- Cities Race to Zero Campaign: Committed to reducing emissions 60.5 percent from 2018 levels by 2030, an emission reduction target that reflects Berkeley's fair share of the 50 percent global reduction in carbon dioxide equivalent (CO_2e).

As indicated above, energy usage on the project site during construction would be temporary in nature. In addition, energy usage associated with operation of the proposed project would be negligible in comparison to the State's available energy sources, and energy impacts would be minimal at the regional level. Because California's energy conservation planning actions are conducted at a regional level and the project's total impact to regional energy supplies would be minor, the proposed project would not conflict with California's energy conservation plans as described in the CEC 2024 Integrated Energy Policy Report Update. As discussed above, while the proposed project would include natural gas, the proposed project would be required to comply with State building code requirements as Title 24 advances to implement building decarbonization goals. As such, the proposed project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency, and there would be no impact.

[22] California Energy Commission. 2024. *2024 Integrated Energy Policy Report Update.* Docket Number 24-IEPR-01.

4.6.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to energy. Impacts related to energy would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.7 GEOLOGY AND SOILS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii. Strong seismic ground shaking?	☐	☐	☐	☒
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv. Landslides?	☐	☐	☐	☒
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒

4.7.1 Housing Element EIR Analysis

Section 4.6 of the Housing Element EIR analyzed potential impacts related to geology and soils. The Housing Element EIR determined that all impacts related to geology and soils would either be less than significant or less than significant with incorporation of prescribed mitigation measures. The Housing Element EIR indicated that portions of the city are located within the Hayward Fault Zone and determined that development facilitated by the Housing Element would be subject to seismically induced ground shaking and other seismic hazards, including liquefaction and landslides, which could damage structures and result in loss of property and risk to human health and safety. However, the Housing Element EIR determined that implementation of State-mandated building standards and compliance with the Alquist-Priolo Act Earthquake Fault Act, the California Building Code (CBC), and the City's General Plan policies and actions (including Policies S-13A, S-13B, and S-14B) and BMC would ensure that impacts would be less than significant. The Housing Element EIR also determined that with adherence to existing laws and regulations and standard engineering practices, impacts related to soil erosion, the loss of soil, and expansive soils would also be less than significant. In addition, because the Housing Element would not include septic tanks or alternative

wastewater disposal systems, the Housing Element EIR determined that no impact related to septic tanks would occur.

The Housing Element EIR also determined that future development facilitated by the Housing Element could impact paleontological resources during construction ground-disturbing activities and prescribed Mitigation Measure GEO-1. Mitigation Measure GEO-1 details requirements for projects where ground disturbance below the level of prior disturbance and into native soils is proposed to occur in areas mapped as Pleistocene alluvial fan and fluvial deposits (Qpaf), Orinda Formation (Tor), or Knoxville Formation (Kjk). With implementation of Mitigation Measure GEO-1, the Housing Element EIR determined that potential impacts to paleontological resources would be less than significant.

4.7.2 Project Impacts

The California Geological Survey (CGS) mapped Seismic Hazard Zones that delineate areas susceptible to geologic hazards (including earthquakes, liquefaction, and landslides) that require additional investigation to determine the extent and magnitude of potential ground failure. According to the CGS, the project site is not located within any Seismic Hazard Zone.[23] However, as provided in the Housing Element EIR, the project site is underlain by soils classified as Urban land-Tierra complex, 2-5 percent slopes, which have a high potential for expansiveness. Therefore, as required by the CBC and the City's General Plan Action S-14B, a project-specific geotechnical evaluation would be required for the proposed project in order to provide geotechnical recommendations for development of proposed building foundations.

The City has adopted the 2022 CBC (CCR Title 24), with local amendments, which provides for stringent construction requirements on projects in areas of high seismic risk. The design and construction of the proposed project is required to conform with, or exceed, current best standards for earthquake resistant construction in accordance with the 2022 CBC (or more recent applicable code) and with the generally accepted standards of geotechnical practice for seismic design in Northern California.

a) Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. (ii) Strong seismic ground shaking? (iii) Seismic-related ground failure, including liquefaction? (iv) Landslides?

The California Supreme Court concluded in its *CBIA v. Air District* decision that "CEQA generally does not require an analysis of how existing environmental conditions will affect a project's future users or residents." With this ruling, CEQA no longer considers the impact of the environment on a project (e.g., the impact of existing seismic hazards on new project occupants) to be an environmental impact unless the project could exacerbate an existing environmental hazard. The proposed project

[23] California Geological Survey (CGS). 2021. *Earthquake Zones of Required Investigation*. September 23. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. (accessed March 2025).

would not change existing seismic hazards and therefore would not exacerbate existing hazards related to surface fault rupture and seismic ground shaking. As such, the following discussions of seismic hazards are provided for informational purposes only.

Fault Rupture. Fault-rupture hazard results in ground breakage and displacement along fault traces during earthquakes. Fault rupture is generally expected to occur along active fault traces. Areas susceptible to fault rupture are delineated by the CGS Alquist-Priolo Earthquake Fault Zones and require specific geological investigations prior to development to reduce the threat to public health and safety and to minimize the loss of life and property posed by earthquake-induced ground failure. The project site is not located within or adjacent to an Alquist-Priolo Earthquake Fault Zone.[24] The closest fault zone to the project site is the Hayward Fault Zone, located approximately 0.7 mile east of the project site. As such, it is unlikely that active traces of the Hayward Fault are present within the project site, and the risk for a fault-rupture hazard to exist on the site is low. Therefore, the proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault.

Ground Shaking. Seismic ground shaking generally refers to all aspects of motion of the Earth's surface resulting from an earthquake and is normally the major cause of damage in seismic events. As previously discussed, the closest fault zone to the project site is the Hayward Fault Zone, located approximately 0.7 mile east of the project site. The extent of ground shaking is controlled by the magnitude and intensity of the earthquake, distance from the epicenter, and local geologic conditions. It is likely that the project site would experience strong ground shaking during the lifetime of the proposed project. The Association of Bay Area Governments (ABAG) published maps predicting ground-shaking intensities for various earthquake scenarios in the Bay Area. Three different scenarios were modeled for the Hayward Fault: (1) a moment-magnitude 7.1 earthquake on the northern segment, (2) a moment-magnitude 7.0 earthquake on the southern segment, and (3) a moment-magnitude 7.3 earthquake on the entire length of the Hayward Fault. Each of these models predicts extreme ground shaking in the vicinity of the site. The probability of a large earthquake on the Hayward Fault is believed to be high during the life of the proposed project.

The risk of ground shaking impacts is reduced through adherence to the design and materials standards set forth in the 2022 CBC. Therefore, compliance with the existing building codes, as described above, would ensure that potential impacts related to seismic ground shaking would be reduced to the extent feasible.

It is acknowledged that seismic hazards cannot be completely eliminated, even with site-specific geotechnical design and advanced building practices. However, the seismic design standards of the 2022 CBC are intended to prevent catastrophic building failure in the most severe earthquakes currently anticipated. Therefore, compliance with the existing building codes, described above, would ensure that people or structures would not be adversely affected by earthquake-induced ground shaking.

[24] California Department of Conservation (DOC). *DOC Maps: Geologic Hazards, Seismic Hazards Program: Alquist-Priolo Fault Hazard Zones*. Website: https://www.conservation.ca.gov/cgs/maps-data (accessed March 2025).

Seismic-Related Ground Failure and Liquefaction. Soil liquefaction is a phenomenon primarily associated with saturated soil layers located close to the ground surface. During ground shaking, these soils lose strength and acquire a "mobility" sufficient to permit both horizontal and vertical movements. Soils that are most susceptible to liquefaction are clean, loose, uniformly graded, saturated, fine-grained sands that lie relatively close to the ground surface. However, loose sands that contain a significant amount of fines (silt and clay) may also liquefy. According to the CGS, the project site is not located within a Seismic Hazard Zone for seismically-induced liquefaction.[25] In addition, final grading, foundation, and building plans must be designed in accordance with the 2022 CBC. These designs would include measures that would address, as necessary, the potential for differential settlement related to liquefaction. Therefore, compliance with the existing regulations would ensure that people or structures would not be adversely affected by liquefaction associated with ground shaking.

Landslides. Seismically-induced landslides occur as the rapid movement of large masses of soil on unstable slopes during an earthquake. According to the CGS, the project site is not located within a Seismic Hazard Zone for seismically-induced landslides.[26] Therefore, the proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.

Based on the analysis presented above, the proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, including liquefaction, or landslides.

b) Would the project result in substantial soil erosion or the loss of topsoil?

Soil erosion, which is discussed in detail in Section 4.10, Hydrology and Water Quality, could occur during project grading and construction. As discussed in Section 4.10, compliance with the City's *COA: Stormwater Requirements* and *COA: Public Works*, including implementation of BMPs that address soil erosion during construction, would ensure that potential impacts related to erosion of topsoil during construction would not occur.

The proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. The remaining portion of the site would consist of pervious surface area, which would contain landscaping that would minimize on-site erosion by stabilizing the soil. Therefore, on-site erosion impacts would be minimal. Additionally, compliance with Municipal Regional Permit (MRP) requirements and standard conditions of approval require applicants to establish and maintain drainage patterns so as to not adversely affect adjacent properties and rights-of-way. For these reasons, potential on- and off-site erosion impacts during project operation would not occur.

25 *Earthquake Zones of Required Investigation*. September 23. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. (accessed March 2025).
26 Ibid.

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

As discussed above, the proposed project would not be susceptible to landslide or liquefaction because the project site is not located within a mapped landslide or liquefaction zone. In addition, the proposed project's required compliance with existing regulations, including the 2022 CBC, would reduce the potential risks to people and structures. Final grading, foundation, and building plans would be designed in accordance with the 2022 CBC (or more recent applicable code). Therefore, compliance with the existing regulations would ensure that the potential impacts associated with potential landslide, liquefaction, or lateral spreading would be less than significant.

Subsidence or collapse can result from the removal of subsurface water resulting in either catastrophic or gradual depression of the surface elevation of the project site. According to the Phase I Environmental Site Assessment (Phase I ESA)[27] prepared for the proposed project, the depth to groundwater at the project site is approximately 17 feet below ground surface (bgs). Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. Based on the depth to groundwater at the project site and the maximum depth of excavation, groundwater dewatering is not anticipated to be required during construction. Potential impacts related to subsidence or soil collapse would not occur.

d) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Expansive soils are characterized by the potential for shrinking and swelling as the moisture content of the soil decreases and increases, respectively. Shrink-swell potential is influenced by the amount and type of clay minerals present and can be measured by the percent change of the soil volume. Plasticity indexes greater than 15 usually indicate that a swelling problem may exist, and the swell percentage generally increases with the plasticity indexes.[28] In general, clays have a higher plasticity index, silts have a lower plasticity index, and soils with a plasticity index of 0 typically have little or no silt or clay.

According to the United States Department of Agriculture Natural Resource Conversation Service Web Soil Survey and the Housing Element EIR, the project site is entirely underlain by the Urban land-Tierra complex, 20 to 5 percent slopes.[29,30] The Urban land-Tierra complex typically consists of

27 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

28 Federal Highway Administration (FHWA). 1977. *An evaluation of expedient methodology for identification of potentially expansive soils.* Report No. FHWA-RD-77-94. June.

29 United States Department of Agriculture Natural Resource Conversation Service. 2023a. *Web Soil Survey.* Website: https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx (accessed March 2025).

30 A "complex" consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

loam in the first 12 inches, clay between 12 to 32 inches bgs, and sandy clay loam between 32 and 60 inches bgs.[31] This complex is well to moderately drained, and the depth to restrictive feature (i.e., bedrock) is more than 80 inches.[32]

As discussed above, the project site is underlain by the Urban land-Tierra complex, which is considered to have a high potential for expansiveness, as provided in the Housing Element EIR. However, the proposed project would be required to comply with the 2022 CBC and the City's General Plan Action S-14B, which would require a project-specific geotechnical evaluation to ensure that impacts from development associated with implementation of the proposed project on expansive soil are minimized. In addition, final grading, foundation, and building plans would be designed in accordance with the 2022 CBC and would include measures to either: (1) excavate the existing fill materials susceptible to expansion and replace the materials with engineered fill or further evaluate the possible reuse of the materials as engineered fill; or (2) design foundations and other improvements to withstand the shrinking and swelling cycles of the soils without causing significant damage. These measures would be incorporated into the proposed project as conditions of approval. Compliance with the existing 2022 CBC would ensure that the potential impacts associated with expansive soils would not occur.

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

The project site would be served by a wastewater conveyance system maintained by the City and would not involve the use of septic tanks or alternative wastewater disposal systems. As such, the proposed project would have no impact related to septic tanks or alternative wastewater disposal systems.

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

There are no identified paleontological resources or unique geologic features or sites within, or in the vicinity of, the project site. However, as provided in the Housing Element EIR, the project site is underlain by Pleistocene alluvial fan and fluvial deposits (Qpaf). As such, implementation of Housing Element EIR Mitigation Measure GEO-1 would be applicable to the proposed project.

Demolition, site preparation, and construction activities associated with the proposed project could adversely impact previously unidentified fossils. Such fossils, if present, could be identified during deep excavation. However, the proposed project would be required to implement Housing Element EIR Mitigation Measure GEO-1, which would require a qualified paleontologist to determine the project's potential to significantly impact paleontological resources, conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding

[31] United States Department of Agriculture Natural Resource Conversation Service. 2023b. *Web Soil Survey, Report - Map Unit Description: 150 – Urban land-Tierra complex, 2 to 5 percent slopes.* Website: https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx (accessed March 2025).

[32] Ibid.

the appearance of fossils and procedures for notifying paleontological staff should fossils be discovered by construction staff, and monitor ground-disturbing construction activities. In addition, development projects that require a use permit are required to comply with the City's *COA: Paleontological Resources*, which requires that work be stopped in the event of an unanticipated discovery of a paleontological resource during construction. Implementation of Housing Element EIR Mitigation Measure GEO-1 and compliance with *COA: Paleontological Resources* would ensure that this impact would be less than significant because paleontological resources would be properly documented and protected if encountered during project construction.

> ***COA: Paleontological Resources.*** (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Implementation of the appropriate procedures required by Housing Element EIR Mitigation Measure GEO-1 and *COA: Paleontological Resources* for the treatment of paleontological resources would ensure that these resources are protected if encountered at the project site during construction by including stop work procedures in the event of a find as well as handling procedures.

4.7.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to geology and soils. Impacts related to geology and soils would remain less than significant with incorporation of mitigation, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.8 GREENHOUSE GAS EMISSIONS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

4.8.1 Housing Element EIR Analysis

Section 4.7 of the Housing Element EIR analyzed potential impacts related to GHG emissions. The Housing Element EIR determined that all impacts related to GHG emissions would be less than significant, and no mitigation was prescribed. The Housing Element EIR determined that because GHG emissions from future development facilitated by the proposed project would not exceed the Air District's interpolated 2031 targets for annual emissions, future development would not directly or indirectly generate GHG emissions that would have a significant effect on the environment. In addition, the Housing Element EIR determined that implementation of the Housing Element would not conflict with GHG reduction goals and policies in the CARB 2017 Scoping Plan, Plan Bay Area 2050, the City's General Plan, or the City's CAP.

4.8.2 Project Impacts

GHGs are present in the atmosphere naturally, are released by natural sources, or are formed from secondary reactions taking place in the atmosphere. The gases that are widely seen as the principal contributors to human-induced global climate change are:

- Carbon dioxide (CO_2);
- Methane (CH_4);
- Nitrous oxide (N_2O);
- Hydrofluorocarbons (HFCs);
- Perfluorocarbons (PFCs); and
- Sulfur hexafluoride (SF_6).

Over the last 200 years, humans have caused substantial quantities of GHGs to be released into the atmosphere. These extra emissions are increasing GHG concentrations in the atmosphere and enhancing the natural greenhouse effect, which is believed to be causing global warming. While manmade GHGs include naturally occurring GHGs such as CO_2, CH_4, and N_2O, some gases, like HFCs, PFCs, and SF_6 are completely new to the atmosphere.

Certain gases, such as water vapor, are short-lived in the atmosphere. Others remain in the atmosphere for significant periods of time, contributing to climate change in the long term. Water

vapor is excluded from the list of GHGs above because it is short-lived in the atmosphere, and its atmospheric concentrations are largely determined by natural processes such as oceanic evaporation.

These gases vary considerably in terms of Global Warming Potential (GWP), a concept developed to compare the ability of each GHG to trap heat in the atmosphere relative to another gas. The GWP is based on several factors, including the relative effectiveness of a gas to absorb infrared radiation and length of time that the gas remains in the atmosphere ("atmospheric lifetime"). The GWP of each gas is measured relative to CO_2, the most abundant GHG. The definition of GWP for a particular GHG is the ratio of heat trapped by 1 unit mass of the GHG to the ratio of heat trapped by 1 unit mass of CO_2 over a specified time period. GHG emissions are typically measured in terms of pounds or tons of CO_2e.

a) Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

This section describes the proposed project's construction- and operation-related GHG emissions and contribution to global climate change. The Air District did not address emission thresholds for construction in their CEQA Guidelines; however, the Air District encourages quantification and disclosure. The Housing Element EIR included a quantitative analysis of GHG emissions associated with development of residential units under the Housing Element. As the project site was identified as an Opportunity Site for residential development in the City's Housing Element, the proposed project's anticipated GHG emissions associated with project construction and operation were included in the GHG emissions analysis contained in the Housing EIR. Project specific construction and operational emissions for the proposed project are discussed in this section.

Construction Activities. Construction activities associated with the proposed project would produce combustion emissions from various sources. During construction, GHGs would be emitted through the operation of construction equipment and from worker and builder supply vendor vehicles, each of which typically use fossil-based fuels to operate. The combustion of fossil-based fuels creates GHGs such as CO_2, CH_4, and N_2O. Furthermore, CH_4 is emitted during the fueling of heavy equipment. Exhaust emissions from on-site construction activities would vary daily as construction activity levels change.

Implementation of the City's *COA: Public Works – Implement Air District-Recommended Measures During Construction*, as identified under Section 4.3.b, Air Quality, would reduce GHG emissions by reducing the amount of construction vehicle idling and by requiring the use of properly maintained equipment. This measure is implemented by the City and the Air District to ensure that GHG emissions would be less than significant. In addition, construction activities would be minimal, and GHG emissions generated during construction of the proposed project would be short term in nature, lasting only for the duration of the construction period. Since GHG emissions associated with construction activities would not represent a long-term source of GHG emissions and would cease once construction is completed, project construction impacts associated with GHG emissions would not occur.

Operational Emissions. Long-term GHG emissions associated with the proposed project would typically be generated from mobile sources (e.g., vehicle trips), area sources (e.g., maintenance activities and landscaping), indirect emissions from sources associated with energy consumption, waste sources (land filling and waste disposal), and water sources (water supply and conveyance, treatment, and distribution). Mobile-source GHG emissions would include project-generated vehicle trips to and from the project site. Area-source emissions would be associated with activities such as landscaping and maintenance on the project site. Energy source emissions would be generated at off-site utility providers from increased electricity demand generated by the proposed project. Waste source emissions generated by the proposed project include energy generated by transporting and managing project generated waste. In addition, water source emissions associated with the proposed project are generated by water supply and conveyance, water treatment, water distribution, and wastewater treatment.

The Housing Element EIR found that operational GHG emissions associated with development facilitated by the Housing Element would result in an increase of 1.7 MT of CO_2e per service population per year, below the interpolated Air District 2031 target of 3.7 MT of CO2e per service population per year. As such, for the purpose of this analysis, the proposed project will be compared to the GHG efficiency of 1.7 MT CO_2e per service population.

Consistent with the Housing Element EIR, GHG emissions were estimated using CalEEMod. Table 4.8.A shows the calculated GHG emissions for the proposed project. CalEEMod output sheets are included in Appendix A.

Table 4.8.A: Project Greenhouse Gas Emissions

Emissions Source Category	Operational Emissions (metric tons per year)			
	CO_2	CH_4	N_2O	CO_2e
Mobile	236.8	<0.1	<0.1	241.1
Area	7.6	<0.1	<0.1	7.6
Energy	101.0	<0.1	<0.1	101.6
Water	3.7	0.1	<0.1	7.8
Waste	7.3	0.7	0.0	25.6
Total Operational Emissions				**383.7**
Total Annual Service Population Emissions (Metric Tons/Year/Service Population)				**1.4**

Source: Compiled by LSA (July 2025).
CH_4 = methane
CO_2 = carbon dioxide
CO_2e = carbon dioxide equivalents
N_2O = nitrous oxide

As shown in Table 4.8.A, the proposed project would generate approximately 383.7 metric tons of CO_2e. As discussed in Section 4.14, Population and Housing, the proposed project would result in approximately three new employees and 261 residents on the project site. Therefore, the total service population (residents plus employees) would be 264 people. As such, the project's GHG emissions would result in a GHG efficiency of 1.4 metric tons CO_2e per service population, which would be below the GHG efficiency of 1.7 MT CO_2e per service population identified in the Housing Element EIR and also below the interpolated 2031 Air District targets for annual emissions. As such,

the proposed project would not generate GHG emissions that would have a significant effect on the environment, and there would be no impact.

b) Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The City adopted a CAP[33] in 2009 with the goal of reducing communitywide GHG emissions by 80 percent below 2000 levels by 2050. The core recommendation strategies and actions of the CAP are based on the following topics:

- Sustainable Transportation and Land Use
- Building Energy Use
- Waste Reduction and Recycling
- Community Outreach and Empowerment
- Preparing for Climate Change Impacts

While the CAP is not considered a "qualified greenhouse gas reduction plan" for the purposes of streamlining GHG emissions analysis under CEQA, the City actively uses it for guiding GHG emission reduction efforts. Since publication of the CAP, the City added additional climate goals to support implementation of the CAP:[34]

- 100 percent renewable electricity by 2035
- Net-Zero Carbon Emissions by 2045, in alignment with Governor Brown's Executive Order B-55-18
- Declared a Climate Emergency and resolved to become a Fossil Fuel Free City
- Cities Race to Zero Campaign: Committed to reducing emissions 60.5 percent from 2018 levels by 2030, an emission reduction target that reflects Berkeley's fair share of the 50 percent global reduction in CO_2e

The proposed project would result in the development of a new eight-story mixed-use residential building containing a total of 110 dwelling units and approximately 690 square feet of commercial space on an infill site that would locate residents and employees near existing residential and commercial uses. The project site is served by existing sidewalks along Shattuck Avenue and Virginia Street and is located within 0.5 miles of several intersecting major bus routes, including AC Transit Lines 7, 18, and FS. The proposed project would provide 97 secure bicycle parking spaces for the proposed residential uses in a covered bike storage area. Therefore, the project would support the ability of residents and employees to use alternative modes of transportation. Additionally, as further discussed in Section 4.16, Transportation, given the location of the proposed project and proposed improvements, the proposed project would result in a less than significant VMT impact.

33 Berkeley, City of. 2009. *City of Berkeley Climate Action Plan*. June.
34 Berkeley, City of. 2022a. *City of Berkeley 2023–2031 Housing Element Update Environmental Impact Report, SCH No. 2022010331*. August.

Therefore, the proposed project would not conflict with sustainable transportation and land use measures identified in the CAP.

As discussed previously in Section 4.6, Energy, the proposed project would be required to comply with the latest California Energy Code and CALGreen Code standards (including any locally adopted amendments) and would include solar panels, which would help to reduce energy consumption and GHG emissions. In addition, while the proposed project would include natural gas, the proposed project would be required to comply with State building code requirements as Title 24 advances to implement the building decarbonization goals. The proposed project would also include low-flow plumbing fixtures and landscape irrigation. The proposed project would be consistent with the California Department of Resources Recycling and Recovery (CalRecycle) Waste Diversion and Recycling Mandate, which would reduce solid waste production by 75 percent, and the Berkeley Green Code, which also requires 100 percent of concrete, asphalt, and land clearing debris to be reused and recycled. Therefore, the proposed project would not conflict with any of the building energy use or waste and recycling measures identified in the CAP. In addition, the City's *COA: Construction and Demolition Diversion* and *COA: Low-Carbon Concrete* (provided below) would require implementation of a Construction Waste Management Plan and compliance with the Berkeley Green Code.

> ***COA: Construction and Demolition Diversion.*** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
>
> ***COA: Low-Carbon Concrete.*** The project shall verify compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent.

Given the above, the proposed project would be consistent the City's CAP, commitment to carbon neutrality by 2045, and the Climate Emergency declaration and would implement measures designed to reduce GHG emissions. The proposed project would not conflict with plans, policies, or regulations adopted for the purpose of reducing GHG emissions.

4.8.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to GHG emissions. Impacts related to GHG would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.9 HAZARDS AND HAZARDOUS MATERIALS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

4.9.1 Housing Element EIR Analysis

Section 4.8 of the Housing Element EIR analyzed potential impacts related to hazards and hazardous materials. The Housing Element EIR determined that all impacts related to hazards and hazardous materials would be less than significant, and no mitigation was prescribed. The Housing Element EIR indicated that implementation of the Housing Element would facilitate the development of new residential uses in the city that would not involve the routine transportation, use, or disposal of hazardous materials. Construction of new residences could result in an increase in the overall routine, transport, use, and disposal of hazardous materials in the city for construction activities, including within 0.25 mile of a school. However, required compliance with applicable regulations related to hazardous materials and compliance with General Plan policies and City COAs, including *COA: Toxics*, would minimize the risk of releases and exposure to these materials to less than significant. In addition, the Housing Element EIR determined that implementation of the Housing Element would accommodate development on or near hazardous materials sites; however, compliance with applicable regulations and *COA: Toxics* (which requires site characterization and cleanup, if necessary) would ensure less than significant impacts.

The Housing Element EIR also indicated there are no airports within 2 miles of the city, the city is not within the influence area of any airport, and implementation of the Housing Element would not result in physical changes that could interfere with or impair emergency response or evacuation. Therefore, these impacts were determined to be less than significant.

4.9.2 Project Impacts

The analysis in this section is based, in part, on the Phase I ESA[35] and Phase II Environmental Site Assessment (Phase II ESA)[36] prepared for the proposed project. These reports are provided herein as Appendix B and Appendix C, respectively.

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The proposed project would result in the demolition of the existing approximately 4,604-square-foot, two-story commercial building, and the construction of a new eight-story, mixed-use residential building consisting of 112,969 square feet of residential space and 690 square feet of commercial space in the southwest corner of the ground floor and associated improvements. Based on the Phase I ESA findings, the project site has a history of subsurface contamination. The project site is located in an Environmental Management Area (EMA) (i.e., areas in the city known or suspected to have groundwater contamination).[37]

Hazardous materials (e.g., oil, grease, fuels, paint) would be transported and used on site for proposed construction activities. The operational phase of the proposed project may also include storage and use of small amounts of hazardous materials associated with commercial uses (e.g., cleaning products) on the project site. The routine transport, use, or disposal of these hazardous materials could pose a potential hazard to construction workers and future employees working at the project site because they would be handling the hazardous materials and could therefore be exposed through inhalation of vapors, direct contact with skin, or accidental ingestion. The routine transport, use, or disposal of these hazardous materials would not pose a significant hazard to the public or environment unless the hazardous materials were accidentally spilled or released into the environment, as discussed In Section 4.9.b, below.

Worker health and safety is regulated at the federal level by the United States Department of Labor, Occupational Safety and Health Administration (OSHA). OSHA regulations include training requirements for construction workers and a requirement that hazardous materials are accompanied by the manufacturer's Safety Data Sheets (SDSs). The Federal Occupational Safety and Health Act of 1970 authorizes states to establish their own safety and health programs with OSHA approval. Worker health and safety protections in California are regulated by the California

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35 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

36 ACC Environmental Consultants. 2024. *Phase II Environmental Site Assessment Report, 1685 Shattuck Avenue, Berkeley, California 94709.* August 14.

37 Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Environment (accessed March 2025).

Department of Industrial Relations (DIR). The DIR includes the Division of Occupational Safety and Health (DOSH), which acts to protect workers from safety hazards through its California Occupational Safety and Health (Cal/OSHA) program. Cal/OSHA regulations include requirements for protective clothing, training, and limits on exposure to hazardous materials. California standards for workers dealing with hazardous materials are contained in CCR Title 8 and include practices for all industries (General Industrial Safety Orders), and specific practices for construction and other industries. The routine transport, use, and disposal of hazardous materials at the project site during construction activities would be required to comply with a project Health and Safety Plan (HASP) prepared in accordance with CCR Title 8, which would reduce potential health hazards for construction workers from the routine transport, use, or disposal of hazardous materials.

In 1990 and 1994, the federal Hazardous Material Transportation Act was amended to improve the protection of life, property, and the environment from the inherent risks of transporting hazardous material in all major modes of commerce. The United States Department of Transportation (USDOT) developed hazardous materials regulations that govern the classification, packaging, communication, transportation, and handling of hazardous materials, as well as employee training and incident reporting. The transportation of hazardous materials is subject to USDOT, the Resource Conservation and Recovery Act (RCRA), and State regulations. The California Highway Patrol, the California Department of Transportation (Caltrans), and the California Environmental Protection Agency (Cal/EPA) Department of Toxic Substances Control (DTSC) are responsible for enforcing federal and State regulations pertaining to the transportation of hazardous materials.

Construction of the proposed project would result in the generation of various waste materials that would require recycling and/or disposal, including some waste materials that may be classified as hazardous waste. Hazardous wastes would be required to be transported by a licensed hazardous waste hauler and disposed of at facilities that are permitted to accept such materials as required by the USDOT, RCRA, and State regulations.

In addition, the proposed project would be required to comply with the City's *COA: Toxics*, including preparation of a site-specific Soil and Groundwater Management Plan (SGMP) (*COA: Toxics[D]*), preparation of a hazardous materials survey prior to demolition (*COA: Toxics[E]*), and a Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health and Safety Code, Chapter 6.95, Div. 20, if the proposed project stores or handles hazardous materials during construction in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste (*COA: Toxics[F]*).

> ***COA: Toxics.*** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
>
> A. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental

Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com)

B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.

C. Environmental Site Clearance. The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.

D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

   The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

   i. procedures for soil and groundwater management including identification of pollutants and disposal methods;

   ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;

   iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and

   iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

   TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

   i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants,

treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.

ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)

iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.

iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

G. Petroleum Storage. A Spill Prevention, Control, and Countermeasure (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

i. Aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or

ii. One or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: http://cers.calepa.ca.gov/. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Compliance with *COA: Toxics* and the regulations described above (including OSHA and Cal/OSHA regulations, CCR Title 8, and USDOT, RCRA, and State regulations) would ensure that the proposed project would not create a significant hazard to the public or the environment associated with the

routine transport, use, or disposal of hazardous materials by ensuring that these materials are properly handled during construction of the proposed project.

Occupation of the proposed commercial and residential uses is expected to utilize relatively small amounts of hazardous materials (e.g., chemicals associated with fuel for landscape maintenance equipment, solvents, cleaning products, pesticides/fertilizers, and other similar chemicals). These materials are substantially similar to household chemicals and solvents already in general and wide use throughout the city and in the vicinity of the project site. Compliance with all applicable federal, State, and local regulations would ensure the project would not create a significant hazard to the public or environment from the routine transportation, use, and disposal of hazardous materials during operation of the proposed project.

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The public and/or the environment could be affected by the release of hazardous materials from the proposed project into the environment by: (1) exposing workers and/or the public to potentially contaminated soil and groundwater during construction and/or operation of the project, or (2) exposing workers and/or the public to hazardous building materials (e.g., polychlorinated biphenyls [PCBs], lead paint, asbestos) during demolition of the existing commercial structures. However, development projects that require a use permit are required to comply with *COA: Toxics,* which addresses each of these potential impacts (see Section 4.9.a, above).

On-Site Hazardous Building Materials. According to the Phase I ESA, the project site appeared to be undeveloped land in 1894. By 1911, the project site was developed with five dwellings to the north and east, two storefronts to the southwest, and an office building to the south. The existing structure was initially built in 1906 and was remodeled several times. By 1929, the project site was redeveloped as a drugstore to the southwest, four storefronts to the west, two multi-family dwellings to the north, and a dry-cleaning facility with an associated office to the east. In addition, the structure suffered a number of fires during its history, the last of which (in 1981) destroyed almost the entire building. Only the portion of the building fronting Shattuck Avenue was repaired/reconstructed. Due to the age of the building on the project site, asbestos-containing materials (ACMs) and/or lead-based paints (LBP) may be present in the buildings.[38] Demolition activities could cause the release of asbestos and lead into the environment if ACMs and LBPs are present in the buildings.

The City's *COA: Toxics(E)*, as outlined above, requires that prior to issuance of a building permit, a hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals. The survey shall include, but not be limited to, the identification of all materials to be disturbed for LBPs, PCB-containing equipment, and devices containing caulking, hydraulic fluids, refrigerants, treated wood, and mercury (including fluorescent light bulbs and mercury switches), asbestos, and other

[38] ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

hazardous materials and chemicals. The survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply with State hazardous waste generator requirements (22 CCR 66260 et seq.). The survey becomes a condition of any building or demolition permit for the proposed project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to the Toxics Management Division (TMD) within 30 days of the completion of the demolition. If asbestos is identified, Air District Regulation 11-2-401.3 notification must be made, and the Air District Job Number (or "J Number") must be made available to the City of Berkeley Permit Service Center. Compliance with the requirements described above and outlined in *COA: Toxics(E)* would ensure that potential impacts related to hazardous building materials would not occur.

Hazardous Soil and Groundwater Conditions. Based on the findings of the most recent environmental investigations, the project site has a history of subsurface contamination. The project site is also listed on the Envirostore website/list and Geotracker database as a leaking underground storage tank (LUST) cleanup site, and is identified as being located in an EMA, which are areas in the city known or suspected to have groundwater contamination.[39] The project site was occupied by an on-site dry cleaner from 1920 to 1970, and a 5,000-gallon underground tank utilized to store Stoddard solvent was removed in July 1987. Although the project site was remediated under the oversight of the DTSC in 1987 and assessed by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in 1989, the unit of measurement used to establish the residential soil vapor intrusion initial threshold changed and rendered benzene and chloroform concentrations above residential Environmental Screening Levels (ESLs). A Phase I ESA was subsequently prepared.

The Phase I ESA identified a Controlled Recognized Environmental Condition (CREC) associated with the project site related to the Stoddard solvent release, and that a vapor intrusion condition (VEC) at the project site could not be ruled out, particularly with regard to redevelopment of the project site with residential uses. As such, a Phase II ESA was subsequently prepared.

The Phase II ESA included nine exploratory soil borings and five soil vapor borings in the vicinity of the Stoddard solvent underground tank in order to obtain soils, soil vapor, and groundwater samples. The samples were then analyzed and compared to ESLs for commercial uses.[40] The Phase II ESA determined that the soil vapor at the project site is currently impacted by Stoddard solvent, benzene, and perchloroethylene (PCE), which was attributed to the project site's former dry-cleaning use. However, only the benzene concentrations exceeded the San Francisco Bay RWQCB's ESLs for vapor intrusion at commercial properties. In addition, total petroleum hydrocarbons (TPH), benzene, and chloroform concentrations in the soil vapor generally exceed residential ESLs but not commercial ESLs. Because the highest detected benzene concentration in the soil vapor slightly exceeds the corresponding commercial ESL for benzene, the Phase II ESA identified benzene as the primary chemical of concern. The Phase II ESA also determined that current groundwater and soil impacts associated with the former use of the project site are negligible. Overall, the Phase II ESA concluded that the subsurface conditions at the project site are consistent with the former use of

39 Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels; Environment (accessed March 2025).

40 Based on the proposed building design, commercial screening levels for soil vapor are applicable.

the project site and with subsurface conditions described in the case closure letters granted by the DTSC in 1987 and the San Francisco Bay RWQCB in 1999. Because no land use restrictions or continuing obligations were required by DTSC and the San Francisco Bay RWQCB, the Phase II ESA concluded that no further assessment or regulatory oversight is necessary. Further, the Phase II ESA indicated that proposed building design, which locates parking and commercial uses on the ground floor and would be constructed on a mat slab, is sufficient to mitigate residual soil vapor impacts. In addition, the proposed project would include a chemically-resistant vapor membrane product designed to mitigate the chemicals of concern at the project site, including a permeable gravel layer beneath the membrane and foundation slab. As such, potential vapor intrusion concerns would be effectively addressed by the proposed project's design, and no impact would occur.

As discussed above, the project site is located in an EMA, which are areas in the city known or suspected to have groundwater contamination.[41] *COA: Toxics(D)* requires that an SGMP be prepared for all residential or mixed-use projects with four or more units that (1) are located within the EMA, and (2) propose any excavations deeper than 5 feet below grade. The proposed project is a mixed-use development within the EMA and would require excavation around approximately 5 feet below grade for construction of utilities and foundations; therefore, preparation of an SGMP would be required for the proposed project. The TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP would be conditions of approval of the requested Use Permits. Preparation and implementation of an SGMP in accordance with the requirements of *COA: Toxics(D)* would ensure that potential impacts associated with disturbance and excavation of potentially contaminated soil and groundwater at the project site would not occur.

Preparation and implementation of an SGMP for excavation and potential dewatering activities (as required by the TMD and described above) would ensure that the proposed project would not result in impacts to the public or the environment related to reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Berkwood Hedge Middle School (a public school located at 1798 Scenic Avenue), Bayhill High School (a public school located at 1940 Virginia Street), and the New School of Berkeley (a preschool located at 1606 Bonita Avenue) are all less than 0.25 mile from the project site. However, compliance with federal, State, and local regulations for the management of hazardous materials, as discussed in Sections 4.9.a and 4.9.b, above, would ensure that potential impacts to nearby schools associated with hazardous materials emissions and use at the project site would not occur.

[41] Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels; Environment (accessed March 2025).

d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

The provisions of Government Code Section 65962.5 require the DTSC, the State Water Resources Control Board (SWRCB), the California Department of Health Services, and CalRecycle (formerly the California Integrated Waste Management Board) to submit information pertaining to sites associated with solid waste disposal, hazardous waste disposal, LUST sites, and/or hazardous materials releases to the Secretary of Cal/EPA.

The project site is listed on the SWRCB's Geotracker database as a LUST cleanup site.[42] The project site is therefore included on lists of hazardous materials release sites compiled pursuant to Government Code Section 65962.5. As discussed in Sections 4.9.a and 4.9.b above, the project site has been the subject of several environmental investigations and remediation activities performed under the oversight of regulatory agencies. Preparation and implementation of an SGMP for excavation and potential dewatering activities (i.e., *COA:Toxics[D]*) and the chemically-resistant vapor membrane product designed to mitigate the chemicals of concern at the project site (including a permeable gravel layer beneath the membrane and foundation slab, which has been incorporated into the proposed project's design) would ensure that impacts to construction workers, the surrounding public, future site occupants, and the environment related to past releases of hazardous materials into the environment would not occur.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

The project site is located over 10 miles north of the Oakland International Airport. The project site is not located within a public airport land use plan or within 2 miles of a public use airport. The proposed project is not within the vicinity of a private airstrip. As such, the proposed project would not result in a safety hazard to people working or residing in the area due to the proximity of an airport.

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The proposed project would be consistent with the policies outlined in the City of Berkeley General Plan's Disaster Preparedness and Safety Element and would not obstruct emergency evacuation routes. Shattuck Avenue and Virginia Street are the designated emergency access and evacuation routes in the project area.[43] Because the proposed project would not include any modifications to the existing roadways in the vicinity of the project site, implementation of the proposed project would not result in any impacts related to emergency access or an adopted emergency response

42 State Water Resources Control Board (SWRCB). 1999. *Berkeley Village (T0600100187).* Website: https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0600100187 (accessed March 2025).

43 Berkeley, City of. 2001. Op. cit.

plan. As such, the proposed project would have no impact on implementation of an adopted emergency response plan or emergency evacuation plan.

g) Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The project site is in an urban area and is not within or adjacent to a wildland fire hazard area. As such, the proposed project would not expose people or structures to a significant loss, injury, or death involving wildland fires.

4.9.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to hazards and hazardous materials. Impacts related to hazards and hazardous materials would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.10 HYDROLOGY AND WATER QUALITY

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	☐	☒
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or offsite;	☐	☐	☐	☒
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☐	☒
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒
iv. Impede or redirect flood flows?	☐	☐	☐	☒
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒

4.10.1 Housing Element EIR Analysis

Section 4.9 of the Housing Element EIR analyzed potential impacts related to hydrology and water quality. The Housing Element EIR determined that all impacts related to hydrology and water quality would be less than significant, and no mitigation was prescribed. The Housing Element EIR indicated that future development facilitated by the Housing Element would involve ground-disturbing activities and the use of heavy machinery that could release materials (including sediments and fuels) that could adversely affect water quality during construction. The operations of future development could also result in discharges to storm drains that could adversely affect water quality. However, the Housing Element EIR determined that compliance with required permits and existing regulations, including applicable National Pollutant Discharge Elimination System (NPDES) permits and the implementation of BMPs contained therein, would ensure that water quality impacts would be less than significant. The Housing Element EIR also determined that implementation of the Housing Element would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table through implementation of low impact development measures and on-site infiltration required by the C.3 provisions of the San Francisco

Bay RWQCB's Municipal Regional Stormwater (MRP) NPDES Permit, and compliance with the BMC would increase the potential for groundwater recharge.

The Housing Element EIR also found that with required compliance with existing regulations, including applicable NPDES permits, future development facilitated by the Housing Element would not substantially alter the existing drainage pattern of future development sites, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site. In addition, with required compliance with existing regulation the Housing Element EIR determined that future development would not substantially increase the rate or amount of surface runoff in a manner which would result in flooding or exceed the capacity of stormwater drainage systems. In addition, although future development would place housing and other structures within Federal Emergency Management Agency (FEMA) designated Flood Hazard Areas and tsunami zones, the Housing Element EIR determined that compliance with the City's General Plan, BMC, and the California Health and Safety Code would reduce potential effects associated with flood events to less than significant.

4.10.2 Project Impacts

The analysis in this section is based in part on the *City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist* prepared for the proposed project (Stormwater Requirements Checklist).[44] This report is provided as Appendix D.

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

Regional Drainage. The project site is located within an urban and built-up area of Berkeley, and no major hydrologic features are in the vicinity of the project site. The project site is located within the Strawberry Creek Watershed, which includes Strawberry Creek and several unnamed tributaries. Although portions of Strawberry Creek have been replaced by underground pipelines and culverts as part of the City's storm drainage system, Strawberry Creek remains one of the few waterways in the urbanized East Bay that retains its natural character along most of its course.[45] The Strawberry Creek Watershed drains to the University Avenue storm drain network, which discharges into San Francisco Bay at the terminus of University Avenue.[46] The nearest existing storm drain pipes and inlets to the project site are located along Shattuck Avenue and Virginia Street.

Regulatory Framework. The SWRCB and nine RWQCBs regulate water quality of surface water and groundwater bodies throughout California. In Berkeley, the San Francisco Bay RWQCB is responsible for implementation of the Water Quality Control Plan (Basin Plan). The Basin Plan establishes beneficial water uses for waterways and water bodies in the region. Section 303(d) of the federal CWA requires that states identify water bodies including bays, rivers, streams, creeks, and coastal

44 Trachtenberg Architecture. *City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist*.

45 Berkeley, City of. 2022a. *City of Berkeley 2023-2031 Housing Element Update Environmental Impact Report, SCH No. 2022010331*. August.

46 Berkeley, City of. 2011. *2011 Watershed Management Plan*. October.

areas that do not meet water quality standards and the pollutants that are causing the impairment. Total Maximum Daily Loads (TMDLs) describe the maximum amount of a pollutant that a water body can receive while still meeting established water quality standards. A TMDL establishes limits for pollutant discharges into impaired water bodies. Central San Francisco Bay is listed as an impaired water body for several pollutants, including chlordane, dichlorodiphenyltrichloroethane (DDT), dieldrin, dioxin compounds (including 2, 3, 7, 8-tetrachloro-dibenzodioxin [2, 3, 7, 8-TCDD]), furan compounds, invasive species, trash, mercury, PCBs, and selenium.[47]

Runoff water quality is regulated by the NPDES program (established through the federal CWA). The NPDES program objective is to control and reduce pollutant discharges to surface water bodies. Compliance with NPDES permits is mandated by State and federal statutes and regulations. Locally, the NPDES program is administered by the San Francisco Bay RWQCB. NPDES requirements that would apply to both the construction phase and the operations phase of the project are described below.

Construction. The proposed project includes demolition of the existing on-site structure and surface pavements and construction of the mixed-use residential building. Pollutants of concern during construction include sediments, trash, petroleum products, concrete waste (dry and wet), sanitary waste, and chemicals. Each of these pollutants on its own or in combination with other pollutants can have a detrimental effect on water quality. During construction activities, excavated soil would be exposed, and there would be an increased potential for soil erosion and sedimentation compared to existing conditions. In addition, chemicals, liquid products, petroleum products (e.g., paints, solvents, and fuels), and concrete-related waste may be spilled or leaked and have the potential to be transported via stormwater runoff into receiving waters (i.e., Central San Francisco Bay).

Many areas in the city are known or suspected to have soil or groundwater contamination and are known as EMAs. The project site is located within an EMA.[48] In addition, the proposed project would include the demolition of a structure subject to the TMD Building Demolition requirements due to the potential for ACMs and LBP to be present in the existing commercial building. As part of the TMD's standard conditions for a site in the EMA and as required by City's *COA: Toxics(E)*, a hazardous materials survey would be prepared for the proposed project prior to demolition activities.

During construction, the entire 0.51-acre project site would be disturbed. Because construction of the proposed project would disturb less than 1 acre of soil, the proposed project is not subject to the requirements of the SWRCB's NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-DWQ, NPDES No. CAS000002) (Construction General Permit). However, the proposed project would be required to

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47 State Water Resources Control Board (SWRCB). 2024. *2024 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)*. December 13. Website: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.waterboards.ca.gov%2Fwater_issues%2Fprograms%2Ftmdl%2F2023_2024state_ir_reports%2Fapx-a-2024-303d-list-final.xlsx&wdOrigin=BROWSELINK (accessed March 2025).

48 Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis. com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Environment (accessed March 2025).

comply with the City's COAs outlined below, including *COA: Stormwater Requirements* and *COAs: Public Works*.

> ***COA: Stormwater Requirements.*** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
>
> A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
>
> B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
>
> C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
>
> D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
>
> E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
>
> F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
>
> G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
>
> H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

I. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

J. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.

K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

COA: Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

COA: Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

COA: Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

COA: Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

In addition, the proposed project would implement construction BMPs including, but not be limited to, Erosion Control and Sediment Control BMPs designed to minimize erosion and retain sediment on site and Good Housekeeping BMPs to prevent spills, leaks, and discharge of construction debris and waste into receiving waters. Construction BMPs applicable to the proposed project are detailed in the

Stormwater Requirements Checklist completed for the proposed project.[49] In addition, provision C.6 of the San Francisco Bay RWQCB's MRP[50] requires the City to implement a construction site inspection and control program at all construction sites, with follow-up and enforcement to prevent construction site discharges of pollutants and impacts on beneficial uses of receiving waters. Inspections must confirm implementation of appropriate and effective erosion and other construction pollutant controls by construction site operators/developers, and reporting must demonstrate the effectiveness of this inspection and problem solution. Compliance with COAs, as outlined above, including the incorporation of construction BMPs to target and reduce pollutants of concern in stormwater runoff, would ensure that construction impacts related to violation of waste discharge requirements and water quality standards and degradation of water quality would not occur.

According to the Phase 1 ESA[51] prepared for the proposed project, the depth to groundwater at the project site is approximately 17 feet bgs. Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. Based on the depth to groundwater at the project site and the maximum depth of excavation, groundwater dewatering is not anticipated to be required during construction. If groundwater is encountered during excavation and groundwater dewatering is required, the improper management and discharge of dewatering effluent into the storm drainage system or receiving waters could adversely affect water quality because contaminants and sediment may be present in the dewatering effluent.

For development projects within the EMA where dewatering is anticipated, the City's TMD has adopted specific requirements. Since dewatering activities can draw in contamination from outside areas, monitoring of the groundwater discharges may be required. The TMD may require dewatering and monitoring plans to ensure the discharge of clean water and the protection of the community from vapors or other health hazards. Additionally, where there is sufficient information indicating soil contamination is present, the TMD could require testing of excavation spoils and documentation of proper disposal. The specific requirements for the proposed project would be specified by the City as standard conditions of approval, as outlined in *COA: Toxics* (refer to Section 4.9, Hazards and Hazardous Materials). Additionally, as part the TMD's standard conditions for a site in the EMA, an SGMP would be prepared for the proposed project that would establish the appropriate management practices for handling, treatment, and disposal of contaminated groundwater if encountered during construction. Compliance with City requirements and implementation of an SGMP would be required as part of the conditions of approval for the proposed project and would ensure that contaminated groundwater is not discharged to surface water. Therefore, groundwater dewatering impacts related to violation of waste discharge requirements and water quality standards and degradation of water quality would not occur.

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49 Trachtenberg Architecture. *City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist*.

50 San Francisco Bay Regional Water Quality Control Board (RWQCB). 2022. San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11.

51 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

Infiltration of stormwater has the potential to affect groundwater quality in areas of shallow groundwater. As stated previously, the depth to groundwater at the project site is approximately 17 feet bgs. Therefore, due to the relatively shallow groundwater table, stormwater may infiltrate during project construction, potentially affecting groundwater quality given the direct path for pollutants to reach the groundwater table. Proposed construction BMPs, as required by *COA: Stormwater Requirements*, would reduce infiltration of pollutants to groundwater during construction. Therefore, project construction would not substantially degrade groundwater quality.

Operation. The proposed project would result in the development of a new eight-story, mixed-use residential building containing a total of 110 dwelling units and approximately 690 square feet of commercial space on an infill site. According to the Stormwater Requirements Checklist prepared for the proposed project, the proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. In addition, the proposed uses would intensify uses on the project site compared to existing conditions, which would increase the potential for pollutants of concern to be generated on the project site and discharged to surface waters during storm events. Increased vehicle trips to and from the project site could result in a greater potential for leaks of fuels and lubricants, tire wear particulates, brake dust, and fallout from exhaust emissions to convey petroleum hydrocarbons, heavy metals, and sediment off site during storm events. The proposed landscaping could contain residual pesticides and nutrients used for landscape maintenance. The intensification of land uses could result in increased trash generation over existing conditions.

Project operation and maintenance would be subject to the San Francisco Bay RWQCB's MRP, Order No. R2-2022-0018, as amended by Order No. R2-2023-0019, NPDES Permit No. CAS612008. Provision C.3 of the MRP sets forth appropriate and site-specific source control, site design, and stormwater treatment measures for new and redevelopment projects to address both soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff flows from new projects. According to the Stormwater Requirements Checklist, the proposed project is considered a regulated project because it is a redevelopment project that would create and/or replace more than 5,000 square feet of impervious surface (collectively over the entire project site). Regulated projects are required to implement LID source control, site design, and stormwater treatment BMPs. Source control BMPs are preventative measures that are implemented to prevent the introduction of pollutants into stormwater. Site design BMPs are stormwater management strategies that emphasize conservation and use of existing site features to reduce the amount of runoff and pollutant loading generated from a project site. Source control BMPs and site design BMPs applicable to the proposed project are detailed in the Stormwater Requirements Checklist completed for the proposed project, which is provided as Appendix D. Stormwater treatment BMPs are structural BMPs designed to treat and reduce pollutants in stormwater runoff prior to releasing it to receiving waters. Pursuant to Provision C.3 of the MRP, stormwater from the project site would be directed to the proposed vegetated areas and would be treated by flow-through planters (biotreatment) before being discharged to the existing stormwater infrastructure in the surrounding area, similar to existing conditions.

As previously discussed, infiltration of stormwater could affect groundwater quality in areas of shallow groundwater. The proposed project would be required to implement operational BMPs

(including source control, site design, and Low Impact Development BMPs) to treat stormwater before it could reach groundwater. These proposed BMPs would treat stormwater runoff on site, and would reduce the volume of stormwater and the infiltration of pollutants into groundwater during operation. Furthermore, when stormwater is infiltrated, soil and plants absorb and filter pollutants and reduce the potential for pollutants of concern to reach groundwater. Therefore, infiltration of stormwater at the project site during operation would not substantially degrade groundwater quality.

In conclusion, compliance with the requirements of the MRP and *COA: Stormwater Requirements*, including incorporation of operational BMPs to target pollutants of concern, would ensure that impacts related to violation of waste discharge requirements and water quality standards and degradation of water quality would not occur.

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

The City of Berkeley is located within the Santa Clara Valley Groundwater Basin, East Bay Plain Subbasin, which encompasses approximately 122 square miles in Alameda and Contra Costa counties. The East Bay Plain Subbasin generally extends north to south from the San Pablo Bay to the Niles Cone Groundwater Basin near Hayward. A substantial amount of artificial fill (thicknesses ranging from 1 to 50 feet) has been placed within the basin, with the thickest deposits found nearer San Francisco Bay. Historical groundwater levels in the East Bay Plain Subbasin have varied between 10 to 140 feet below mean sea level; however, levels have been rising continuously since the 1950s.[52]

As previously discussed, according to the Phase 1 ESA[53] prepared for the proposed project, the depth to groundwater at the project site is approximately 17 feet bgs. Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. Based on the depth to groundwater at the project site and the maximum depth of excavation, groundwater dewatering is not anticipated to be required during construction. If groundwater is encountered during excavation and groundwater dewatering is required, dewatering would be temporary and would not result in long-term lowering of the groundwater levels.

In addition, as provided above, the proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. Therefore, implementation of the proposed project would not result in a change in the potential for infiltration to occur at the project site from existing conditions. Further, any change in infiltration at the project

52 California Department of Water Resources (DWR). 2004. *California's Groundwater Bulletin 118 – Santa Clara Valley Groundwater Basin, East Bay Plain Subbasin*. February 27. Website: water.ca.gov/Programs/Groundwater-Management/Bulletin-118 (accessed March 2025).

53 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

site would be minimal compared to the size of the groundwater basin and would not be anticipated to result in a net decrease in groundwater and aquifer levels.

Water supply to the proposed project would be provided by the EBMUD water system, which is supplied from the Mokelumne River.[54] Because EBMUD does not use groundwater from the East Bay Plain Subbasin for municipal water supply, water use during operation of the proposed project would not affect groundwater. Additionally, on-site groundwater extraction during operation would not occur. Therefore, no depletion of the underlying aquifer would occur during the operational phase of the proposed project. For the reasons listed above, impacts related to the decrease of groundwater supplies or interference with groundwater recharge would not occur.

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: (i) result in substantial erosion or siltation on- or off-site; (ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site; (iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or (iv) impede or redirect flood flows?

Erosion or Siltation. The proposed project would not alter the course of a stream or a river. Site preparation and grading/excavation activities may slightly and temporarily alter on-site drainage; however, the existing drainage patterns would generally be maintained and would not be substantially altered or modified. During construction, excavated soil would be exposed, and there would be an increased potential for soil erosion and sedimentation compared to existing conditions. Compliance with *COA: Stormwater Requirements* and implementation of Erosion Control and Sediment Control BMPs would reduce impacts related to erosion and siltation.

The proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. The impervious surfaces would not be prone to on-site erosion or siltation because no soil would be included in these areas. The remaining portion of the site would consist of pervious surface area, which would contain landscaping that would minimize on-site erosion and siltation by stabilizing the soil. Therefore, on-site erosion and siltation impacts would be minimal. Additionally, compliance with MRP requirements and standard conditions of approval require applicants to establish and maintain drainage patterns so as to not adversely affect adjacent properties and rights-of-way. For these reasons, potential on- and off-site erosion and siltation impacts would not occur.

Flooding. As indicated above, the proposed project would not alter the course of a stream or river. However, the project would increase the amount of impervious surface area on the project site, which, without compliance with regulatory requirements, has the potential to increase the volume and rate of stormwater runoff discharged from the project site. The proposed project would convey stormwater runoff to proposed vegetated areas on the project site and would be treated by flow-through planters (biotreatment) before connecting off site to the City's existing off-site storm drain

[54] East Bay Municipal Utility District. 2021. Water Supply. Website: www.ebmud.com/water/about-your-water/water-supply (accessed March 2025).

system within Shattuck Avenue and Virginia Street. The City of Berkeley Public Works Department would review the drainage plans to ensure they comply with City standards and to verify that the project would not increase downstream flooding.

Storm Drain Capacity. As described above, stormwater runoff from the project site would discharge to existing storm drain infrastructure in the vicinity of the project site. Coordination with the Berkeley Public Works Department in review of the project drainage plans and compliance with existing requirements would ensure that impacts related to exceedance of storm drain capacity would not occur.

As described above in Section 4.10.a, the proposed project would comply with all applicable NPDES regulations and City COAs, including the MRP. Construction and operational BMPs would be implemented to reduce pollutants of concern in stormwater runoff from the project site. Additionally, groundwater dewatering, if required, would comply with the requirements of the City's TMD to ensure that dewatering activities do not introduce pollutants into surface waters. Compliance with existing regulations would ensure that potential impacts related to additional sources of polluted runoff would not occur.

Flood Flows. According to FEMA Flood Insurance Rate Map (FIRM) No. 06001C0019G,[55] the project site is within Zone X, Areas of Minimal Flood Hazard, and is not located within a 100-year floodplain.

Project construction would comply with the requirements of *COA: Stormwater Requirements* and would include the implementation of construction BMPs, including site design and source control measures to control the rate and amount of on-site surface runoff and to direct flows to ensure that stormwater runoff from the construction site does not result in on- or off-site flooding. Compliance with *COA: Stormwater Requirements* would ensure that construction impacts related to a substantial increase in the rate or amount of surface runoff that would result in flooding and impede or redirect flood waters would not occur.

As previously discussed, development of the proposed project would not result in a net increase in impervious surface area at the project site, which would not alter the rate and volume of stormwater runoff at the project site from existing conditions. In addition, as discussed above, the project site is not mapped within a 100-year floodplain and therefore would not impede or redirect flood flows. Additionally, compliance with the MRP would ensure that operational activities would not result in a substantial increase in the rate or amount of surface runoff or impede or redirect flood flows in a manner that would result in on- or off-site flooding, and impacts would not occur.

d) In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?

As discussed above, the project site is not within a 100-year flood zone; therefore, there is no risk of pollutants from the project site due to project inundation.

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55 Federal Emergency Management Agency (FEMA). 2009. Flood Insurance Rate Map (FIRM) No. 06001C0019G. August 3. Website: https://msc.fema.gov/portal/search?AddressQuery=2942%20college%20avenue%2C%20berkeley (accessed March 2025).

The project site is approximately 2.2 miles east of San Francisco Bay and approximately 14 miles east of the Pacific Ocean. Based on the distance from the San Francisco Bay and Pacific Ocean, the project site would not be susceptible to inundation from a tsunami.

Seiches are oscillations in enclosed bodies of water that are caused by a number of factors, most often wind or seismic activity. The nearest major water feature is Aquatic Park, which is located approximately 2 miles southwest of the project site. Given the distance of the nearest large standing body of water from the project site, there is a minimal risk of a release of pollutants from the project site due to seiche-related flooding.

Because the project site is not located within a 100-year flood zone and is located a substantial distance from the San Francisco Bay, Pacific Ocean, and nearest body of water, implementation of the proposed project would not result in a flood hazard, tsunami, or seiche risking release of pollutants due to project site inundation.

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

The project site is within the jurisdiction of the San Francisco Bay RWQCB. The RWQCB adopted a Basin Plan[56] that designates beneficial uses for all surface and groundwater within its jurisdiction and establishes the water quality objectives and standards necessary to protect those beneficial uses. As discussed in detail above in Section 4.10.a, the proposed project would comply with existing NPDES requirements and would implement construction and operational BMPs to reduce pollutants of concern in stormwater runoff. Additionally, during construction, any dewatered groundwater would comply with the requirements of the TMD. Compliance with these regulatory requirements would ensure that the proposed project would not degrade or alter water quality, cause the receiving waters to exceed the water quality objectives, or impair the beneficial use of receiving waters. As such, the proposed project would not result in water quality impacts that would conflict with the RWQCB Basin Plan. Construction and operational impacts related to a conflict with the Basin Plan would not occur.

The SGMA, which was enacted in September 2014, requires governments and water agencies of high- and medium-priority basins to halt overdraft of groundwater basins. The SGMA requires the formation of local groundwater sustainability agencies, which are required to adopt Groundwater Sustainability Plans to manage the sustainability of the groundwater basins. The project site is located within the Santa Clara Valley Groundwater Basin, East Bay Plain Subbasin, which is managed by EBMUD. The East Bay Plain Subbasin is identified by the California Department of Water

56 San Francisco Bay Regional Water Quality Control Board (RWQCB). 2023. Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, amendments adopted up through March 7, 2023.

Resources (DWR) as a medium priority basin[57] and is therefore subject to the requirements of SGMA, and has prepared a Groundwater Sustainability Plan (GSP).[58]

As previously discussed, required compliance with existing regulations (including the NPDES permit requirements, the MRP, and City COAs) would ensure the protection of groundwater and surface water quality during construction and operation of the project and that the proposed project would not result in impacts to surface water and groundwater quality that could result in conflicts with the GSP for the East Bay Plain Subbasin.

In addition, as described above, operation of the proposed project would not involve the use of groundwater for water supply, and groundwater dewatering activities and alteration of impervious surfaces under the project would result in no impacts related to groundwater recharge or groundwater supplies. Therefore, the proposed project would not conflict with or obstruct implementation of the Basin Plan or the GSP for the East Bay Plain Subbasin.

4.10.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to hydrology and water quality. Impacts related to hydrology and water quality would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

[57] California Department of Water Resources (DWR). n.d. *SGMA Basin Prioritization Dashboard*. Website: gis.water.ca.gov/app/bp-dashboard/final (accessed March 2025).

[58] East Bay Municipal Utility District GSA and City of Hayward GSA. 2022. East Bay Plan Subbasin, Groundwater Sustainability Plan. January.

4.11 LAND USE AND PLANNING

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Physically divide an established community?	☐	☐	☐	☒
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

4.11.1 Housing Element EIR Analysis

Section 4.10 of the Housing Element EIR analyzed potential impacts related to land use and planning. The Housing Element EIR determined that all impacts related to land use and planning would either be less than significant, or no impact would occur. No mitigation was prescribed. The Housing Element EIR determined that because the Housing Element includes policies and programs to encourage housing development on underutilized and vacant sites and along established commercial corridors and neighborhoods, development facilitated by the Housing Element would not physically divide an established community. In addition, the Housing Element EIR determined that implementation of the Housing Element would be consistent with the goals and policies of Plan Bay Area 2050, the City's General Plan, and the BMC.

4.11.2 Project Impacts

a) Would the project physically divide an established community?

The project site is located in an urbanized area of the city and is generally surrounded by existing development, including single- and multi-family residential and commercial uses. Virginia Street bounds the project site to the south, followed by the University Park Apartments complex, and Shattuck Avenue bounds the project site to the west. Redevelopment of the project site with the proposed mixed-use residential building would represent a general continuation of the type, scale, and intensity of development within the vicinity of the project site. In addition, the proposed project would not include any modifications to the existing roadways in the vicinity of the project site. As such, the proposed project would not physically divide an established community.

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

The project site has a General Plan designation of Neighborhood Commercial and is located within three zoning districts. Approximately 19,788 square feet of the project site is in the North Shattuck Commercial (C-NS) zone, approximately 1,970 square feet is in the Multiple-Family Residential (R-4) zone, and approximately 584 square feet is in the Restricted Multiple-Family Residential (R-2A) zone. The project site has also been identified as an Opportunity Site for residential development in the City's Housing Element.

The proposed project would be consistent with applicable General Plan policies and the Neighborhood Commercial General Plan land use designation for the project site, which provides for pedestrian-oriented, neighborhood-serving commercial development, and multi-family residential structures similar to the proposed project. Development standards for the C-E zoning district are specified in the BMC. The purpose of the C-NS zone is to encourage the maintenance and establishment of retail and service activities that provide goods and services to serve the residents of the adjacent and outlying neighborhoods, provide locations for other activities compatible with these commercial activities, promote compatibility between such commercial areas and adjacent residential neighborhoods, and encourage an adequate commercial and residential mix along Shattuck Avenue. The purpose of the R-4 zone is to make available housing for persons who desire both convenience of location and a reasonable amount of usable open space. The purpose of the R-2A zone is to make available housing for persons who desire apartment-type accommodations with a maximum of open space. The proposed project would be consistent with the purposes of these zoning districts and, pursuant to the BMC, would be consistent with the development standards of these zoning districts with approval of the following permits:

- Administrative Use Permit, pursuant to BMC 23.322.070(D)(1), for exceeding the parking maximum
- Administrative Use Permit, pursuant to BMC Section 23.326.070 to demolish a non-residential building
- Use Permit, pursuant to BMC 23.326.070(A), for demolition of a non-residential main building
- Use Permit, pursuant to BMC 23.204.020(A), for construction of a multi-family building
- Use Permit, pursuant to BMC 23.204.304(A), for construction of 2,000 square feet of new floor area

These permits would allow an increase in building height, lot coverage, and building footprint, as well as setback waivers in order to accommodate the density bonus units. The City's Zoning Adjustments Board would consider granting the requested Administrative Use Permits, Use Permits, and other permits as it reviews the proposed project. With approval of the above permits, the proposed project would be consistent with the BMC.

Although the proposed project would develop the project site with a greater residential density than detailed in the C-NS, R-4, and R-2A zoning districts, the proposed project would be consistent with the criteria of the State Density Bonus Law by providing nine affordable to very low-income units (15 percent) and nine affordable to moderate income units (15 percent), as defined by Section 50105 of the Health and Safety Code.

In addition, because the proposed project would develop residential uses on the project site, the proposed project would be consistent with the City's Housing Element, which identifies the project site as an Opportunity Site.

The proposed project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an

environmental effect, and the proposed project would have no impact, either individually or cumulatively, related to land use and planning.

4.11.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to land use and planning. Impacts related to land use and planning would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.12 MINERAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

4.12.1 Housing Element EIR Analysis

Section 1.6 of the Housing Element EIR discussed issues determined to have a less than significant impact due to the unique conditions of the city and therefore were not analyzed in further detail in the Housing Element EIR, including mineral resources. The Housing Element EIR states that the city does not have any significant mineral resources or active mining sites within its boundaries, and that implementation of the Housing Element only applies to an urban area that is not compatible with, identified for, or used for mineral extraction. Therefore, the Housing Element EIR determined that development facilitated by the Housing Element would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the State or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan or other land use plan.

4.12.2 Project Impacts

The project site is located within an urban area on an infill site. There are no known mineral resources within or in the vicinity of the project site.[59] As such, the proposed project would not result in the loss of availability of a known mineral resource of value to the region or residents of the State or any locally important mineral resource recovery site, and no impact, either individually or cumulatively, related to the loss of mineral resources would occur.

4.12.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to mineral resources. Impacts on mineral resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

[59] Berkeley, City of. 2001a. *City of Berkeley General Plan*.

4.13 NOISE

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project result in:				
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☒	☐	☐	☒
b. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

4.13.1 Housing Element EIR Analysis

Section 4.11 of the Housing Element EIR analyzed potential impacts related to noise. The Housing Element EIR determined that potential impacts related to operation noise, vibration, and airport noise would be less than significant; however, impacts related to construction noise were determined to be significant and unavoidable. No feasible mitigation was identified or prescribed. The Housing Element EIR also identified a cumulatively considerable impact related to construction noise.

The Housing Element EIR determined that although future housing development accommodated by the Housing Element could include mechanical equipment (i.e., heating, ventilation, and air conditioning [HVAC]), delivery and trash trucks, and other noise-generating activities, these activities would be similar to the existing noise environment. In addition, the Housing Element EIR determined that the increase in mobile noise would not result in a perceptible (3 A-weighted decibels [dBA] or greater) increase, and on-site activities would be required to comply with applicable noise standards in the BMC. Further, the Housing Element EIR determined that future development accommodated by the Housing Element would not involve operational activities that would result in substantial vibration levels (e.g., use of heavy equipment or machinery) and construction activities would be required to implement City COAs that address vibration. The Housing Element EIR also indicated that future development would not be located in the vicinity of an airport and would therefore not expose people residing or working in the project area to excessive noise levels.

However, the Housing Element EIR determined that while construction associated with future development facilitated by the Housing Element would be required to comply with the allowed daytime construction hours as set forth in the BMC and therefore would not occur during nighttime hours when people are more sensitive to noise, larger developments could involve construction with lengthy durations, substantial soil movement, use of large, heavy-duty equipment, and/or pile

driving near noise-sensitive land uses that would exceed the applicable Federal Transit Authority (FTA) daytime noise limits. Although implementation of City COAs for construction noise would reduce construction noise levels, the Housing Element EIR concluded that implementation of City COAs may not reduce such noise levels to below significance thresholds for every project. Therefore, impacts generated by temporary construction noise were determined to be significant and unavoidable.

4.13.2 Project Impacts

Noise is usually defined as unwanted sound and consists of any sound that may produce physiological or psychological damage and/or interfere with communication, work, rest, recreation, or sleep. Several noise measurement scales exist that are used to describe noise in a particular location. A decibel (dB) is a unit of measurement that indicates the relative intensity of a sound. Sound levels measured in decibels are calculated on a logarithmic basis. An increase of 10 dB represents a 10-fold increase in acoustic energy, while 20 dB is 100 times more intense, and 30 dB is 1,000 times more intense. Each 10 dB increase in sound level is perceived as approximately a doubling of loudness; similarly, each 10 dB decrease in sound level is perceived as half as loud. Sound intensity is normally measured through the A-weighted decibel sound level. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. The A-weighted sound level is the basis for 24-hour sound measurements that better represent human sensitivity to sound at night.

As noise spreads from a source, it loses energy so that the farther away the noise receiver is from the noise source, the lower the perceived noise level would be. Geometric spreading causes the sound level to attenuate or be reduced, resulting in a 6 dB reduction in the noise level for each doubling of distance from a single point source of noise to the noise sensitive receptor of concern.

There are many ways to rate noise for various time periods, but an appropriate rating of ambient noise affecting humans also accounts for the annoying effects of sound. Equivalent continuous sound level (L_{eq}) is the total sound energy of time-varying noise over a sample period. However, the predominant rating scales for human communities in the State of California are the L_{eq}, the Community Noise Equivalent Level (CNEL), and the day-night average noise level (L_{dn}) based on dBA. CNEL is the time-varying noise over a 24-hour period, with a 5 dBA weighting factor applied to the hourly L_{eq} for noises occurring from 7:00 p.m. to 10:00 p.m. (defined as relaxation hours) and a 10 dBA weighting factor applied to noise occurring from 10:00 p.m. to 7:00 a.m. (defined as sleeping hours). L_{dn} is similar to the CNEL scale, but without the adjustment for events occurring during the evening relaxation hours. CNEL and L_{dn} are within 1 dBA of each other and are normally exchangeable. The noise adjustments are added to the noise events occurring during the more sensitive hours.

A project would have a significant noise effect if it would substantially increase the ambient noise levels for adjoining areas or conflict with adopted environmental plans and goals of applicable regulatory agencies, including, as appropriate, the City of Berkeley.

Certain land uses are considered more sensitive to noise than others. Examples of these land uses include residential areas, educational facilities, hospitals, childcare facilities, and senior housing. The

project site is surrounded by a mix of uses within an urban area of the city. The project site is located within the Elmwood neighborhood within the city, which is characterized by a mix of commercial and residential uses. The project site is less than 10 feet from the closest noise-sensitive receptors (residential uses) located west of the project boundary.

The City of Berkeley General Plan addresses excessive noise in the Environmental Management Element.[60] Major noise sources in Berkeley include transportation, industrial plant noise, and activities associated with neighborhoods. The General Plan includes a map of the existing noise levels throughout the City. According to the General Plan, the project site is exposed to noise levels reaching 70 dBA L_{dn}. The General Plan also provides policies and actions to protect the community from excessive noise levels. Policies and actions applicable to the proposed project include the following:

- **Policy EM-43: Noise Reduction.** Reduce significant noise levels and minimize sources of noise.
- **Policy EM-44: Noise Prevention and Elimination.** Protect public health and welfare by eliminating existing noise problems where feasible and by preventing significant future degradation of the acoustic environment.
- **Policy EM-45: Traffic Noise.** Work with local and regional agencies to reduce local and regional traffic, which is the single largest source of unacceptable noise in the city.
- **Policy EM-46: Noise Mitigation.** Require operational limitations and all feasible noise buffering for new uses that generate significant noise impacts near residential, institutional, or recreational uses.
- **Policy EM-47: Land Use Compatibility.** Ensure that noise-sensitive uses, including, but not limited to, residents, child-care centers, hospitals, and nursing homes, are protected from detrimental noise levels.
    - **Action EM-47-A:** Noise-sensitive development proposals should be reviewed with respect to the Land Use Compatibility Guidelines below (see Table 4.13.A).

If the noise level is within the “normally acceptable” level, noise exposure would be acceptable for the intended land use. Development may occur without requiring an evaluation of the noise environment unless the use could generate noise impacts on adjacent uses.

If the noise level is within the “conditionally acceptable” level, noise exposure would be conditionally acceptable; a specified land use may be permitted only after a detailed analysis of the noise environment and the project characteristics is conducted to determine whether noise insulation or protection features are required. Such noise insulation features may include measures to protect noise-sensitive outdoor activity areas (e.g., at residences, schools, or parks) or may include building sound insulation treatments such as sound-rated windows to protect interior spaces in sensitive receptors.

60 Berkeley, City of. 2001a. *City of Berkeley General Plan*.

Table 4.13.A: General Plan Noise and Land Use Compatibility Guidelines

Land Use Category	Exterior Noise Exposure (L_{dn})					
	55	60	65	70	75	80
Residential, Hotels, and Motels						
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Hospitals, Personal Care, Meeting Halls, Churches						
Office Buildings, Business Commercial and Professional						
Auditoriums, Concert Halls, Amphitheaters						

NORMALLY ACCEPTABLE: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
CONDITIONALLY ACCEPTABLE: Specific land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features have been incorporated.
UNACCEPTABLE: New construction or development should generally not be undertaken unless all feasible noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce exposure of people to unacceptable noise levels.

Source: General Plan (City of Berkeley 2001b).

If the noise level is within the "normally unacceptable" level, analysis and mitigation are required. Development should generally not be undertaken unless adequate noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce the exposure of people to unacceptable noise levels.

If the noise level is within the "clearly unacceptable" level, new construction or development should not be undertaken unless all feasible noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce exposure of people to unacceptable noise levels.

The City has also established standard COAs for all development projects, which are provided in Section 7.0 of this document and are identified below, as applicable.

BMC Title 13: Public Peace, Morals and Welfare, Chapter 13.40 (Community Noise) addresses noise impacts. The ordinance establishes exterior and interior noise standards at receiving land uses and construction activity noise regulations as included below in Table 4.13.B.

The City's exterior and interior noise limits are shown in Table 4.13.B. The hourly noise level standards vary based on the receiving land use type and the time period. In order to assess intermittent or maximum noise levels, the time-weighted noise level additions presented in BMC Section 13.40.050 and described in further detail below, should be applied.

The maximum noise levels vary based on the receiving land use type and the time period. The ordinance also limits noise generated by construction. The ordinance restricts construction activities to weekdays between the hours of 7:00 a.m. and 7:00 p.m., and on weekdays and holidays between 9:00 a.m. and 8:00 p.m., except for emergency work.

Table 4.13.B: Exterior and Interior Noise Limits, BMC Section 13.40.050

Zoning District[1]	Time Period	Noise Level (dBA)
Exterior Noise Limits		
R-1, R-2, R-1A, R-2A, and ES-R	7:00 AM–10:00 PM 10:00 PM–7:00 AM	55 45
R-3 and above	7:00 AM–10:00 PM 10:00 PM–7:00 AM	60 55
Commercial	7:00 AM–10:00 PM 10:00 PM–7:00 AM	65 60
Industry	Anytime	70
Interior Noise Limits		
All	7:00 AM–10:00 PM 10:00 PM–7:00 AM	45 40

Source: Municipal Code Tables 13.40-1 and 13.40-2 (City of Berkeley 2014).

[1] R-1 = Single-Family Residential
R-2 = Restricted Two-Family Residential
R-1A = Limited Two-Family Residential
R-2A = Restricted Multiple-Family Residential
ES-R = Environmental Safety-Residential
R-3 = Multiple-Family Residential

dBA = A-weighted decibels

The following noise standards are outlined in BMC Chapter 13.40.050:

A. Maximum permissible sound levels shall be determined by the zoning district of the property subject to the noise, not the property from which the noise originates.

1. The noise standards for the various categories of land use in Table 6 *[of BMC Chapter 13.40.050 and shown in Table 4.13.B of the Initial Study Checklist*] shall, unless otherwise specifically indicated in other codes, apply to all such property within a designated zone.

2. No person shall operate or cause to be operated any source of sound at any location within the incorporated City or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed:

a. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] for a cumulative period of more than 30 minutes in any hour; or

b. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 5 dBA for a cumulative period of more than 15 minutes in any hour; or

c. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 10 dBA for a cumulative period of more than 5 minutes in any hour; or

d. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 15 dBA for a cumulative period of more than 1 minute in any hour; or

e. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 20 dBA for any period of time.

The following interior noise standards are outlined in BMC Section 13.40.060:

1) No person shall operate or cause to be operated within a multi-family dwelling unit any source of sound or allow the creation of any noise which causes the sound level when measured inside a neighboring dwelling unit to exceed:

   a. The noise standard as specified in Table 6 [*Table 4.13.B of the Initial Study*] for a cumulative period of more than 5 minutes in any hour; or

   b. The noise standard as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 5 dBA for a cumulative period of more than one minute in any hour; or

   c. The noise standard as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 10 dBA for any period of time.

Section 13.40.070 of the BMC restricts construction activities to weekdays between the hours of 7:00 a.m. and 7:00 p.m. and on weekends and holidays between 9:00 a.m. and 8:00 p.m., except for emergency work. Construction activities are divided into two categories: mobile equipment and stationary equipment. Mobile equipment, as defined by BMC Section 13.40.070, includes sound levels for the nonscheduled, intermittent, short-term operation for less than 10 days of jackhammers, drills, saws, sander grinder, and similar tools. Stationary equipment, according to BMC Section 13.40.070, would be repetitively scheduled and in relatively long-term operation for longer than 10 days. Equipment used during construction of the proposed project would be considered stationary because construction would last longer than 10 days. Where technically and economically feasible, construction activities shall be conducted in such a manner that maximum sound levels at affected properties will not exceed those listed in Table 4.13.C below.

Table 4.13.C: Maximum Stationary Equipment Construction Noise Levels (dBA), Berkeley Municipal Code Section 13.40.070

	R-1, R-2 Residential	R-3 and above Multi-Family Residential	Commercial/ Industrial
Weekdays 7:00 AM to 7:00 PM	60	65	70
Weekends 9:00 AM to 8:00 PM and legal holidays	50	55	60

Source: Municipal Code Table 13.40-4 (City of Berkeley 2014).
R-1 = Single-Family Residential
R-2 = Restricted Two-Family Residential
R-3 = Multiple-Family Residential

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

The following describes how the short-term construction and long-term operational noise impacts of the proposed project would not exceed established thresholds, according to the standards set forth above.

Short-Term (Construction) Noise Impacts. The closest sensitive receptors are the single-family residences adjacent to the eastern boundary of the project site (approximately 40 feet). Project construction would result in short-term noise that could affect these receptors. Maximum construction noise would be short-term, generally intermittent depending on the construction phase, and variable depending on receiver distance from the active construction zone. The duration of noise impacts generally would be from 1 day to several days depending on the phase of construction. The entire construction duration is expected to occur over approximately 21 months. The level and types of noise that would occur during construction are described below.

Short-term noise would occur during demolition, site preparation, grading, building construction, paving, and architectural coating activities. Table 4.13.D lists typical construction equipment noise levels (L_{max} or maximum instantaneous sound level) recommended for noise impact assessments, based on a distance of 50 feet between the equipment and a noise receptor (obtained from the Federal Highway Administration [FHWA] Roadway Construction Noise Model). Construction-related short-term noise levels would be higher than existing ambient noise levels currently in the project area but would no longer occur once construction of the project is completed.

Table 4.13.D: Typical Construction Equipment Noise Levels

Equipment Description	Acoustical Usage Factor (%)	Maximum Noise Level (L_{max}) at 50 Feet[1]
Backhoes	40	80
Compactor (ground)	20	80
Compressor	40	80
Cranes	16	85
Dozers	40	85
Dump Trucks	40	84
Excavators	40	85
Flat Bed Trucks	40	84
Forklift	20	85
Front-end Loaders	40	80
Graders	40	85
Impact Pile Drivers	20	95
Jackhammers	20	85
Pick-up Truck	40	55
Pneumatic Tools	50	85
Pumps	50	77
Rock Drills	20	85
Rollers	20	85
Scrapers	40	85
Tractors	40	84
Welder	40	73

Source: Roadway Construction Noise Model (FHWA 2006).
Note: Noise levels reported in this table are rounded to the nearest whole number.
[1] Maximum noise levels were developed based on Spec 721.560 from the Central Artery/Tunnel (CA/T) program to be consistent with the City of Boston's Noise Code for the "Big Dig" project.
L_{max} = maximum instantaneous sound level

Two types of short-term noise could occur during construction of the proposed project. The first type involves construction crew commutes and the transport of construction equipment and

materials to the site, which would incrementally increase noise levels on roads leading to the site. As shown in Table 4.13.D, there would be a relatively high single-event noise exposure potential at a maximum level of 84 dBA L_{max} with trucks passing at 50 feet.

The second type of short-term noise is related to noise generated during excavation, grading, and construction on the project site. Construction is performed in discrete steps, or phases, each with its own mix of equipment and, consequently, its own noise characteristics. These various sequential phases would change the character of the noise generated on site. Therefore, the noise levels vary as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction-related noise ranges to be categorized by work phase.

Table 4.13.D lists maximum noise levels recommended for noise impact assessments for typical construction equipment, based on a distance of 50 feet between the equipment and a noise receptor. Typical maximum noise levels range up to 87 dBA L_{max} of 85 dBA L_{eq} at 50 feet during the noisiest construction phases. The site preparation phase, including excavation and grading of the site, tends to generate the highest noise levels because earthmoving machinery is the noisiest construction equipment. Earthmoving equipment includes excavating machinery such as backfillers, bulldozers, draglines, and front loaders. Earthmoving and compacting equipment includes compactors, scrapers, and graders. Typical operating cycles for these types of construction equipment may involve 1 or 2 minutes of full-power operation followed by 3 or 4 minutes at lower power settings.

As identified above, the project site is approximately 40 feet from the closest noise-sensitive receptors (residential uses) located east of the project site boundary. The 40-foot distance would increase the noise level by a minimal amount compared to the noise level measured at 50 feet from the construction activity. Therefore, the closest off-site residences may be subject to short-term construction noise levels of approximately 85 dBA L_{eq} when construction is occurring at the eastern project site boundary.

According to the City's Noise Ordinance (BMC Section 13.40.070), noise from construction activities is permitted to exceed the established maximum allowable noise performance standards, provided the activities occur during the permissible hours for construction and all technically and economically feasible noise reduction measures are incorporated. Construction impacts at residential land uses, although permitted and exempted during the construction hours specified by the City, would exceed the suggested maximum noise levels for stationary sources as established by the City.

Implementation of *COA: Construction Noise Reduction Program* would reduce construction noise impacts on the off-site nearby sensitive receptors and would require the project sponsor to implement all technically and economically feasible measures to reduce construction noise, consistent with the requirements of BMC Section 13.40.070.

> COA: Construction Noise Reduction Program.The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning

Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

- Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- Prohibit unnecessary idling of internal combustion engines.
- If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

COA: Construction Noise Management – Public Notice Required.At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

COA: Construction Phases.The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an onsite meeting with these individuals as necessary to

ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

COA: Construction Hours. Construction activity shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and 4:00 p.m. on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

COA: Construction Hours – Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

COA: Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:

- Contact information (i.e., "hotline" phone number, and email address) for the project construction manager.
- Calendar and schedule of daily/weekly/monthly construction activities.
- The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

Implementation of the City's standard COAs would reduce construction noise impacts to the extent feasible, as required by BMC Section 13.40.070. With implementation of the City's standard COAs, construction noise impacts would be reduced and no impact would occur.

Operational Noise Impacts. The proposed project would result in no impacts related to both traffic and stationary noise sources, as discussed below.

- Traffic Noise Impacts: Off-site traffic noise impacts would result in a significant impact if traffic noise levels increase by 4 dBA or more over ambient noise levels without the project. As discussed in Section 4.16, Transportation, the proposed project would generate a net increase of 436 daily trips. According to the City's General Plan, the current traffic volume of Shattuck Avenue over a 24-hour period is between 22,300 and 36,400 vehicles. A net increase of 436 daily trips would increase traffic noise by less than 1 dBA. This is below 4 dBA; therefore, there would be no impact.

- Stationary Source Noise Impacts: Stationary noise sources associated with the proposed project could include HVAC mechanical equipment and typical motor vehicle/parking area activities. As described above, the City establishes the acceptable daytime and nighttime maximum noise levels at receiving land uses. Daytime is considered to be between the hours of 7:00 a.m. and

10:00 p.m., and nighttime hours are between 10:00 p.m. and 7:00 a.m. BMC Section 13.40 establishes interior and exterior noise level standards (as measured at receiving sensitive land uses) not to be exceeded for more than 30 minutes any hour on commercial land uses as 60 dBA during nighttime hours and 65 dBA during daytime hours, and on residential land uses as 45 dBA during nighttime hours and 55 dBA during daytime hours. It is not expected that the proposed project would substantially increase noise levels over existing conditions and there would be no impact.

Based on the analysis above, the proposed project would not result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

b) Would the project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Vibrating objects in contact with the ground radiate vibration waves through various soil and rock strata to the foundations of nearby buildings. As the vibration propagates from the foundation throughout the remainder of the building, the vibration of floors and walls may cause perceptible vibration from the rattling of windows or a rumbling noise. The rumbling sound caused by the vibration of room surfaces is called groundborne noise. When assessing annoyance from groundborne noise, vibration is typically expressed as root-mean-square (RMS) velocity in units of decibels of 1 micro-inch per second. To distinguish vibration velocity levels from noise levels, the unit is written as "VdB." Human perception to vibration in indoor environments starts at levels as low as 67 VdB and sometimes lower. Annoyance due to vibration in residential settings starts at 70 VdB. Groundborne vibration is almost never annoying to people who are outdoors. Although the motion of the ground may be perceived, without the effects associated with the shaking of the building, the motion does not provoke the same adverse human reaction.

In extreme cases, excessive groundborne vibration has the potential to cause structural damage to buildings. Common sources of groundborne vibration include trains and construction activities such as blasting, pile driving, and operating heavy earthmoving equipment.

Construction and operation of the proposed project could expose sensitive structures and residential receptors to excessive groundborne vibration, as discussed below.

Construction Vibration. Construction activities that would occur at the project site have the potential to generate low levels of groundborne vibration or groundborne noise levels. The project would require demolition of the existing structures on the project site, as well as site clearing and grading activities. These activities would occur approximately 40 feet from existing sensitive residential uses. No impact pile driving would occur as part of the proposed project.

For all other equipment associated with the proposed construction activities, vibration impacts would approach 0.089 inch per second at a distance of 25 feet. This level would not exceed the 0.12 inch per second threshold at which there is virtually no risk resulting in architectural damage to buildings extremely susceptible to vibration damage. It would be structurally safe from

the construction activity and equipment operation for these adjacent buildings, and no structural damages would occur as a result of on-site construction. In addition, the following COA requires an analysis of potential damage due to construction prior to, or concurrent with, a demolition building permit.

> ***COA: Damage Due to Construction Vibration.*** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall:
>
> - Establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and
> - Include written descriptions and photographs.

With implementation of *COA: Damage Due to Construction Vibration*, construction of the proposed project would not result in substantial groundborne vibration on properties adjacent to the project site.

Operational Vibration. No permanent noise sources that would expose persons to excessive groundborne vibration or noise levels would be located within the project site. In addition, long-term operational activities associated with the proposed project would not involve the use of any equipment or processes that would result in potentially significant levels of ground vibration.

Based on the analysis above, the proposed project would not result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The airport nearest to the project site is the Oakland International Airport (over 10 miles southwest of the project site). The nearest private airport, Buchanan Field Airport, is located over 14 miles northeast of the site. Although aircraft-related noise is occasionally audible on the project site, the project site does not lie within an airport land use plan area or within the 60 dBA L_{dn} noise contours of any of these public airports or private airfields. The proposed project would not expose people

residing or working in the project area to excessive noise levels due to the proximity of a public airport.

4.13.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to noise. Impacts related to operational noise would remain less than significant, and impacts related to construction noise would remain significant and unavoidable as identified in the Housing Element EIR. Because the proposed project would result in less than significant noise impacts, the proposed project would not contribute to, exacerbate, or increase the significant unavoidable construction noise impacts identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.14 POPULATION AND HOUSING

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

4.14.1 Housing Element EIR Analysis

Section 4.12 of the Housing Element EIR analyzed potential impacts related to population and housing. The Housing Element EIR determined that all impacts related to population and housing would be less than significant, and no mitigation was prescribed. The Housing Element EIR analyzed the full buildout of 19,098 residential units in the city through 2031, which would result in a population increase of 47,443 residents compared to the existing population. However, the Housing Element EIR concluded that the growth resulting from implementation of the Housing Element is anticipated and would not constitute substantial unplanned population growth. In addition, the Housing Element EIR determined that implementation of the Housing Element would not result in the displacement of substantial numbers of people or housing because future development under the Housing Element would facilitate the development of new housing in accordance with State and local housing requirements, while preserving existing residential neighborhoods.

4.14.2 Project Impacts

a) Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project site is currently developed with a two-story commercial building and does not contain any residential units. The proposed project would result in the development of an eight-story, mixed-use residential building containing approximately 690 square feet of commercial space and a total of 110 dwelling units on the project site. As such, implementation of the proposed project would result in an increase in employees and residents at the project site.

Based on the average employment density for retail uses of 250 square feet per worker,[61,62] the proposed approximately 690 square feet of commercial space would result in approximately three new employees. Based on a 2.37 persons per household estimate for the City of Berkeley obtained from the United States Census Bureau, development of the 110 new residential units is estimated to result in a total population of up to approximately 261 residents on the project site.[63]

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, the population increase at the project site has already been considered and analyzed in the Housing Element EIR. As of July 1, 2023, the population in the city was estimated at 118,962.[64] Therefore, implementation of the proposed project represents approximately 0.2 percent of the City's total population.[65] In addition, the Housing Element EIR determined that buildout under the House Element would result in an increase in approximately 47,443 residents. Therefore, implementation of the proposed project represents approximately 0.5 percent of the population increase anticipated by the Housing Element EIR. Overall, implementation of the proposed project would not directly induce substantial population growth in the area, and the project is anticipated to serve the City's need for more housing units.

The proposed project is located on an infill site in a mixed-use area and therefore is an appropriate location for new housing. The project does not include construction of additional public infrastructure (e.g., wastewater treatment facilities); therefore, implementation of the proposed project would not indirectly induce substantial population growth in the area.

The three future employees associated with the proposed commercial space represent a minimal increase and are expected to come from the surrounding area. Therefore, the proposed project would not directly or indirectly induce substantial population growth on the site or in the surrounding area through the increase in employment on the site.

As such, the proposed project would not induce substantial population growth in an area, either directly or indirectly, beyond what was anticipated in the Housing Element and no impact would occur.

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61 The number of employees associated with the proposed project was determined based on data available from *Envision 2040, 4-Year Review, Market Overview and Employment Lands Analysis* prepared for the City of San Jose and dated January 28, 2016. Based on the available data, an employment density factor for retail land uses is between 250 and 650 square feet per employee. In order to provide a conservative analysis, the employment density factor of 250 square feet per employee was used to estimate employment generated from the proposed project.

62 Strategic Economics. 2016. *Envision 2040, 4-Year Review, Market Overview and Employment Lands Analysis.* January 28.

63 United States Census Bureau. City of Berkeley, QuickFacts, Persons per household, 2018-2022. Website: https://www.census.gov/quickfacts/fact/table/berkeleycitycalifornia/PST045222 (accessed March 2025). 2.37 persons per household * 110 units = 260.7 (rounded to 261).

64 Ibid.

65 261 residents / 118,962 total population = 0.00219.

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project site is currently developed with a two-story commercial building and does not contain any residential units. As such, demolition of existing structures and construction of the proposed project would not displace any people or housing, and there would be no impact.

4.14.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to population and housing. Impacts related to population and housing would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.15 PUBLIC SERVICES AND RECREATION

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i. Fire protection?	☐	☐	☐	☒
ii. Police protection?	☐	☐	☐	☒
iii. Schools?	☐	☐	☐	☒
iv. Parks?	☐	☐	☐	☒
v. Other public facilities?	☐	☐	☐	☒
b. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
c. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☒

4.15.1 Housing Element EIR Analysis

Section 4.13 of the Housing Element EIR analyzed potential impacts related to public services and recreation. The Housing Element EIR determined that all impacts related to public services and recreation would be less than significant, and no mitigation was prescribed. The Housing Element determined that future development facilitated by the Housing Element would increase demand on fire protection services, police protection services, schools, and parks and recreational facilities. However, compliance with General Plan policies related to fire and police service facilities, compliance with Government Code 65995 (b), which requires funding for the provision or expansion of new school facilities to offset impacts from new residential development, and the donation of parkland pursuant to the Quimby Act would reduce impacts to less than significant.

4.15.2 Project Impacts

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: (i) fire protection; (ii) police protection; (iii) schools; (iv) parks; or (v) other public facilities?

Development of the proposed project would result in an increase in the population on the project site (approximately 261 new residents and three new employees as discussed in Section 4.14,

Population and Housing), which would increase the demand on emergency fire services, police protection services, schools, parks, and other public facilities. However, because the increase in population at the project site would be consistent with the population growth anticipated as part of the City's Housing Element and future residents/employees are expected to come from the surrounding Berkeley area, the proposed project itself would not result in the need for new or physically altered governmental facilities or a substantial adverse physical impact associated with the provision of additional public services.

In addition, the proposed project would be required to comply with all applicable codes for fire safety and emergency access, including the Uniform Fire Code and applicable sections of the California Health and Safety Code, California Administrative Codes, Title 19, Public Safety and Title 24, Building Standards, and additional review by the Berkeley Fire Department to ensure that appropriate measures are implemented to reduce hazardous conditions at the site and provide for adequate emergency access. Further, the proposed project would be required to pay the Berkeley Unified School District's required school impact fees for new commercial and residential development prior to issuance of a certificate of occupancy, the funds from which would be directed towards maintaining adequate service levels.

b) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

As discussed above, development of the proposed project would result in an increase in the population on the project site (approximately 261 new residents and three new employees as discussed in Section 4.14, Population and Housing), which would increase the demand on existing parks in the vicinity of the project site. However, because the increase in population at the project site would be consistent with the population growth anticipated as part of the City's Housing Element and future residents/employees are expected to come from the surrounding Berkeley area, the proposed project itself would not result in substantial physical deterioration of existing parks.

c) Would the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

The proposed project does not include the construction of new recreational facilities. In addition, as discussed above, because the increase in population at the project site would be consistent with the population growth anticipated as part of the City's Housing Element and future residents/employees are expected to come from the surrounding Berkeley area, the proposed project itself would not require the construction or expansion of existing recreational facilities in the city.

4.15.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to public services and recreation. Impacts related to public services and recreation would remain less than significant as identified in the Housing Element EIR. No further

environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.16 TRANSPORTATION

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☐	☒
b. Conflict or be inconsistent with CEQA Guidelines §15064.3, subdivision (b)?	☐	☐	☐	☒
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
d. Result in inadequate emergency access?	☐	☐	☐	☒

4.16.1 Housing Element EIR Analysis

Section 4.14 of the Housing Element EIR analyzed potential impacts related to transportation. The Housing Element EIR determined that all impacts related to transportation would be less than significant, and no mitigation was prescribed. The Housing Element EIR determined that the Housing Element would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities because individual projects facilitated by the Housing Element would be designed to be consistent with applicable programs, plans, and policies related to the circulation system, including the City's General Plan, Bicycle Master Plan, Complete Streets Policy, and Pedestrian Plan. In addition, the Housing Element determined that future development under the Housing Element would not conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) because implementation of the Housing Element would result in an overall decrease in VMT per capita in comparison to the baseline condition.

The Housing Element EIR also determined that future development facilitated by the Housing Element would not substantially increase hazards because of a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) and would not result in inadequate emergency access because circulation components and geometric design features of individual projects facilitated by the Housing Element would be reviewed by the City's Engineering Division and would be designed to be in accordance with all applicable City standards and the building plan check process to minimize design hazards.

4.16.2 Project Impacts

a) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

The following includes an evaluation of the proposed project's potential to conflict with applicable programs, plans, ordinances, and policies addressing the circulation system, including the City's

Transportation Strategic Plan.[66] The section begins with a description of the proposed project's trip generating potential, compared to existing conditions, followed by an analysis of potential impacts to transit, bicycle, pedestrian, and roadway facilities.

Trip Generation. Trip generation is the process of estimating the number of vehicles that would likely access the project site. Trip generation data for the proposed project was estimated using the data and methodology published by the Institute of Transportation Engineers (ITE) in the Trip Generation Manual, 11th Edition for Multifamily Housing (Mid-Rise) and Strip Retail Plaza.

Table 4.16.A summarizes the trip generation for the proposed project based on the ITE methodology. As shown in Table 4.16.A, it is estimated that the proposed project would generate a net increase of approximately 310 daily trips, including 26 AM peak-hour and 6 PM peak-hour trips.

Table 4.16.A: Project Trip Generation

Land Use	Size	Unit	Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Trip Rates[1]									
Multi-family Housing		du	4.75	0.12	0.20	0.32	0.19	0.10	0.29
Strip Retail Plaza		tsf	54.45	1.42	0.94	2.36	3.30	3.29	6.59
Project Trip Generation									
Multi-family Housing	110	du	523	13	22	35	21	11	32
Strip Retail Plaza	0.690	tsf	38	1	1	2	2	2	4
		Total	**561**	**14**	**23**	**37**	**23**	**13**	**36**
Existing Trip Generation									
Strip Retail Plaza	4.604	tsf	251	7	4	11	15	15	30
Net Trips (Project – Existing)			**310**	**7**	**19**	**26**	**8**	**(2)**	**6**

Source: Compiled by LSA (2025).
[1] Trip rates from the Institute of Transportation Engineers *Trip Generation* Manual, 11th Edition (ITE 2021).
Land Use 220 – Multifamily Housing (Mid-Rise) – Between 4 and 10 Levels – Close to Rail Transit
Land Use 822 – Strip Retail Plaza (<40k) – Less than 40,000 square feet of gross leasable area
du = dwelling unit
tsf = thousand square feet

Transit Facilities. The proposed project would have a significant impact related to transit facilities if it would conflict with the goals and policies related to transit use in the Berkeley Strategic Transportation Plan, which was adopted in 2016.[67] In particular, the proposed project would result in a conflict if it would discourage people from using transit or decrease transit efficiency.

Transit in the project vicinity includes the extensive bus transit service provided by AC Transit. The proposed project is located within close proximity to a variety of transit services, which would encourage the use of these services. The project site is located within 0.5 mile of several intersecting major bus routes, including Lines 7, 18, and FS. Line 7 provides bus service from the El Cerrito del Norte BART Transit Center to Downtown Berkeley, Line 18 provides bus service from University Village in Albany to the Lake Merritt BART Transit Center, and Line FS provides bus service from

66 Berkeley, City of. 2016a. *Berkeley Strategic Transportation Plan.* June.
67 Ibid.

Solano Avenue and Colusa Street to the Salesforce Transit Center in San Francisco.[68] These lines provide service at a frequency of less than 15 minutes during the morning and afternoon peak commute periods. In addition, the Downtown Berkeley BART station is located approximately 0.45 mile south of the project site. Implementation of the proposed project is expected to increase the use of transit services in the project area. However, future residents and employees at the project site are expected to come from the surrounding Berkeley area and likely already utilize transit service. Therefore, this minimal increase would not have a substantial effect on the efficiency of the AC Transit bus service.

Bicycle Facilities. The proposed project would have a significant impact to bicycle facilities if it conflicted with the goals and policies related to bicycle use in the Berkeley Strategic Transportation Plan. In particular, the proposed project would result in a conflict if it would impair the implementation of any planned bicycle boulevards, result in street design that would be unsafe for bicyclists, or discourage bicycle use in the vicinity of the project site.

Bicycle access to the proposed project is provided through the City's bicycle network. The City's Bicycle Plan identifies Shattuck Avenue as a planned cycletrack (Class 4 bike path) and Virginia Street as a bicycle boulevard. The proposed project would provide a total of 97 secure bicycle parking spaces for the proposed residential uses, 59 of which would be in a covered bike storage area in the northeast corner of the project site. The proposed project would not modify any surrounding roadways and would not prevent the implementation of the planned cycletrack along Shattuck Avenue or other bicycle boulevards in the city. Therefore, the proposed project would have a less than significant impact related to bicycle facilities.

Pedestrian Facilities. The proposed project would have a significant impact to pedestrian facilities if it would conflict with the goals and policies related to bicycle use in the Berkeley Strategic Transportation Plan. In particular, the proposed project would result in a conflict if it would discourage walking in commercial districts, result in street design that would be unsafe for pedestrians, or discourage walking in the vicinity of the project site.

The project site is served by existing sidewalks along Shattuck Avenue and Virginia Street. Pedestrians would access the project site from both Shattuck Avenue and Virginia Street, and the anticipated new pedestrian trips generated by the proposed project would be accommodated on the existing facilities serving the project site. In addition, the existing pedestrian facilities would be maintained, and the proposed curb ramp and crossing would be constructed pursuant to City standards.[69] Therefore, the proposed project would have a less than significant impact related to pedestrian safety or facilities.

Roadways. Pursuant to SB 743, described in Section 4.16.b, LOS or other measures of automobile delay can no longer be used to identify significant impacts under CEQA. Therefore, the following summary of the proposed project's effects on roadway operations is provided for informational purposes only.

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68 Alameda-Contra Costa County Transit. 2024. *Maps & Schedules.* Website: https://www.actransit.org/maps-schedules (accessed March 2025).

69 Berkeley, City of. 2024. City of Berkeley Standard Details, Streets and Sidewalks. May 10.

Regional vehicular access to the project site is provided by I-80 and I-580 via University Avenue. Local access is provided primarily via Shattuck Avenue and Virginia Street. Shattuck Avenue is designated as a Major Street[70] in the City's General Plan. There are no proposed changes to existing public roadways or transportation-related infrastructure. Therefore, and due to the relatively small nature of the proposed project and the minimal increase in trips to and from the project site with implementation of the proposed project, the proposed project is not anticipated to result in significant impacts on surrounding roadway facilities.

Based on the analysis above, the proposed project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.

b) Would the project conflict or be inconsistent with CEQA Guidelines §15064.3, subdivision (b)?

On September 27, 2013, California Governor Jerry Brown signed SB 743 into law and started a process that changed the way transportation impact analysis is conducted as part of CEQA compliance. These changes included elimination of automobile delay, LOS, and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts under CEQA. According to SB 743, these changes are intended to "more appropriately balance the needs of congestion management with Statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions."

In December 2018, the Governor's Office of Planning and Research, now called the Office of Land Use and Climate Innovation (LCI), completed an update to the *State CEQA Guidelines* to implement the requirements of SB 743. The *State CEQA Guidelines* state that VMT must be the metric used to determine significant transportation impacts and require all lead agencies in California to use VMT-based thresholds of significance in CEQA documents published after July 1, 2020.

The OPR Guidelines recommend developing screening criteria for development projects that meet certain criteria that can readily lead to the conclusion that they would not cause a significant impact on VMT. The OPR Guidelines also recommend evaluating VMT impacts using an efficiency-based version of the metric, such as VMT per resident for residential developments and/or VMT per worker for office or other employment-based developments. The City of Berkeley uses the metric of home-work VMT per worker for evaluating the impacts of employment-based uses such as the proposed project. The home-work VMT per worker measures all of the driving commute trips between homes and workplaces and divides that total distance by the number of workers at the site. Based on the City of Berkeley's guidelines, an employment-generating project's VMT impact is considered less than significant if its home-work VMT per worker is at least 15 percent below the regional average home-work VMT per worker.

VMT Assessment. According to the City of Berkeley Transportation VMT Criteria and Thresholds,[71] projects in a TPA (within a 0.5 mile walkshed of major transit stops or within a 0.25 mile walkshed

[70] Major Streets serve the movement of automobiles, trucks, buses, pedestrians, and bicycles across the city, connecting to the regional transportation network, and to other jurisdictions.

[71] Berkeley, City of. 2020. *City of Berkeley Transportation VMT Criteria and Thresholds*. June 29.

around high-quality transit corridors), small projects (equating to 20 units of residential use or up to 10,000 square feet of non-residential use), and projects in low VMT areas are screened out from a VMT analysis and are presumed to have a less than significant transportation impact.

As shown on the Household VMT Per Capita and Home-Work VMT Per Worker maps in the City of Berkeley Transportation VMT Criteria and Thresholds, the project site is located within a TPA and in a low VMT area (VMT per resident is at least 15 percent below the Bay Area average). As such, the proposed project meets the City's VMT screening criteria. Based on its location and size, the proposed project is presumed to have no VMT impact.

c) Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

There are no proposed changes to existing public roadways or transportation-related infrastructure, nor are there any proposed roads internal to the project site. As such, the proposed project would have no impact on hazards due to a design feature or incompatible use.

d) Would the project result in inadequate emergency access?

There are no proposed changes to existing public roadways or transportation-related infrastructure, and project construction would not require the closure of roads or redirection of traffic. In addition, during project construction, emergency access would be maintained. As such, the proposed project would have no impact on emergency access.

4.16.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to transportation. Impacts related to transportation would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.17 TRIBAL CULTURAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? Or	☐	☐	☐	☒
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒

4.17.1 Housing Element EIR Analysis

Section 4.15 of the Housing Element EIR analyzed potential impacts related to tribal cultural resources. The Housing Element EIR determined that all impacts related to tribal cultural resources would be less than significant with implementation of prescribed mitigation. The Housing Element EIR indicated that future development facilitated by the Housing Element could adversely impact tribal cultural resources due to ground-disturbing activity during construction. As such, the Housing Element EIR prescribed Mitigation Measure TCR-1, which requires tribal cultural monitors to monitor work done in areas of tribal concern for future projects that are determined through tribal consultation to potentially affect tribal cultural resources in order to reduce impacts to less than significant.

4.17.2 Project Impacts

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? Or

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe

Assembly Bill (AB) 52, which was signed into law in 2014, established specific requirements for tribal consultation on projects that may impact tribal cultural resources. AB 52 applies to projects if the Lead Agency prepares an EIR or a Negative/Mitigated Negative Declaration (ND/MND) or if the project has the potential to affect tribal cultural resources. The City participated in tribal consultation pursuant to AB 52 as part of the Housing Element EIR, and as such, no further tribal consultation is required for the proposed project and Mitigation Measure TCR-1, which prescribes measures for monitoring if requested through the consultation process, is not applicable.

As described in Section 4.5, Cultural Resources, no archeological resources have been identified at the project site. As such, implementation of the proposed project is not anticipated to impact tribal cultural resources. However, if significant archeological deposits were unearthed during project construction, a substantial adverse change in the significance of a historical resource would occur from its demolition, destruction, relocation, or alteration such that the significance of the resource would be materially impaired (*State CEQA Guidelines* Section 15064.5(b)(1)). However, the proposed project would be required to comply with *COA: Archeological Resources* and *COA: Human Remains*, as detailed in Section 4.5, Cultural Resources, that addresses potential impacts to archeological resources and human remains. In addition, the proposed project would be required to comply with *COA: Halt Work/Unanticipated Discovery of Tribal Cultural Resources*, which would address potential impacts to tribal cultural resources.

> ***COA: Halt Work/Unanticipated Discovery of Tribal Cultural Resources.*** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

With implementation of the City's standard COAs identified in Section 4.5, Cultural Resources, as well as *COA: Halt Work/Unanticipated Discovery of Tribal Cultural Resources*, impacts to archeological deposits and human remains that may qualify as tribal cultural resources would not occur.

4.17.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the

project site related to tribal cultural resources. Impacts related to tribal cultural resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.18 UTILITIES AND SERVICE SYSTEMS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒

4.18.1 Housing Element EIR Analysis

Section 4.16 of the Housing Element EIR analyzed potential impacts related to utilities and service systems. The Housing Element EIR determined that all impacts to utilities and service systems would be less than significant, and no mitigation was prescribed. The Housing Element EIR indicated that future development under the Housing Element would require utility service and connections for water supply, wastewater conveyance, and stormwater conveyance, as well as telecommunications, electricity, and natural gas, and determined that existing utility systems for water, wastewater, stormwater, electric power, natural gas, and telecommunications facilities in the city have sufficient capacity to serve future development. Further, the Housing Element EIR determined that relocation or construction of new or expanded facilities resulting in significant environmental impacts would not occur, and adequate wastewater capacity exists to serve the project's projected demand in addition to the provider's existing commitments.

The Housing Element EIR also determined that although future development under the Housing Element would result in an increase in water demand, the increase in demand could be served by EBMUD with implementation of demand management measures required by EBMUD. Further, development facilitated by the Housing Element was determined to not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. In addition, the Housing Element EIR determined that implementation of the Housing Element would not impair the attainment of solid waste reduction goals and would comply with federal, State, and local statutes and regulations related to solid waste.

4.18.2 Project Impacts

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, development at the project site and the associated increase in demand on utility infrastructure at the project site has already been considered and analyzed in the Housing Element EIR. The proposed project would connect to existing water delivery and sanitary sewer systems within the vicinity of the project site, and it is anticipated that the existing infrastructure would have sufficient capacity to support project water and wastewater flows. In addition, as a condition of project approval, the project sponsor would be required to coordinate with EBMUD, the Berkeley Fire Department, and the City's Public Works Department to assess water and wastewater flow and ensure the proposed project would comply with the applicable requirements.

As discussed in Section 4.10, Hydrology and Water Quality, the proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. In addition, pursuant to Provision C.3 of the MRP, stormwater from the project site would be directed to the proposed vegetated areas and would be treated by flow-through planters (biotreatment) before being discharged to the existing stormwater infrastructure in the surrounding area, similar to existing conditions. Because the discharge of stormwater to the existing stormwater infrastructure in the surrounding area would not be greater than pre-project conditions, as required by Provision C.3 of the MRP, no new or expanded stormwater infrastructure would be required.

The project site is currently served by electrical and telecommunications facilities. Therefore, because the proposed project would consist of infill development on a previously developed site that is currently served by utilities, the expansion of electrical or telecommunications facilities would not be required. In addition, the proposed building would be designed to be all electric, and therefore would not include the use of any traditional gas systems or facilities.

Based on the analysis above, the proposed project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

b) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, development at the project site and the associated increase in water demand at the project site has already been considered and analyzed in the Housing Element EIR. Water service at the project site and in the project area is provided by EBMUD. According to the 2020 Urban Water Management Plan, EBMUD obtains approximately 90 percent of its water from the Mokelumne River watershed and transports it through pipe aqueducts to temporary storage reservoirs in the

East Bay hills. EBMUD has water rights and facilities to divert up to a daily maximum of 325 million gallons per day (mgd) from the Mokelumne River.[72] Average daily water demand within the entire EBMUD service area is projected to be 245 mgd in 2025, 254 mgd in 2030, 277 mgd in 2040, and 297 mgd in 2050.[73]

The proposed project would develop the project site with a new eight-story, mixed-use residential building consisting of approximately 690 square feet of commercial space and 110 residential units. As discussed in Section 4.14, Population and Housing, the proposed project would result in approximately 261 new residents and three employees at the project site. According to the United States Environmental Protection Agency (EPA), a single person uses approximately 82 gallons per day (gpd) of water at home,[74] and retail uses use approximately 5 gallons of water per square foot per year.[75] Therefore, implementation of the proposed project is anticipated to require approximately 21,411 gpd of water (approximately 21,402 gpd associated with the residential uses and 9 gpd associated with the commercial uses). This accounts for less than 0.1 percent of EBMUD's projected service-wide daily water demand for 2025. Furthermore, EBMUD's projected water demand accounts for projected growth within the region as identified by ABAG. Because the proposed project would be consistent with the General Plan and Zoning designations for the project site, water demand associated with the project site has been accommodated in EBMUD's supply and demand projections. Therefore, EBMUD would not require new or expanded water entitlements to serve the proposed project.

EBMUD completed development of a revised Water Supply Management Program (WSMP) 2040 Plan in April of 2012, which is the District's plan for providing water to its customers for a span of 30 years.[76] According to the WSMP 2040 Plan, EBMUD's water supplies are estimated to be sufficient during the planning period (2010–2040) in normal and single dry years. Therefore, EBMUD would have adequate water supply to provide water service to the proposed project.

The WSMP 2040 Plan emphasizes maximum conservation and recycling strategies, with a total of 50 mgd of future supply to be provided from those two component categories. However, looking toward 2040, EBMUD's current supply is insufficient to meet customer needs during multi-year droughts despite EBMUD's aggressive water conservation and recycled water programs.[77] According to the WSMP 2040 Plan, the combination of rationing, conservation, and raw and recycled water will satisfy increased customer demand through 2040.[78] Supplemental supply will also be needed to keep rationing at a lower level and to meet the need for water in drought years.

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72 East Bay Municipal Utility District (EBMUD). 2021a. *2020 Urban Water Management Plan*. June.

73 East Bay Municipal Utility District (EBMUD). 2021b. *2020 Urban Water Management Plan*, Table 3-1: Average Annual Water Demand Forecast 2050 Demand Projections (MGD). June.

74 United States Environmental Protection Agency (USEPA). n.d. *WaterSense, Statistics and Facts.* Website: https://www.epa.gov/watersense/statistics-and-facts (accessed March 2025)

75 United States Environmental Protection Agency (USEPA). 2023b. *WaterSense, Energy Star Portfolio Manager, U.S. Water Use Intensity by Property Type Technical Reference.* June.

76 East Bay Municipal Utility District (EBMUD). 2012. *Water Supply Management Program 2040 Plan*. April.

77 East Bay Municipal Utility District (EBMUD). 2012. Op. cit.

78 East Bay Municipal Utility District (EBMUD). 2016. Op. cit.

Future users of the project site (and all EBMUD customers) would be required to comply with Policy EM-26 in the City of Berkeley General Plan that promotes water conservation through City programs and requirements, including cooperation with EBMUD to make recycled water available for irrigation and other uses. Policy EM-26 of the City's General Plan, as described below, provides direction for incorporating water conservation measures into the project design.

> **Policy EM-26:** Water Conservation. Promote water conservation through City programs and requirements.
>
> a. **Action EM-26 A:** Encourage drought-tolerant landscaping and low-flow irrigation systems.
>
> b. **Action EM-26 B:** Consider participation in the East Bay Municipal Utility District's East Bay-shore Recycled Water Project to make recycled water available for irrigation and other non-potable uses.

Compliance with Policy EM-26 by incorporating water conservation measures such as drought-tolerant landscaping into the proposed project's design would ensure efficient use of water at the project site and minimize the project's potential water demand.

EBMUD also imposes a system capacity charge on new developments to fund system maintenance and the development of new water sources. The project sponsor would be required to pay this fee and undertake water conservation measures to conserve water (e.g., the installation of low-flow toilets). In addition, the project sponsor would also be required to comply with the following condition of approval related to water efficient landscaping:

> ***COA: Water Efficient Landscaping*** *(prior to the issuance of any building [construction] permit)*. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate for Berkeley is 41.8.

As required by the City, the project sponsor would also be required to provide a Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that would not be fully met by the project (if any).[79] Landscape improvements are required to be consistent with the current versions of the State's Water Efficient Landscape Ordinance and Section 31 of EBMUD's Water Service Regulations (Water Efficiency Requirements), which require that applicable water-efficiency measures be installed on water-using equipment at the project sponsor's expense. The project sponsor would also be required to coordinate with EBMUD and the Berkeley Fire Department to assess fire flow requirements and comply with them as part of the project. With compliance with policies contained in the City's General Plan, COAs, and other applicable City requirements, impacts associated with project demand and water supply would not occur.

[79] Berkeley, City of. 2016b. *Stormwater Requirements Overview*. June 6.

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, development at the project site and the associated increase in demand on wastewater service at the project site has already been considered and analyzed in the Housing Element EIR. In the city, sanitary sewage flows through the City's collection system to the EBMUD's North Interceptor, which then directly flows to EBMUD's Main Wastewater Treatment Plant (MWWTP) in the City of Oakland for treatment and disposal. The City's collection system consists of lower laterals and sewer mains. Buildings connect to the City's collection system through the upper laterals, which are privately owned and maintained. Within the city, there are approximately 260 miles of sanitary sewer mains, with an estimated 28,000 lateral connections. The sewer mains vary from 1 to 100 years old, and vary in size from 6 to 48 inches in diameter.[80] The City, EBMUD, and the MWWTP serve the project site and the surrounding area.

The City operates the sanitary sewer infrastructure located in the surrounding streets and sidewalks. Facilities typically range in size from 8 inches to 18 inches in diameter. The proposed project would connect to existing sanitary sewer systems within the vicinity of the project site and would be required to conduct sewer capacity analysis to determine if the existing sewer infrastructure would be able to accommodate wastewater flows from the project and identify impacts to flow capacity, pipeline alignments, need for easements, and chemical and physical character of wastewater. If the sewer capacity analysis determines that there is insufficient capacity, the project developer will be required to improve the infrastructure in order to accommodate increased wastewater flows. In addition, the project sponsor would be required to coordinate with EBMUD, the Berkeley Fire Department, and the City's Public Works Department to assess water and wastewater flow and ensure the proposed project would comply with the applicable requirements.

The City's sewer system is connected to trunk lines that convey flows to the MWWTP. The MWWTP has a primary treatment capacity of 320 mgd and a secondary treatment capacity of 168 mgd.[81] Storage basins provide plant capacity for a short-term hydraulic peak of 415 mgd. The average annual daily flow into the MWWTP is approximately 63 mgd, representing approximately 37.5 percent of the plant's secondary treatment capacity. Treated effluent is disinfected, dechlorinated, and discharged through a deep-water outfall 1 mile off the East Bay shoreline into San Francisco Bay.

In compliance with the July 28, 2014, Consent Decree, the City has implemented a long-term mandated Sanitary Sewer Capital Improvement Program to eliminate Sanitary Sewer Overflows and reduce stormwater Infiltration and Inflow (I/I) into the sanitary sewer system. Under this program, the City utilizes a comprehensive asset management approach based on complex and evolving hydrologic and hydraulic modeling and condition assessments to repair, replace, or upgrade the

80 East Bay Municipal Utility District (EBMUD). 2021a. *2020 Urban Water Management Plan*. June.

81 East Bay Municipal Utility District (EBMUD). 2016. Wastewater Treatment. Website: https://www.ebmud.com/wastewater/collection-treatment/wastewater-treatment (accessed June 13, 2024).

City's portion of the sanitary sewer system, ultimately to aid EBMUD in eliminating discharges from their Wet Weather Facilities (which provide additional treatment capacity during storm events) by the end of 2035.

The proposed project would generate wastewater to be treated by the EBMUD treatment facilities. EBMUD is required to meet applicable RWQCB treatment requirements in compliance with NPDES requirements. In addition, the proposed project must not use any of EBMUD's wet weather treatment capacity, and the property owners will be responsible for maintaining their private sewer lateral and site plumbing to ensure no inflow/infiltration enters the sewer system pursuant to BMC Sections 17.24.030(A)(2), 17.24.030(A)(3), and 17.06.020. In the absence of an official wastewater generation estimate, wastewater generated by full buildout associated with the zoning and General Plan amendments is assumed to be 90 percent of water demand, or 22,966 gpd (refer to Section 4.19.b, above), which comprises less than 1 percent of the remaining capacity of the MWWTP. Therefore, the proposed project would not generate wastewater exceeding the wastewater treatment requirements of the RWQCB.

Wastewater discharges that may occur at the project site would be required to comply with the terms of the applicable MRP and may be subject to monitoring by EBMUD to ensure that the development's sewage discharge does not impair the ability of the MWWTP to meet wastewater treatment objectives and requirements. As such, no impacts to wastewater treatment requirements would occur.

d) Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The City operates its own refuse collection system. The City provides curbside recycling and refuse collection services to the project site. There are two permitted landfills in Alameda County with the capacity to accommodate solid waste generated in Berkeley: Altamont Landfill and the Vasco Road Sanitary Landfill. The combined permitted capacity of waste for these two landfills is 95 million cubic yards, which the proposed project would not exceed. Solid waste from the site would be transported to the Berkeley Transfer Station, located at 1021 Second Street, and then on to the Altamont Landfill and Resource Recovery Facility, located near the Altamont Pass, northeast of Livermore. The proposed project would be served by a landfill with sufficient capacity to accommodate the project's waste disposal needs.

The project site is currently developed with a two-story commercial building. Implementation of the proposed project would include the demolition of the existing structure, thereby generating demolition waste. The proposed project would be subject to the Waste Diversion and Universal Waste disposal requirements of BMC Chapter 19.37, and all demolition and construction waste would be recycled consistent with State and City requirements. The State requires a 65 percent diversion (recycling and reuse) of construction waste, and the City requires 100 percent of concrete, asphalt, and land clearing debris to be diverted from landfills. The project sponsor would be required to prepare and submit to the City a Construction Demolition Recycling Plan prior to issuance of a Demolition Permit for the proposed project. The purpose of the Construction

Demolition Recycling Plan is to divert as much debris as possible from the waste stream consistent with, and in addition to, State and City requirements.

Prior to approval of large development projects, the City's Solid Waste Management Division staff reviews proposed plans for the adequate design of trash and recycling facilities. Alameda County Waste Management Authority Ordinance 2008-01 requires businesses in Alameda County that generate 4 or more cubic yards of garbage per week to separate all plant debris from garbage and recyclable materials. Additionally, development projects that require a use permit are required to comply with the following COA that addresses these potential impacts:

> ***COA: Recycling and Organics Collection.*** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.

The proposed project would also be required to provide trash enclosure space (inside or outside for large dumpsters) and trash, compost, fiber recycling, and container recycling collection bins that would be co-located in tenant-facing trash rooms.

According to the EPA, a single person generates approximately 4.9 pounds of solid waste per day (residential),[82] and commercial uses generate approximately 10.53 pounds of solid waste per employee per day.[83] As discussed in Section 4.14, Population and Housing, implementation of the proposed project would result in approximately 261 residents and three new employees at the project site. Therefore, the proposed project would generate approximately 1,578 pounds of solid waste per day (approximately 1,524 pounds per day associated with the residential uses and 52.6 pounds per day associated with the commercial uses). This represents a negligible increase in solid waste generated in the city and would not exceed the combined permitted capacity of waste for the two permitted landfills in Alameda County.

As such, the proposed project would not generate solid waste in excess of local standards.

e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Refer to Section 4.18.d, above. The proposed project would comply with all federal, State, and local solid waste statutes and/or regulations related to project solid waste.

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82 United States Environmental Protection Agency (USEPA). 2023a. *National Overview: Facts and Figures about Materials, Waste and Recycling.* Website: https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials (accessed August 30, 2024).

83 California Department of Resources Recycling and Recovery (CalRecycle). 2019. *Estimated Solid Waste Generation Rates.* Website: https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates (accessed August 30, 2024).

4.18.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to utilities and service systems. Impacts on utilities and service systems would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.19 WILDFIRE

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☒	☐	☐	☒
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☒	☐	☐	☒
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☒	☐	☐	☒
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☒	☐	☐	☒

4.19.1 Housing Element EIR Analysis

Section 4.17 of the Housing Element EIR analyzed potential impacts related to wildfire. The Housing Element EIR determined that all impacts related to wildfire would be significant and unavoidable, even with implementation of identified mitigation. The Housing Element EIR determined that because future development facilitated by the proposed project would occur in hillside areas located near a State Responsibility Area (SRA) and in a Very High Fire Hazard Severity Zone (VHFHSZ), impacts related to emergency response and evacuation that would expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, and expose people or structures to significant risks due to the terrain and slope in the Berkeley hills would be significant and unavoidable even with adherence to existing regulations and fire safety provisions in the BMC, including the Fire Code. The Housing Element EIR also prescribed Mitigation Measure W-1, which requires new or upgraded power drops located in the VHFHSZ to be installed underground if additional maintenance or construction of such infrastructure would occur at the Opportunity Sites within Residential zoning districts R, R-2, and R-2a, which are located near an SRA and in a VHFHSZ.

4.19.2 Project Impacts

The project site is on an infill site surrounded by development in an urban area of Berkeley. The site is not within a VHFHSZ or an SRA for fire service[84] and, as described in Section 4.9, Hazards and

[84] California Department of Forestry and Fire Protection (CAL FIRE). 2023. Fire Hazard Severity Zones in State Responsibility Area. September 29. Effective April 1, 2024. Website: https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=988d431a42b242b29d89597ab693d008 (accessed June 21, 2024).

Hazardous Materials, would not impair the implementation of, or physically interfere with, an adopted emergency response plan. The proposed project would not exacerbate wildfire risks and therefore would not expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. In addition, the proposed project would not require the installation or maintenance of associated infrastructure and would not expose people or structures to significant risks as a result of post-fire slope instability or drainage and runoff changes. As such, no impact either individually or cumulatively related to wildfire would occur. In addition, because the proposed project is not located within the R, R-2, and R-2a zoning districts, located near an SRA, and is not within a VHFHSZ, Housing Element EIR Mitigation Measure W-1 would not be applicable to the proposed project.

4.19.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to wildfire. Impacts related to wildfire would remain significant and unavoidable, as identified in the Housing Element EIR. Because the proposed project would result in no impacts related to wildfire, the proposed project would not contribute to, exacerbate, or increase the significant unavoidable impacts identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

5.0 CEQA GUIDELINES SECTION 15183 ANALYSIS

5.1 CEQA GUIDELINES SECTION 15183 (PROJECTS CONSISTENT WITH A COMMUNITY PLAN, GENERAL PLAN, OR ZONING)

The discussion in this section confirms that the proposed project has been evaluated for significant impacts pursuant to the California Environmental Quality Act (CEQA) and no new information of substantial importance meeting the criteria listed in *State CEQA Guidelines* Section 15183 has been identified. Under *State CEQA Guidelines* Section 15183, the determination is that the proposed project's impacts have been considered in the 2023-2031 Housing Element Update Draft Environmental Impact Report (Housing Element EIR) that was reviewed and certified by the City of Berkeley (City), and that the Housing Element EIR provides a sufficient and adequate analysis of the environmental impacts of the proposed project.

A. The project would be consistent with the land uses, densities, and other zoning and development standards set forth in the Housing Element EIR.

The City's General Plan designates the project site as Neighborhood Commercial and is located within three zoning districts. Approximately 19,788 square feet of the project site is in the North Shattuck Commercial (C-NS) zone, approximately 1,970 square feet is in the Multiple-Family Residential (R-4) zone, and approximately 584 square feet is in the Restricted Multiple-Family Residential (R-2A) zone. The project site has also been identified as an Opportunity Site for residential development in the City's Housing Element.

As discussed in Section 4.11, Land Use and Planning, the proposed project would be consistent with applicable General Plan policies and the Neighborhood Commercial General Plan land use designation for the project site, and would be consistent with the purposes of the C-NS, R-4, and R-2A zoning districts. In addition, the proposed project would be consistent with the development standards of these zoning districts with approval of various Administrative Use and Use Permits pursuant to the Berkeley Municipal Code (BMC), which would be considered by the City's Zoning Adjustments Board. These permits would allow an increase in building height, lot coverage, and building footprint, as well as setback waivers in order to accommodate the density bonus units.

Although the proposed project would develop the project site with a greater residential density than detailed in the C-NS, R-4, and R-2A zoning districts, the proposed project would be consistent with the criteria of the State Density Bonus Law by providing nine affordable to very low-income units (15 percent) and nine affordable to moderate income units (15 percent) as defined by Section 50105 of the Health and Safety Code. As such, pursuant to the State Density Bonus Law, the proposed project would be consistent with the land uses, densities, and other zoning and development standards for the project site.

The Housing Element EIR analyzed impacts at a programmatic level and does not consist of specific projects. The overall use and intent of the proposed project would be consistent with the vision and intent of the Housing Element, which was evaluated in the Housing Element EIR. The proposed project would not require major revisions to the Housing Element EIR, and the

proposed project would not result in any new impacts that would require additional mitigation measures beyond those required in the Housing Element EIR.

B. There are no peculiar impacts associated with the project or the project site.

Pursuant to *State CEQA Guidelines* Section 15183(b)(1), this section presents a summary of the examination included in Section 4.0, demonstrating that the project would not result in environmental effects that are peculiar to the project or the project site. If no additional mitigation measures are required to reduce project-specific impacts to a less than significant level other than those required in the prior EIR, then a *State CEQA Guidelines* Section 15183 exemption applies.

Construction and operational impacts of the proposed project would be the same as or similar to those impacts identified in the Housing Element EIR for all resource topics discussed in Section 4.0. For resource topics with significant and unavoidable impact conclusions in the Housing Element EIR (e.g., historical resources, noise, and wildfire), the proposed project would result in reduced impact conclusions. The proposed project would be required to implement mitigation measures from the Housing Element EIR including Mitigation Measures AIR-3, CUL-2, and GEO-1.

The proposed project would not result in any new impacts that would require additional mitigation measures beyond those required by the Housing Element EIR. Therefore, the proposed project would not change the conclusions of the Housing Element EIR, and there would be no impacts peculiar to the project or the project site.

C. The proposed project would not result in any environmental effects that were not in a prior EIR.

Pursuant to *State CEQA Guidelines* Section 15183(b)(2), this section presents a summary of the examination included in Section 4.0, demonstrating that the proposed project would not result in any environmental effects that were not analyzed as significant effects in the Housing Element EIR.

The Housing Element EIR determined that growth and development under the Housing Element would result in either no impact, less than significant impacts, or impacts that could be reduced to less than significant with implementation of prescribed mitigation for all issue areas except for impacts related to historical resources, construction noise, and wildfire. As discussed in Section 4.0, the proposed project would not contribute any different or more severe impacts related to any of these issue areas than those identified in the Housing Element EIR.

D. The proposed project would not result in any new environmental effects due to potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR.

Pursuant to *State CEQA Guidelines* Section 15183(b)(3), this section presents a summary of the examination included in Section 4.0, demonstrating that the project would not result in any environmental effects that are potentially significant off-site impacts and cumulative impacts that were not discussed in the Housing Element EIR.

The proposed project would not increase significant off-site or cumulative impacts. The proposed project would not contribute significantly to public utility demand, traffic, air quality, greenhouse gas (GHG) emissions, given that the appropriate mitigation measures discussed in the Housing Element EIR and outlined in Section 7.0 would be implemented during construction and operation of the proposed project. In addition, as identified in Section 4.0, the proposed project would not contribute any more severe impacts for any environmental resource category than those analyzed in the Housing Element EIR.

E. The proposed project would not result in any new environmental effects as a result of substantial new information which was not known at the time the Housing Element EIR was certified, which would result in more severe adverse impacts than discussed in the Housing Element EIR.

Pursuant to *State CEQA Guidelines* Section 15183(b)(4), this section demonstrates that the proposed project would not result in any new environmental effects as a result of substantial new information that was not known at the time the Housing Element EIR was certified.

The Housing Element EIR was certified on January 18, 2025. Updated planning documents, including ordinances, that were adopted by the City after Housing Element EIR certification do not provide substantial new information that was not known at the time the EIR was certified. Additionally, the proposed project would comply with all updated regulations, such as building codes, zoning amendments, and any other updates to the zoning code, as required by the City. Since no substantial new information not known at the time of the Housing Element EIR is available, no updated analyses or other studies are required for the proposed project.

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6.0 CEQA GUIDELINES SECTION 15162 ANALYSIS

6.1 CEQA GUIDELINES SECTION 15162 (SUBSEQUENT OR SUPPLEMENTAL EIR)

The discussion in this section confirms that the proposed project has been evaluated for significant impacts pursuant to the California Environmental Quality Act (CEQA) and no new information of substantial importance meeting the criteria listed in *State CEQA Guidelines* Section 15162 has been identified. Under *State CEQA Guidelines* Section 15162, the determination is that the proposed project's impacts have been considered in the 2023-2031 Housing Element Update Final Environmental Impact Report (Housing Element EIR) that was reviewed and certified by the City of Berkeley (City), and that the Housing Element EIR provides a sufficient and adequate analysis of the environmental impacts of the proposed project.

A. "Substantial Changes in the Project" Standard

Pursuant to *State CEQA Guidelines* Section 15162(a)(1), this section presents a discussion of whether the proposed project constitutes a substantial change in the project analyzed in the Housing Element EIR that would require major revisions to the Housing Element EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

As discussed in Section 4.11, Land Use and Planning, the proposed project would be consistent with applicable General Plan policies and the General Plan land use designation for the project site, and would be consistent with the purposes of the project site's zoning districts. In addition, the proposed project would be consistent with the development standards of those zoning districts with approval of various Administrative Use and Use Permits pursuant to the Berkeley Municipal Code (BMC), which would be considered by the City's Zoning Adjustments Board. These permits would allow an increase in building height, lot coverage, and building footprint, as well as setback waivers in order to accommodate the density bonus units. Although the proposed project would develop the project site with a greater residential density than detailed in the C-NS, R-4, and R-2A zoning districts, the proposed project would be consistent with the criteria of the State Density Bonus Law by providing 11 affordable to very low-income units (15 percent) and nine affordable to moderate income units (15 percent), as defined by Section 50105 of the Health and Safety Code. As such, pursuant to the State Density Bonus Law, the proposed project would be consistent with the land uses, densities, and other zoning and development standards for the project site.

The Housing Element EIR analyzed impacts at a programmatic level and does not consist of specific projects. The overall use and intent of the proposed project would be consistent with the vision and intent of the Housing Element, which was evaluated in the Housing Element EIR. The proposed project would not require major revisions to the Housing Element EIR, and the proposed project would not result in any new impacts that would require additional mitigation measures beyond those required in the Housing Element EIR.

B. "Substantial Changes in the Circumstances" Standard

Pursuant to *State CEQA Guidelines* Section 15162(a)(2), this section presents a discussion of whether changes to the project site or the vicinity (environmental setting) have occurred after certification of the Housing Element EIR that would result in new significant impacts or a substantial increase in the severity of a previously identified significant impact that were not evaluated and mitigated by the Housing Element EIR.

As shown on Figure 3-2, the project site is located in an urbanized area of the city and is generally surrounded by existing development, including single- and multi-family residential and commercial uses. This area of the city is substantially developed, and has been in this developed state since preparation of the Housing Element EIR in 2023. As such, no changes to the project site or the vicinity (environmental setting) have occurred since certification of the Housing Element EIR that would result in new significant impacts or a substantial increase in the severity of a previously identified significant impact that were not evaluated and mitigated by the Housing Element EIR. In addition, the project site was identified as an Opportunity Site in the City's Housing Element, which indicates that the City assumes the project site would be developed with residential uses.

In addition, one of the requirements of CEQA is the examination of whether a proposed project would conflict with existing plans and regulations, including the General Plan, zoning regulations, and other planning documents. Inconsistencies may suggest that a project would have environmental effects that have not been identified in advance and for which planning or analysis has not occurred. As discussed above, the proposed project would be consistent with the City's General Plan and zoning designations for the site pursuant to the State Density Bonus Law. No amendments to the General Plan or zoning designations would be required.

Based on the above, no substantial change in circumstances at the project site or in the surrounding area has occurred that would result in new significant impacts or substantially more severe impacts from what has been anticipated for the project site in the Housing Element EIR.

C. "New Information of Substantial Importance" Standard

Pursuant to *State CEQA Guidelines* Section 15162(a)(3), this section includes a discussion of whether there is new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Housing Element EIR was certified. New information of substantial importance includes: (1) one or more significant effects not discussed in the Housing Element EIR; (2) significant effects previously examined that are substantially more severe than shown in the Housing Element EIR; (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (4) mitigation measures or alternatives that are considerably different from those analyzed in the Housing Element EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The Housing Element EIR was certified on January 18, 2025. Updated planning documents, including ordinances, that were adopted by the City after Housing Element EIR certification do not provide substantial new information that was not known at the time the EIR was certified. Additionally, the proposed project would comply with all updated regulations, such as building codes, zoning amendments, and any other updates to the zoning code, as required by the City. Since no substantial new information not known at the time of the Housing Element EIR is available, no updated analyses or other studies are required for the proposed project.

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7.0 APPLICABLE HOUSING ELEMENT EIR MITIGATION MEASURES AND REGULATORY COMPLIANCE MEASURES

Applicable 2023-2031 Housing Element Update Final Environmental Impact Report (Housing Element EIR) mitigation measures and City conditions of approvals are identified in Tables 7.A and 7.B, respectively.

Table 7.A: Applicable Housing Element EIR Mitigation Measures

Housing Element Mitigation Measure	Timing for Mitigation Measure	Responsible Party / Approving Agency
Air Quality		
AQ-3: TAC Exposure Reduction Building Measures. The following design features shall be incorporated for residential development located within 1,000 feet of I-580/80 or on a lot that fronts on a section of roadway with 10,000 vehicles per day or more in order to reduce exposure of proposed residences to TACs from vehicles and stationary combustion engines (i.e., generators): 1. If the proposed buildings would use operable windows or other sources of infiltration of ambient air, the development shall install a central HVAC system that includes high efficiency particulate filters (HEPA). These types of filters are capable of removing approximately 99.97 percent of the DPM emissions from air introduced into the HVAC system (U.S. EPA 2022). The system may also include a carbon filter to remove other chemical matter. Filtration systems must operate to maintain positive pressure within the building interior to prevent entrainment of outdoor air indoors. 2. If the development limits infiltration through non-operable windows, a suitable ventilation system shall include a ventilation system with filtration specifications equivalent to or better than the following: (1) American Society of Heating, Refrigerating and Air- Conditioning Engineers MERV-13 supply air filters, (2) greater than or equal to one air exchanges per hour of fresh outside filtered air, (3) greater than or equal to four air exchanges per hour recirculation, and (4) less than or equal to 0.25 air exchanges per hour in unfiltered infiltration. These types of filtration methods are capable of removing approximately 90 percent of the DPM emissions from air introduced into the HVAC system. 3. Windows and doors shall be fully weatherproofed with caulking and weather-stripping that is rated to last at least 20 years. Weatherproof should be maintained and replaced by the property owner, as necessary, to ensure functionality for the lifetime of the project. 4. Where appropriate, install passive (drop-in) electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph). 5. Prepare an ongoing maintenance plan for the HVAC and filtration systems, consistent with manufacturers' recommendations. The applicant shall inform occupants regarding the proper use of any installed air filtration system replaced by the property owner, as necessary, to ensure functionality for the lifetime of the project.	Prior to the issuance of any building permit.	Applicant / City of Berkeley Planning and Development Department

Table 7.A: Applicable Housing Element EIR Mitigation Measures

Housing Element Mitigation Measure	Timing for Mitigation Measure	Responsible Party / Approving Agency
Cultural Resources		
CUL-2 Historical Resources Discretionary Review. For projects that are subject to discretionary review that occur during the Housing Element period where a historical-age building or structure that has not been previously evaluated is present, a historical resources assessment shall be performed by an architectural historian or historian who meets the Secretary of the Interior Professional Qualification Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall conduct an intensive-level survey in accordance with the California Office of Historic Preservation guidelines to determine if the property qualifies for federal, state, or local historical resources designation. All age eligible properties shall be evaluated within their historic context and documented in a technical memorandum with Department of Parks and Recreation Series 523 Forms. Should a property be found to be a qualifying historical resource, the project shall be subject to the City's regulations for permit review, including by the Preservation Landmarks Commission pursuant to Chapter 3.24.260, and/or by the Zoning Adjustments Board pursuant to Chapter 23.326 of the City of Berkeley Municipal Code. Efforts shall be made to the extent feasible to ensure that impacts are mitigated. Application of mitigation shall generally be overseen by a qualified architectural historian or historic architect meeting the PQS, unless unnecessary in the circumstances (e.g., preservation in place). In conjunction with a development application that may affect the historical resource, the historical resources built environment assessment shall also identify and specify the treatment of character-defining features and construction activities. Efforts shall be made to the greatest extent feasible to ensure that the relocation, rehabilitation, or alteration of the resource is consistent with the Secretary of the Interior's Standards for the Treatments of Historic Properties (Standards). In accordance with CEQA, a project that has been determined to conform with the Standards generally would not cause a significant adverse direct or indirect impact to historical resources (14 CCR § 15126.4(b)(1)). Application of the Standards shall be overseen by a qualified architectural historian or historic architect meeting the PQS. In conjunction with any development application that may affect the historical resource, a report identifying and specifying the treatment of character-defining features and construction activities shall be provided to the City for review and concurrence. As applicable, the report shall demonstrate how the project complies with the Standards and be submitted to the City for review and approval prior to the issuance of permits. If significant historical resources are identified on a development site and compliance with the Standards and or avoidance is not possible, appropriate site-specific mitigation measures shall be established and undertaken. These may include documentation of the resource in a manner consistent with the standards of the Historic American Building Survey (HABS). Documentation should include full descriptive and historical narrative, measured drawings, and medium format photographs, all in archivally stable format.	Prior to the issuance of any building permit.	Qualified Architectural Historian / City of Berkeley Planning and Development Department

Table 7.A: Applicable Housing Element EIR Mitigation Measures

Housing Element Mitigation Measure	Timing for Mitigation Measure	Responsible Party / Approving Agency
Geology and Soils		
GEO-1 Protection of Paleontological Resources. If ground disturbance below the level of prior disturbance and into native soils is proposed to occur in areas mapped as Pleistocene alluvial fan and fluvial deposits (Qpaf), Orinda Formation (Tor), or Knoxville Formation (Kjk), then the City shall require the following to be implemented: **Retention of Qualified Professional Paleontologist.** Prior to initial ground disturbance, the project applicant shall retain a Qualified Professional Paleontologist, as defined by Society of Vertebrate Paleontology (SVP) (2010), to determine the project's potential to significantly impact paleontological resources according to SVP (2010) standards. If underlying formations are found to have a high potential for paleontological resources, the Qualified Professional Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements: If underlying formations are found to have a high potential for paleontological resources, the Qualified Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements: **Paleontological Worker Environmental Awareness Program (WEAP).** Prior to the start of construction, the Qualified Professional Paleontologist or their designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and procedures for notifying paleontological staff should fossils be discovered by construction staff. **Paleontological Monitoring.** Full-time paleontological monitoring shall be conducted during ground disturbing construction activities (i.e., grading, trenching, foundation work) in sediments assigned a high paleontological sensitivity. Paleontological monitoring shall be conducted by a qualified Paleontological Resources Monitor, as defined by the SVP (2010). The duration and timing of the monitoring will be determined by the Qualified Professional Paleontologist based on the observation of the geologic setting from initial ground disturbance, and subject to the review and approval by the City. If the Qualified Professional Paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions once the full depth of excavations has been reached, they may	Prior to the issuance of any building permit.	Qualified Paleontologist / City of Berkeley Planning and Development Department

Source: Housing Element (2023)

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
Aesthetics	**Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
Air Quality	**Public Works – Implement Air District-Recommended Measures During Construction**. For all proposed projects, Air District recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust: • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off site shall be covered. • All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
	Air Quality – Diesel Particulate Matter Controls During Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures: a. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from Air District and Office of Environmental Health Hazard Assessment (OEHHA). The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or b. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following: • An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	● A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
Biological Resources	**Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
Cultural Resources	**Archeological Resources.** (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archeological resources accidentally discovered during construction" should be instituted. Therefore: A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archeologist, historian or paleontologist to assess the significance of the find. B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards. C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations. D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project site while mitigation measures for cultural resources is carried out. E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
	Human Remains. (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt, and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
Geology and Soils	**Paleontological Resources.** (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
Greenhouse Gas Emissions	**Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
	Low-Carbon Concrete. The project shall verify compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent.
Hazards and Hazardous Materials	**Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal: A. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com) B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD. C. Environmental Site Clearance. The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits. D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit. The SGMP shall comply with the hazardous materials and waste management standards

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following: i. procedures for soil and groundwater management including identification of pollutants and disposal methods; ii. procedures to manage odors, dust and other potential nuisance conditions expected during development; iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints. TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval. E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit. i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals. ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.) iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq. iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division. F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc. Additionally, the business occupant must submit an HMBP within 30 days of starting operations. G. Petroleum Storage. A Spill Prevention, Control, and Countermeasure (SPCC) Plan is required

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	to be prepared and implemented for facilities with any one of the following: i. Aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or ii. One or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/ The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: http://cers.calepa.ca.gov/. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.
Hydrology and Water Quality	**Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions. B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD. C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans. D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit. E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants. F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept. G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City. H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	sanitary district with jurisdiction for receiving the discharge. I. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup. J. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge. K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge. L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
	Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
	Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
	Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
	Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
Noise	**Construction Noise Reduction Program**.The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical: ● Construction equipment should be well maintained and used judiciously to be as quiet as practical. ● Equip all internal combustion engine-driven equipment with mufflers, which are in good

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	condition and appropriate for the equipment. ● Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible. ● Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible. ● Prohibit unnecessary idling of internal combustion engines. ● If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile. ● Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise. ● Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected. ● Route construction related traffic along major roadways and away from sensitive receptors where feasible.
	Construction Noise Management – Public Notice Required.At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the Project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the Project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
	Construction Phases.The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an onsite meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
	Construction Hours.Construction activity shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and 4:00 p.m. on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
	Construction Hours – Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the Project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The Project shall not be allowed more than 15 extended working days.
	Project Construction Website.The applicant shall establish a Project construction website with the following information clearly accessible and updated monthly or more frequently as changes

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	warrant: ● Contact information (i.e., "hotline" phone number, and email address) for the Project construction manager ● Calendar and schedule of daily/weekly/monthly construction activities ● The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
	Damage Due to Construction Vibration.The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the Project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the Project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall: ● Establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and ● Include written descriptions and photographs.
Tribal Cultural Resources	**COA: Archeological Resources** and **COA: Human Remains**.
	Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
Utilities and Service Systems	**Water Efficient Landscaping** *(prior to the issuance of any building [construction] permit)*. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate for Berkeley is 41.8
	Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.

Source: Compiled by LSA (2025).
COA = conditions of approval

8.0 REPORT PREPARERS

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Attachment 4

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL

ZAB APPEAL: 2109 VIRGINIA STREET, USE PERMIT ZP2024-0066

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **WEDNESDAY, JANUARY 27, 2026** at **6:00 P.M.** a public hearing will be conducted to consider an appeal against a decision by the Zoning Adjustment Board to approve **Zoning Permit #ZP2024-0066 to demolish a two-story, 4,604-square-foot non-residential building and surface parking lot, and construct an eight-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential building containing 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income Density Bonus qualifying units), 690 square feet of ground-floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.**

The hearing will be held on January 27, 2026 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Singeh Saliki, Senior Planner at (510) 981-7412

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of January 15, 2026. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

_____

Mark Numainville, City Clerk

Mailed by: January 13, 2026
Noticed Pursuant To: Noticed Pursuant to: Berkeley Municipal Code Section 23.404.040(B), Public Hearing Notice

Attachment 4

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny(Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.



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

ouncilmember
istrict 8
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fberkeley.info
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ACTION CALENDAR
~~June 17, 2025~~January 27, 2026

To: Honorable Mayor and City Councilmembers

From: Councilmember Mark Humbert (Author) and Councilmember Shoshana O'Keefe (Co-sponsor)

Subject: Rescission and replacement of the Police Equipment and Community Safety Ordinance

RECOMMENDATION

~~Adopt Ordinance No. xxxx-N.S. which r~~Rescind and replace Ordinance 7760-N.S. ~~and A adopt a resolution to rescind~~ the Police Equipment and Community Safety Ordinance (~~Ord. 7760-NS,~~ enacted May 11, 2021) because the State-level reporting requirements mandated by ~~California AB 481~~Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code (hereafter referred to as Chapter 12.8) already provide a comprehensive and sufficient framework for police equipment oversight.

This item would bring Berkeley's local reporting requirements into alignment with those of ~~AB 481~~ Chapter 12.8 and allow for one consolidated report, beginning with the 2025 report ~~due in March 2026~~. The item would also maintain additional targeted reporting requirements for equipment deployment and ongoing use of force reporting under Policy 300.

POLICY COMMITTEE RECOMMENDATION

On July 21, 2025, the Public Safety Committee adopted the following action: M/S/C (Kesarwani/Blackaby) to send the item with a qualified positive recommendation to Council, recognizing the intention for one report, with the following matters noted for further consideration:

- Clarifying the role of public reporting of data through the Transparency Hub.
- Continued consideration of less-lethal deployment policies, including a possible review of Policy 300.
- Consideration of reporting on the acquisition and use of controlled equipment, aligning with AB 481 and allowing for review by the Police Accountability Board.

Vote: All Ayes.

CURRENT SITUATION AND ITS EFFECTS

The City currently operates under a local ordinance that imposes specific reporting and oversight requirements on police equipment. Five months aAfter the enactment of this ordinance, new state law under California AB 481 Chapter 12.8 establishesd a uniform reporting framework that fully meets the oversight objectives originally intended by the local ordinance. This overlap has led to duplicative reporting that unnecessarily burdens City staff, reduces officer availability, and complicates administration.

BACKGROUND

The Police Equipment and Community Safety Ordinance, adopted on May 11, 2021, aimed to strengthen local oversight, transparency, and accountability in the use of police equipment. However, soon after its adoption, the state enacted AB 481 Law enforcement and state agencies: military equipment: funding, acquisition, and use (Chiu, 2021), which established a standardized statewide reporting framework for police equipment across the state within Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code. Under Chapter 12.8, BPD must annually report:

1. A summary of how military equipment was used and for what purpose;
2. Any complaints or concerns received about such equipment;
3. Results of internal audits, any violations of the equipment use policy, and corrective actions taken;
4. Total annual costs for each equipment type, including acquisition, maintenance, and funding sources for the following year;
5. The quantity of each type of military equipment currently held; and
6. Any planned acquisitions and their quantities for the upcoming year.

While AB 481Chapter 12.8 excludes certain items such as batons and Oleoresin Capsicum (OC) spray, their use is already documented under BPD's Use of Force Policy and made public via the City's Transparency Hub, maintaining public accountability. As a result, the local ordinance has become redundant—duplicating state requirements, consuming staff resources, and complicating administrative processes without adding meaningful oversight.

PROPOSED CHANGES AND REASONING

It is proposed that the Police Equipment and Community Safety Ordinance be rescinded and replaced in favor of adhering solely to the State-mandated reporting requirements established by AB 481Chapter 12.8. Eliminating the local ordinance will streamline reporting and remove redundant administrative requirements. This change will allow City staff to focus on higher-priority operational matters while maintaining robust oversight and transparency. The State law already incorporates the necessary reporting elements and even extends its scope to include additional equipment categories not specifically covered under the local ordinance, making the

local requirements duplicative and unnecessary. In essence, the proposed rescission reflects a practical alignment with State law, ensuring that local practices do not impose additional burdens where a comprehensive framework already exists.

The replacement ordinance would continue to require local reporting of specific instances of deployment and/or use of military equipment, but with more targeted definitions and requirements.

RATIONALE FOR RECOMMENDATION

The recommendation to rescind the Police Equipment and Community Safety Ordinance is based on the recognition that ~~California AB 481~~Chapter 12.8 provides an adequate, statewide reporting framework that meets the intended goals of transparency and accountability. Maintaining both the local ordinance and the state law creates redundancy that diverts valuable City resources from more pressing priorities. Aligning with the State-mandated reporting not only simplifies administrative procedures but also ensures consistency across jurisdictions. This approach supports effective governance by reducing unnecessary duplication, enhancing operational efficiency, and reinforcing the City's commitment to progressive policy that is both practical and fiscally responsible. Relying on the State-mandated reporting ensures that BPD collects and publishes data that will allow them to compare their work with other agencies, support transparency and balance oversight with fiscal responsibility, administrative burden and best allocation of limited personnel resources. The City will continue to make information about police equipment and use of force publicly available, ensuring that rescinding the ordinance does not reduce public transparency or oversight.

FISCAL IMPACTS

No significant additional expenditures are anticipated as a result of these revisions. The changes are expected to generate significant administrative efficiencies and may yield cost savings that can be redirected to other operational public safety needs.

CONTACT INFORMATION

Councilmember Mark Humbert
mhumbert@berkeleyca.gov

ATTACHMENTS

~~1. Resolution~~

~~2~~1. Ordinance

RESOLUTION NO. ##,###N.S.

Resolution Rescinding the Police Equipment and Community Safety Ordinance

WHEREAS, on May 11, 2021, the City Council adopted the Police Equipment and Community Safety Ordinance (Ord. 7760-NS) to enhance local oversight, transparency, and accountability in the management of police equipment; and

WHEREAS, on October 1, 2021, California AB 481 was enacted, establishing a comprehensive statewide reporting framework for police equipment that fully satisfies the oversight objectives originally intended by the local ordinance; and

WHEREAS, maintaining both the local ordinance and the State-mandated reporting requirements results in duplicative reporting efforts that unnecessarily burden City staff and complicate administrative processes; and

WHEREAS, rescinding the Police Equipment and Community Safety Ordinance will streamline reporting processes, eliminate redundant administrative tasks, and allow City staff to focus on higher-priority operational matters while maintaining robust oversight and transparency; and

WHEREAS, the reporting framework mandated by AB 481 incorporates all necessary oversight elements and extends coverage to additional equipment categories not specifically addressed in the local ordinance, thereby rendering the local requirements superfluous; and

WHEREAS, rescinding the local ordinance in favor of the State-mandated reporting framework supports effective governance, enhances operational efficiency, and reinforces the City's commitment to progressive and fiscally responsible policy;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that:

1. The Police Equipment and Community Safety Ordinance (Ord. 7760-NS, enacted May 11, 2021) is hereby rescinded in its entirety and replaced by Ordinance NO. X,XXX-N.S. 2026, below.
2. The Police Equipment and Community Safety Ordinance (Ord. 7760-NS, enacted May 11, 2021) is hereby rescinded in its entirety.
3. The City shall adhere solely to the reporting requirements mandated by California AB 481 for police equipment oversight.

~~ORDINANCE NO. X,XXX-N.S.~~

~~RESCINDING ORDINANCE 7760-N.S. POLICE EQUIPMENT AND COMMUNITY SAFETY ORDINANCE~~

~~BE IT ORDAINED by the Council of the City of Berkeley as follows:~~

~~Section 1. Findings and Purpose~~

~~A. On May 11, 2021, the City Council adopted Ordinance No. 7760-NS, the Police Equipment and Community Safety Ordinance, to enhance local oversight, transparency, and accountability in the management of police equipment.~~

~~B. On October 1, 2021, the State of California enacted Assembly Bill 481 (AB 481), establishing a comprehensive statewide framework for police equipment reporting and oversight.~~

~~C. The State-mandated requirements of AB 481 satisfies the objectives originally intended by the City's local ordinance, while also extending oversight to additional categories of equipment not addressed by Ordinance No. 7760-NS.~~

~~D. The continued implementation of both the local ordinance and the State-mandated reporting requirements has resulted in duplicative administrative burdens and inefficiencies for City staff.~~

~~E. Rescinding Ordinance No. 7760-NS will streamline the City's reporting processes, eliminate redundant tasks, and enable staff to focus on higher-priority operational responsibilities, while maintaining robust public transparency and accountability under State law.~~

~~F. The City Council finds that rescission of Ordinance No. 7760-NS is consistent with the City's goals of effective governance, operational efficiency, and fiscally responsible policymaking.~~

~~Section 2. Rescission~~

~~Ordinance No. 7760-NS, known as the Police Equipment and Community Safety Ordinance, is hereby rescinded in its entirety.~~

~~Section 3. Compliance with State Law~~

~~The City of Berkeley shall comply with all applicable provisions of California Assembly Bill 481 and any subsequent amendments thereto governing the acquisition, funding, use, and reporting of police equipment.~~

~~Section 4. Effective Date~~

~~This amendment shall become effective 30 days after adoption of this ordinance.~~

~~Section 5. Posting, Filing, and Publication Requirements~~

Rescission and replacement of the Police Equipment and Community Safety Ordinance CONSENT ACTION CALENDAR: June 17 26, 2025 January 27, 2026

~~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.~~

~~ORDINANCE NO. X,XXX-N.S.~~

RESCINDING AND REPLACING ORDINANCE 7760-N.S. POLICE EQUIPMENT AND COMMUNITY SAFETY ORDINANCE WITH THE POLICE EQUIPMENT ORDINANCE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. Findings

A. On May 11, 2021, the City Council adopted Ordinance No. 7760-NS, the Police Equipment and Community Safety Ordinance, to enhance local oversight, transparency, and accountability in the management of police equipment.

B. On October 1, 2021, the State of California enacted Assembly Bill 481 ~~(AB 481)~~, establishing a comprehensive statewide framework for police equipment reporting and oversight, codified in Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code (hereafter referred to as Chapter 12.8).

C. The State-mandated requirements of ~~AB 481~~Chapter 12.8 satisfy the objectives originally intended by the City's local ordinance, while also extending oversight to additional categories of equipment not addressed by Ordinance No. 7760-NS.

D. The continued implementation of both the local ordinance and the State-mandated reporting requirements has resulted in duplicative administrative burdens and inefficiencies for City staff.

E. Rescinding Ordinance No. 7760-NS will streamline the City's reporting processes, eliminate redundant tasks, and enable staff to focus on higher-priority operational responsibilities, while maintaining robust public transparency and accountability under State law.

F. The City Council finds that rescission and replacement of Ordinance No. 7760-NS is consistent with the City's goals of effective governance, operational efficiency, and fiscally responsible policymaking.

Section 2. Rescission

Ordinance No. 7760-NS, known as the Police Equipment and Community Safety Ordinance, is hereby rescinded. ~~in its entirety and replaced by Ordinance No. X,XXX-N.S. Police Equipment Ordinance~~

Section 3. Compliance with State Law
The City of Berkeley shall comply with all applicable provisions of ~~California Assembly Bill 481~~ Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code and any subsequent amendments thereto governing the acquisition, funding, use, and reporting of police equipment.

~~Section 4. Effective Date~~
~~This amendmentordinance shall be effective immediately upon adoption and its provisions shall apply to the 2025 report due in March 2026 and to all subsequent reports.~~

~~Section 5. Posting, Filing, and Publication Requirements~~
~~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.~~

~~Chapter 2.100 POLICE EQUIPMENT AND COMMUNITY SAFETY ORDINANCE of the Berkeley Municipal Code is repealed and replaced in its entirety with the following revised ordinance~~

Section 4. **Chapter 2.100 POLICE EQUIPMENT ORDINANCE**

2.100.010 Name of Ordinance
(A)This Ordinance shall be known as the Police Equipment Ordinance. ~~(Ord. XXXX-NS § X, 2026)~~

2.100.020 Purposes of Ordinance

(A) The purposes of this ordinance are to:
(1) Restate requirements for the Berkeley Police Department (BPD) to produce policies and reports regarding the acquisition, funding, deployment, and use of covered Military Equipment.
(2) Ensure ongoing consistency between local and State requirements with respect to Military Equipment policies, acquisition, funding, and reporting.
(3) Avoid duplication of reporting and other effort by the Berkeley Police Department and the Police Accountability Board (PAB).
(4) Ensure that local requirements remain in place in the event State-level requirements established by ~~Assembly Bill 481 Law enforcement and state agencies: military equipment: funding, acquisition, and use (Chiu, 2021) ("AB 481" hereafter)~~Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code are rescinded or struck down.
(5) Specify how local requirements differ from State-level requirements.

(6) Clarify roles and timelines with respect to BPD provision of ~~AB 481~~Chapter 12.8 documents, the Police Accountability Board, the PAB's involvement in effectuating ~~AB 481~~Chapter 12.8.

2.100.030 Local consistency with California State standards

(A) All provisions of ~~AB 481~~Chapter 12.8 (Sections 7070 to 7075) of Division 7 of Title 1 of the California Government Code, including definitions, reporting requirements, policy requirements, review by elected officials, public meetings, and all other provisions, is hereby incorporated into the Berkeley Municipal Code by reference.

(1) In the event that ~~AB 481~~Chapter 12.8 and/or its requirements are amended/altered by the State Legislature or by a court whose jurisdiction covers Berkeley, those revisions shall also be incorporated by reference; this includes amendments made to the original statute or new statutes that may add to the requirements of ~~AB 481~~Chapter 12.8.

(B) The Berkeley Police Department shall be responsible for fulfilling the requirements and provisions of ~~AB 481~~Chapter 12.8.

(C) The policies and reports produced in compliance with ~~AB 481~~Chapter 12.8 (or requirements amended/established by successor legislation) by the Berkeley police department shall serve to meet these local reporting requirements.

(1) In no event shall this ordinance be interpreted to require BPD to produce multiple versions of the policies/reports required by ~~AB 481~~Chapter 12.8.

2.100.040 Additional City of Berkeley Standards

(A) Subsequent to the adoption of this ordinance, the Berkeley Police Department's Policy 300 (or any successor policy) shall maintain any necessary provisions governing the reporting of instances of Military Equipment Use and/or deployment.

2.100.050 Timelines and Police Accountability Board Role

(A) The Berkeley Police Department shall make all ~~AB 481~~Chapter 12.8 policy and reporting documents available to the public and the Police Accountability Board no less than 30 days prior to the Berkeley Council Meeting where they will be considered for acceptance.

(B) The Police Accountability Board may review and provide comments on ~~AB 481~~Chapter 12.8 policy and reporting documents.

(C) Police Accountability Board review is not required for the Berkeley City Council to accept and/or approve ~~AB 481~~Chapter 12.8 policy and reporting documents

(D) The Agenda and Rules Subcommittee of the Berkeley City Council may, at its discretion, provide additional time for the Police Accountability Board to complete its review of ~~AB 481~~Chapter 12.8 documents before agendizing City Council review of such documents.

2.100.060 Additional Reporting

(A) Police use of force (irrespective of whether it involved military equipment) shall continue to be reported in a manner consistent with Policy 300 (or a successor policy).
  (1) Any reporting on military equipment use shall include, at a minimum:
    (i) The type of military equipment used;
    (ii) The type and amount of munitions used (if applicable)
    (iii) Key outcomes from the military equipment use
  (2) "Less lethal" weapons which fall outside of the definitions in ~~AB 481~~Chapter 12.8 but are subject to reporting requirements established by Policy 300 must continue to be reported in a manner consistent with Policy 300 (or any successor policy).

(B) As part of its annual ~~AB 481~~Chapter 12.8 reporting, the Berkeley Police Department shall report the deployment of military equipment on a limited basis, consistent with the following definition of "reportable deployment" below:
  (1) *Reportable deployment* shall include instances where military equipment was pointed or aimed at an individual, group, or crowd in the context of a First amendment activity.
  (2) *Reportable deployment* shall include instances in the context of a First amendment activity where an individual present would have reasonably believed that use of the military equipment was not merely possible, but imminent.
  (3) *Reportable deployment* shall not include the transport of military equipment.
  (4) *Reportable deployment* shall not cover any instance outside the context of a First amendment activity (for example, apprehension of an individual for which a judicial arrest warrant has been issued).

Section 5. Effective Date
This ordinance shall be effective upon the second reading and shall apply to the 2025 report and to all subsequent reports.

Section 6. Posting, Filing, and Publication Requirements
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.

Cecilia Lunaparra
Councilmember Berkeley District 7

22

ACTION CALENDAR
January 27, 2025

To: Honorable Members of the City Council

From: Councilmember Lunaparra (Author)

Subject: Creating Accessible Routes For Riders, Equity, and the Environment (CAR FREE): Budget Referral to Fund Limiting Cars on Telegraph Avenue

RECOMMENDATION

Refer $1,325,000 to the Long Range Development Plan and Measure FF funding processes to study limiting car access and develop pedestrian-centered design concepts for Telegraph Avenue between Bancroft Way and Dwight Way.

CURRENT SITUATION AND ITS EFFECTS

In 2020, Berkeley adopted its Vision Zero plan, committing to eliminating all traffic-related major injuries and fatalities. Tragically, there have been three pedestrian fatalities on average per year since 2020.[1] District 7 has the highest concentration of injuries as a result of collisions, making it one of the most dangerous areas for traffic violence in Berkeley. In 2024, District 7 had 60 injury collisions within just .25 square miles, a density of 240 injuries per square mile, far exceeding every other district.

District	Total driveable area (mi)	Collision injuries 2024*	Injuries per sq. mi.
7	***0.25***	***60***	***240***
4	0.72	98	136
3	0.9	83	92
1	1.55	101	65
2	1.55	97	63
8	0.98	57	58
5	1.52	33	22
6	1.88	31	16

**BPD transparency hub data*

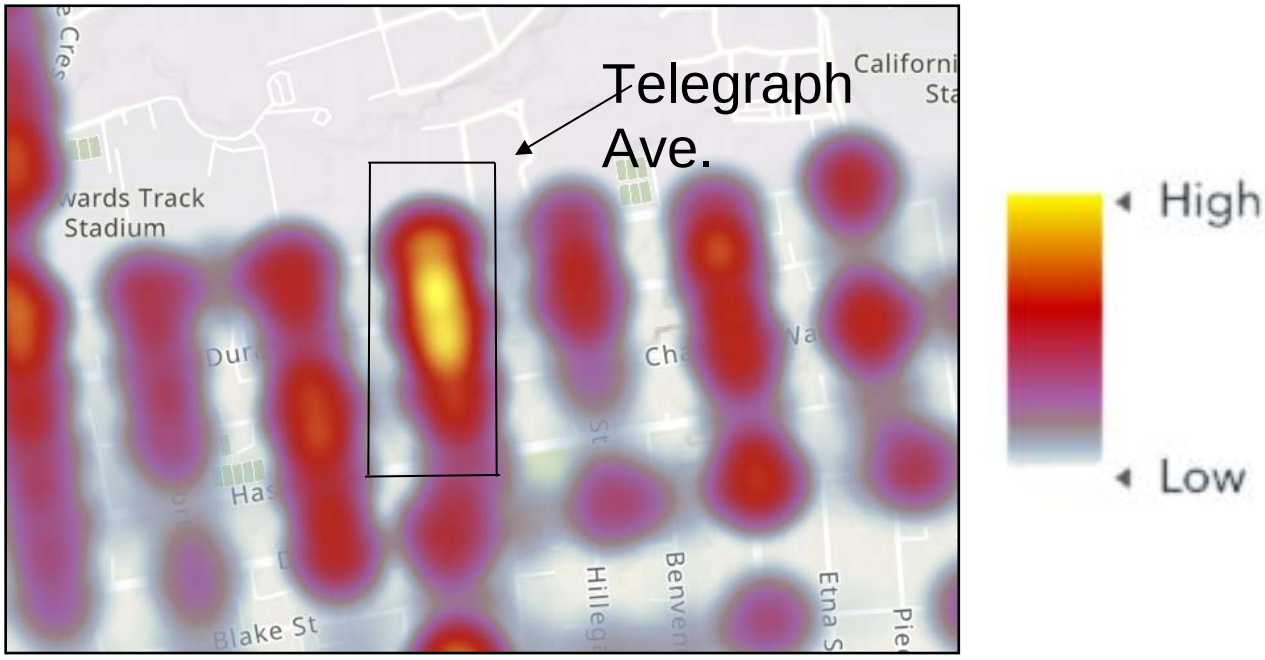
Although Districts 1, 2, 3, and 4 experienced higher absolute collision injury rates in 2024, the highest risk concentration is in District 7. It is the densest, most populous, and

[1] https://www.berkeleyside.org/2025/06/24/berkeley-street-safety-vision-zero-measure-ff#:~:text=The%20city's%20Vision%20Zero%20Action,safety%20improvements%20on%20Marin%20Avenue.

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smallest geographic district, with the highest rate of households without access to a car.[2] Additionally, there has been significant housing development in the Southside neighborhood over the last five years, with thousands of new beds planned over the next few years. It requires a coordinated response to meet the growing demand for safe streets. According to the Berkeley Police Department Transparency Hub, District 7's high rate of traffic-related injuries is a common trend year-over-year.

In 2025, the City completed the Southside Complete Streets project, installing extensive traffic safety infrastructure, including Class IV bike lanes, accessible curb ramps, bus-only lanes, updated traffic signals phased for safety, raised crosswalks, and curb extensions. However, Telegraph Avenue, the site of the majority of traffic-related injuries in Southside, was removed from the project as a car-free design posed funding constraints. Although Telegraph has undergone repeated planning efforts to improve traffic safety, including a call to make it car-free as early as the 1960s,[3] it remains the most dangerous street in District 7 for traffic violence; it is the only street in the district characterized as "High" on the historical collisions Heat Map on BPD's Transparency Hub.[4]



To keep the dream of a car-free corridor alive, former Councilmember Robinson submitted supplemental material to remove Telegraph from the Southside Complete Streets project and separately refer it to staff to study limiting car access. It passed unanimously. However, the referral was buried and inadvertently left off the Reweighted Range Voting (RRV)[5] list in 2023 and 2024.[6] In spring 2025, when the District 7 office

[2] The Southside has the lowest car ownership rate in the City of Berkeley; less than half of Southside households (48%) own cars compared to 81% of households in Berkeley. City of Berkeley draft 2011 Southside Plan https://berkeleyca.gov/sites/default/files/2022-03/Southside%20Plan.pdf.

[3] Attachment 1

[4] https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/traffic-safety

[5] RRV is Council's process for prioritizing staff referrals, https://berkeleyca.gov/sites/default/files/documents/RRV%20-%20March%2011%20PPT.pdf

[6] https://berkeleyca.gov/sites/default/files/documents/2023-04-25%20Special%20Item%2001%202023%20City%20Council%20Referral.pdf, https://berkeleyca.gov/sites/default/files/documents/2024-05-

inquired about the status of the referral, it was added to the list for a Council vote. Council subsequently ranked the referral highly, placing 6th out of 43 referrals and 4th among all public works referrals, demonstrating the Council's ongoing commitment to the project. This budget referral aims to identify and secure the necessary funding to ensure the 2022 staff referral is adequately funded.

District 7 is uniquely positioned to become a citywide model for pedestrian-, bicycle-, and transit-centered design. With the majority of residents living without cars, investments in a safer, people-centered public realm would directly benefit the most significant number of vulnerable road users in our city. Given the City's considerable investment in new street safety infrastructure through Measure FF and the concurrent safety upgrades in the area, this is a prime moment to request the long-overdue funding to move this project forward.

BACKGROUND

In 2022, local organizers — led by students — began developing a dream design for a car-free Telegraph.[7] This design comes as a result of years of community input, guided by five primary objectives:

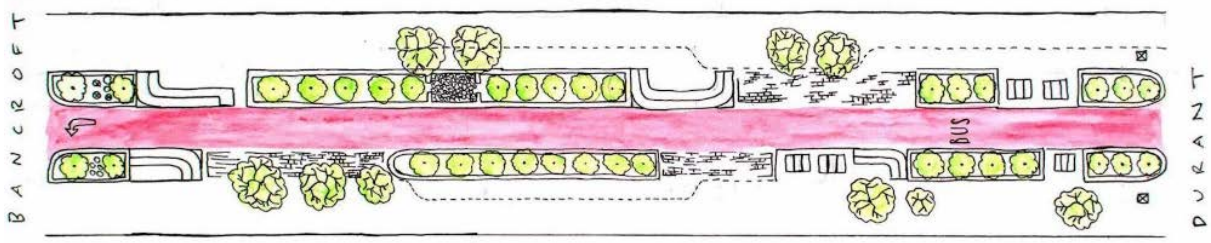
1. Ensure dignity and safety for pedestrians
2. Improve bus reliability and speeds
3. Provide small businesses with space to thrive
4. Make Telegraph a destination and strengthen its public realm
5. Save the climate and our lungs

With these tenets in mind, a diverse group of organizers came together to design a car-free Telegraph. The street design is intended to facilitate user behavior by widening sidewalks, narrowing the street to a single bus lane, and creating public space for gathering. The design features a bus lane to improve transit times and Southside bus service, bioswells for rainwater capture, streetscaping to discourage private vehicle use while providing access for pedestrians and cyclists, parklets with outdoor seating, dedicated loading zones for small businesses, and elevated bus stops to enhance safety, increase visibility, and retain sidewalk space. Feasibility, environmental, and traffic studies are required to begin the project's design phase. Still, these mockups reflect significant community feedback and input, as well as a schematic overview to guide staff. Our office requested that staff use these designs as a reference for calculating the project's cost. The following slides are examples of possible design features from the high-level overview published by Telegraph for People in 2022.

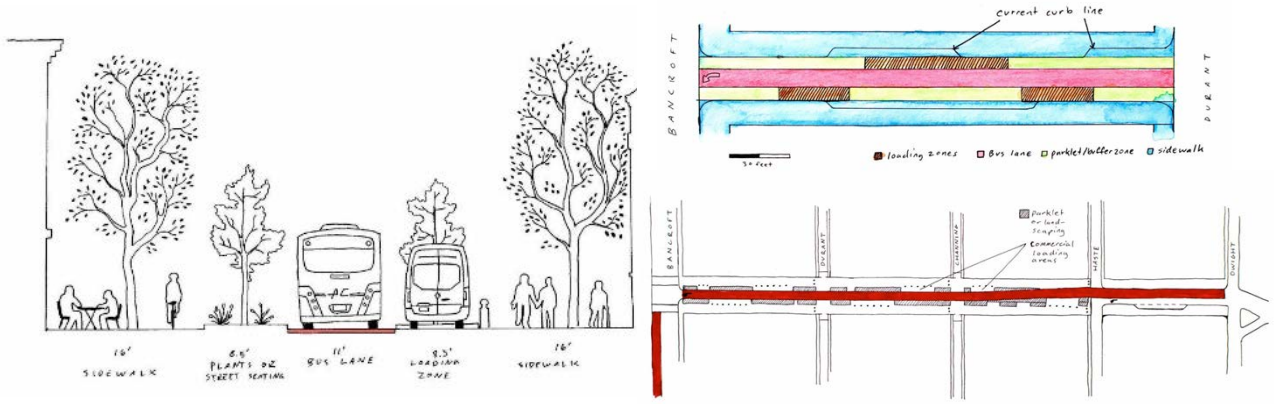
14%20Item%2026%202024%20City%20Council%20Referral%20Prioritization%20Process%20Using%20Re-Weighted%20Range%20Voting%20%28RRV%29.pdf

[7] https://www.telegraphforpeople.com/option-five

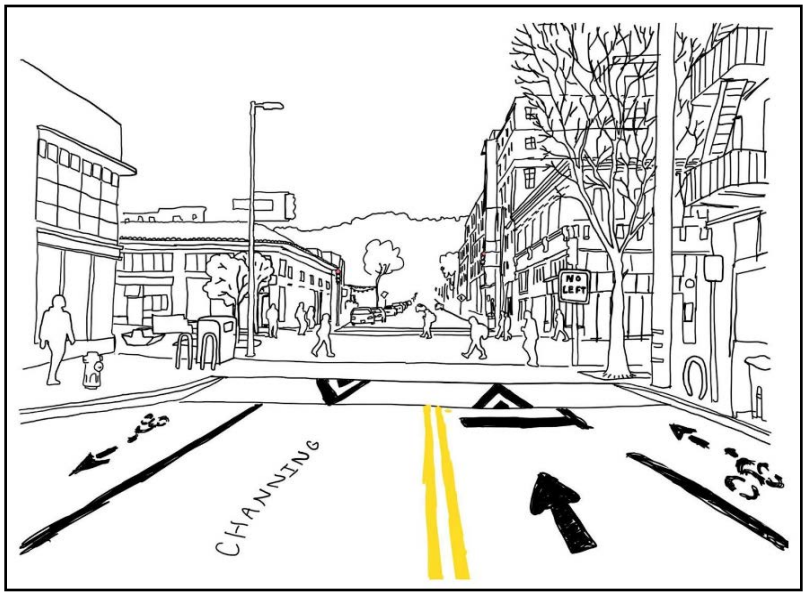
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Installing bioswales significantly boosts our resilience to climate change by effectively capturing and absorbing rainwater. More outdoor seating fosters economic vibrancy, supports small businesses, and provides public gathering spaces, which have decreased in Southside in recent years
Drawing: Brandon Yung



A dedicated bus lane will improve transit times and can be accessed by emergency response vehicles
Drawing: Brandon Yung



High-level designs reflect significant community feedback and serve as a reference for City staff
Drawing: Brandon Yung

These designs were born of the significant community feedback from those who frequent the Telegraph corridor. The completion of Southside Complete Streets, the design and engineering progress on the Telegraph Multi-Modal plan, and a decade-long commitment to closing the right-turn slip lane at Dwight and Telegraph to create a public

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plaza have all set the stage for a car-free Telegraph. This initiative has been in the making for over six decades and is now poised to significantly enhance the experiences of all who live, work, study, and visit Southside.

ADDITIONAL INFORMATION AND ANALYSIS

1963

In 1963, the Berkeley City Council considered reconstructing the Telegraph corridor under the Federal Urban Renewal Program.[8] The historical disinvestment in and near Telegraph rendered it eligible for Urban Renewal funding. The goal of the study was to "recognize the demand for pedestrian circulation and for bicycle and automobile circulation and make balanced provision for each within the limited public right-of-way available," and that "study should be given to the feasibility of converting Telegraph Avenue to a pedestrian mall, to a one-way street, or to a limited traffic street…".[9] In 1963 and '64, consultants reported their findings from a traffic study and economic analysis that measured the feasibility of a pedestrian mall.[10]

Ultimately, the consultant provided three reasons why the proposed pedestrian-mall design was not recommended:

1. It would limit parking
2. Not enough evidence demonstrated that pedestrian malls were lucrative
3. The new perimeter roads that would be built as a result of pedestrianization would separate new commercial areas

Still, staff and consultants struggled to find an alternative that would balance residents' mobility needs, ultimately leading to an interim compromise: Convert Telegraph Avenue into a Northbound one-way street with widened sidewalks and parking bays and convert Dana Street into a Southbound one-way.[11]

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[8] The Urban Renewal Program was a federal initiative under the guise of addressing urban decay and blight in cities across the country. It was a flawed, racist, and classist program that displaced millions of people and destroyed homes, businesses, and communities. We provide the context under which the Telegraph pedestrian-mall project was initially planned to offer additional, nuanced rationale for why residents were skeptical of the proposed project. We also share this to impart the value of a car-free Telegraph and its disaggregation from the harmful legacy of Urban Renewal.

[9] Attachment 1

[10] Attachment 1

[11] Attachment 2

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Telegraph Avenue between Bancroft Way and Durant Avenue, Berkeley, CA, during construction, turning Telegraph into a one-way street, 1970[12]

This interim solution, presented as temporary and constructed in 1970, is what we have to this day. This snapshot from 1968 perfectly captures the era's prioritization of cars and parking over all other considerations, driven by the outdated myth that building infrastructure for varying road users causes commercial decay. Today, informed by data on the environmental impact of cars, contemporary planning practices, and evidence on the conditions that create thriving commercial corridors, we recognize the critical value of pedestrian-, cyclist-, and public transit-centered infrastructure.

1992

In 1992, Mayor Loni Hancock formed a Mayor's Task Force on Telegraph Avenue to evaluate the "physical and social problems" impacting the area. The goal of the task force was to ensure safety and advance cultural and commercial enrichment. The report included long-term goals for the street, including "a pedestrian street for a portion of Telegraph" because of its "unique attributes that make it perfect for consideration for a pedestrian street."[13] The report proposes an 8-week pilot to ensure the project was feasible ahead of substantial investment. This was 30 years after the first car-free Telegraph proposal, demonstrating the enduring power of pedestrianization as a tool for social equity and safety. The project never came to fruition.

1996

In the 1996 Southside Plan, the City identified Telegraph Avenue as a critical thoroughfare to increase pedestrian and bicycle safety, reduce automobile speeds, and enhance transit service. The plan proposed to achieve this through closing Telegraph to auto traffic north of Haste Street or banning cars on Bancroft at Telegraph.[14]

1983-2025

Telegraph Avenue has intermittently limited cars. December 2025 marked the 42nd year of the Telegraph Winter Holiday Streetfair, an annual multi-weekend craft market

[12] https://www.instagram.com/p/C4tq_n8vVTM/?igsh=NTc4MTIwNjQ2YQ==

[13] Attachment 3

[14] https://berkeleyca.gov/sites/default/files/2022-03/Southside%20Plan.pdf

that shuts the street down to vehicles. It has demonstrated the value of creating pedestrian-centered areas and the role it plays in supporting local businesses and promoting economic vibrancy.

The National rise and fall of the pedestrian mall

There has been concern that converting Telegraph into a pedestrian mall or pedestrian-only corridor could negatively affect businesses in the area. Since the rise and fall of the pedestrian mall in the '60s and '70s, extensive research has examined the factors that create a thriving pedestrian commercial corridor. Data suggests that pedestrian malls are most likely to succeed if they are located near a university, have access to public transportation, and are in areas with residential density, all features that District 7 possesses. Other regions with significant university presences have taken this approach with transformative results. In fact, Mayor Hancock's 1992 Telegraph highlighted that the City of Berkeley representatives planned a trip to the Santa Monica pedestrian mall to study its efficacy and feasibility for Telegraph. The following are examples of effective and successful pedestrian malls with similar populations.

- **Santa Monica, CA**, home to UCLA, successfully revitalized its Third Street Promenade, a once-dead pedestrian mall, leading to the collection of 37.7% of the city's total sales tax revenue.[15]
- **Madison, WI's** expanded pedestrian mall pilot on State Street was a huge success, with 81% of visitors saying they were more likely to come to the area because of it.[16]
- **Burlington, VT** has a population of 45,000, but its pedestrian-only Church Street Marketplace attracts more than three million annual visitors.[17]

Not only would pedestrianizing Telegraph Avenue ensure the safety of its residents and visitors, but it also has the necessary criteria to become a destination. The idea of creating a car-free Telegraph was first studied 62 years ago. Since then, local leaders, students, and organizers have made multiple attempts to finally address one of Berkeley's most dangerous streets for traffic violence. This is the time to do it.

FISCAL IMPACTS OF RECOMMENDATION

Given the significant structural general fund deficit, it is most fiscally responsible to seek funding from alternative sources. Staff should prioritize funding sources most relevant to the prospective project, namely, from LRDP and Measure FF funds. We have identified these sources of funding as they most appropriately relate to the project's goal. Relevant LRDP funds must be used on projects within a ½ mile of the main campus boundaries and should directly address the needs of students and residents in the area, both of which this project accomplishes. Measure FF funds are restricted to street and sidewalk improvements, with specific funds designated for safety improvements.

The Public Works Department has prepared the following cost projections:

Category	Cost Range	Notes

[15] https://www.researchgate.net/publication/248957016_Santa_Monica's_Third_Street_Promenade_the_failure_and_resurgence_of_a_downtown_pedestrian_mall, https://www.nlc.org/wp-content/uploads/2020/01/CS_PedestrianReport_Final_WEB.pdf

[16] https://www.cityofmadison.com/news/2025-03-26/planning-division-issues-report-on-state-street-pedestrian-mall-experiment

[17] https://www.nlc.org/wp-content/uploads/2020/01/CS_PedestrianReport_Final_WEB.pdf

Feasibility + CEQA/NEPA + TIA	$350,000 – $500,000	Environmental review, traffic analysis, utility scan/third party
Public Outreach	$125,000 – $175,000	Workshops, merchants/TBID, UCB, ACT
High-Level Design	$480,000 – $650,000	Alternatives, layouts, utility conflict matrix
Final Design (60/90/100%)	$600,000 – $700,000	Arch., civil, geotech, electrical, traffic, transit, stormwater, GI, bid package
Construction & Implementation	$12M – $17M	Paving, utilities, lighting, landscaping, CM/inspection

This item requests funding only to complete the first three rows of the project; however, it is essential to present the estimates for the final design, construction, and implementation to provide a clear picture of the scope of the entire project. For future phases, we hope to leverage county, state, and federal transportation funds as needed.

ENVIRONMENTAL SUSTAINABILITY

Reducing reliance on cars offers essential benefits. Cars are the primary source of greenhouse gas emissions in our city. Limiting car use while building infrastructure to support transit, biking, and walking will lower our collective carbon footprint and make our environment more resilient.

ATTACHMENTS

1. Economic Analysis of Telegraph Avenue Pedestrian Mall, 1964
2. Planning Report on Telegraph Avenue Pedestrian Mall, 1968
3. Mayor’s Taskforce Report on Telegraph Avenue, 1992
4. Southside Complete Streets Project Conceptual Designs, Supplemental Agenda Material 1, 2022

CONTACT PERSON

Councilmember Cecilia Lunaparra, 510-981-7170
Sara Cerami, Chief of Staff

Riches Research, Inc.

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BUSINESS · ECONOMICS · MANAGEMENT · TRANSPORTATION · URBAN PLANNING

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BEN H. TANNER
DONALD R. WILLIAMS

Economic Analysis

SOUTH CAMPUS AREA

Berkeley, California

Prepared For

Urban Renewal Agency

City of Berkeley, Calif

January 1964

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Section 3

RECOMMENDATIONS

1. A mall for Telegraph Avenue. A field trip to the mall in Pomona's Central Business District and a review of data on other malls indicates that the mall by itself is not a solution to a shopping district's problems. The effective malls have been integrated parts of long range, comprehensive programs initiated and supported by the merchants of the shopping district. More important than the mall itself are the provisions of adequate access and parking, a unified merchants' program for common advertising and shopping district development, and a concept of the purposes of the mall and specifically how it is to be used. Where these prerequisites have occurred, the mall can be an additional stimulus to sales and is perhaps the most dramatic way for an older shopping district to show its customers that it is interested in its own future and is concerned with making shopping for its customers a more leisurely, comfortable, and interesting experience.

A landscaping program in which considerable parking is retained on the main street and attractive landscaping, fountains, and benches are provided has been developed in the California Avenue Shopping District in Palo Alto and recently on Washington Street in Downtown Oakland. The Palo Alto partial mall has been very successful.

It is recommended that a landscaping program be established on Telegraph Avenue. A partial mall will definitely enhance the attractiveness of the District and encourage the merchants to improve the appearance of the stores and shops in the District. The conversion of Telegraph Avenue to a full mall is not recommended because:

(1) The District's area is severely limited and the conversion of the Avenue to a mall would require replacement of the access and parking which would be eliminated. It will be difficult enough to obtain adequate access and parking under any circumstances.

(2) There is no indication that the mall would cause a substantial increase in sales without the provision of adequate access, parking, and other programs.

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(3) The merchants' organization has not yet established a pattern in which the advantages of a mall can be clearly used to aid the district.

(4) A new street(s) will separate the district's expansion areas from the main group of shops and stores. Also, only 50 per cent of the stores can provide new rear entrances.

It is further recommended that the design of access to the district and parking structures provide sufficient flexibility so that when there is a real need, the merchants will be prepared for it, and alternative circulation routes and parking can be provided so that portions of all of Telegraph Avenue could be converted to a mall. (Section F)

2. A small specialty department store. The Sather Gate Shopping District is particularly strong in its apparel and specialty shops. Its primary lack at the present time is a small (i.e., 20,000 to 40,000 square feet) somewhat exclusive specialty department store which could complement and expand the existing character of the district. The opportunities for a store of this type seem particularly promising because of the character of the district, the lack of such facilities in the city or in surrounding cities, and the large proportion of general merchandise sales which are being made outside of Berkeley. (Table C-9 and Field Interview)

3. The proposed new street and parking structures to the east and west of the Shopping District should be very careful to minimize the separation of the stores and shops along Bancroft Way from the main group of stores along Telegraph Avenue. The District's primary areas of expansion are east and west in the blocks between Durant and Bancroft. Therefore, it is critical to maintain as much continuity between these areas and the stores and shops along Telegraph Avenue as possible. (Figure 6)

4. Focal buildings at each end of the District. At present, the main attractions of the Sather Gate Shopping District are along Bancroft Way, the northerly two blocks of Telegraph Avenue, and the Student Union complex on campus. It would be very desirable to complement these existing buildings with major new, multi-story commercial and office buildings at each end of Telegraph Avenue within the Sather Gate Shopping District. These new buildings would define the District and would provide customers with identification which emphasizes the extent of the District. (Figure 2)

5. Apartments should be designed so that they can be used either by a single student, a pair of students, or a student and his wife. Furnished apartments should be provided at $100 to $130 per month for one bedroom units, a figure which can increase to $120 to $150 per month by 1980. (Page B-14, Table 2)

6. The intensity of development in the Project Area will be quite high as indicated by the existing residence halls. Therefore, it is recommended that the zoning of the Project Area encourage towers and open space and a considered relationship between towers in order to retain as many amenities as possible.

7. It is recommended that landscaped pedestrian walkways be provided through the middle of the blocks on either side of Telegraph in order to accommodate the increased pedestrian traffic (mostly students) which must pass through the Shopping District.

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Section F

EFFECTS OF A MALL

A landscaped, attractive mall is the most dramatic recent development in shopping districts. It provides a fresh new appearance, it makes it possible for the customers to walk from the stores on one side to the stores on the other without crossing traffic or being concerned about their children, and it encourages a more leisurely and enjoyable shopping trip for the customer. However, the mall is not a program in itself. Where it has been successful, such as in Pomona, it has been one step in a long range improvement program undertaken by the merchants of a shopping district in cooperation with the city.

The Pomona Mall. The Pomona Mall includes 98 stores. It has now been in operation for nearly fifteen months (since October 1962). It is unquestionably successful as indicated by several statistics.

- Two major new buildings have been constructed and a third is planned. Already constructed are a new $4 million quality department store and a $2.5 million seven story office building.

- The number of vacant stores on the mall have been reduced from 26 to 6.

- 38 stores have been remodeled.

- The number of pedestrians on the mall have increased by 79 per cent on comparable days since the mall opened.

- Taxable sales for the mall stores increased by 42 per cent (for a comparable period) since the mall opened according to a special tabulation by the State Board of Equalization. Most of the increase in sales was due to new stores.[1]

These figures reflect not only the establishment of the mall, but also the other important contributors to the redevelopment program of the shopping district. Actually the program started in 1950 when the merchants recognized the potential threat of the then new shopping centers. They

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[1] Also there is no indication what "normal" increase in sales could have been expected, or what the effect of the improved access, parking, and promotion by themselves would have been.

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started a four pronged program: better access, increased parking, the mall, and common merchant advertising. They now have good access to the district, they have provided nearly 2,700 parking spaces, they have constructed the mall and are using it as a means of promotion, they distribute a common shopping news, and they are planning for additional parking and a new monorail "sky lift" to help customers get around the large shopping district and perhaps to the nearby transportation and civic centers. In short, the mall is but one part of a comprehensive development program motivated and paid for by the merchants with the assistance of the city.

Discussions with the merchants indicated that by itself the mall is not particularly meaningful. More important are the provisions for adequate access and off-street parking. Perhaps most important is the fact that the merchants and the city are doing something to improve the downtown area. The mall has been described as the "biggest stage" in Southern California. It is used for dances, parades, exhibits and other activities. At present the mall is significantly unique that it is attracting interest from church and charitable groups which put on events. The merchants indicate that these events are better sales stimulators than their own activitiesand they are planning to acquire a portable stage, sound system, and extra lighting to make the mall more usable.

Experience with the mall brought forth the following observations:

- Even though the mall is unusually long (2700 feet) they have not had any particular criticism from shoppers. They do plan to develop additional stores on some street ends so that the mall will appear to be only five blocks long instead of the nine original short blocks.

- The mall has apparently reduced the difference in sales volume between a "corner" location and interior sites.

- Stores which do not have back access to the parking lots have experienced sales growth even though they did not have access or signs to the nearby streets and parking areas.

- The use of tractor trains to carry pedestrians in the mall from one location to another at 10¢ per ride was not successful. Customers felt they were a vehicular intrusion into the pedestrian mall.

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- "It is essential to keep the mall spotlessly clean seven days a week."[1/] The Pomona merchants have a special assessment charge of 25¢ per $100 assessed valuation to pay for maintenance costs.

- "It is imperative to promote the mall continuously. Events must be carefully planned to attract people to the mall. International Folk Dance Festival, Ancient Car shows, square dances, Moonlight Sales, etc. are all elements that proved popular in Pomona during the past year."[1/] The merchants are establishing an ordinance to assess themselves to pay for promotional advertising and events.

- "The mall is only one important segment of downtown. The entire downtown environment must be inviting to people. There must be attractive parking lots, convenient ways to reach them, clean well-lighted and well-maintained streets and well-maintained stores and buildings."[1/]

- The construction of the mall can be accomplished without adversely affecting or interfering with business. Particular care has to be given to protecting the small merchants who do not have direct access to the rear parking lots.

- The provision for rear parking lots and the location of the main access from the rear requires the improvement of the backs of the buildings, additional signs, check stands at both ends of the stores with back entrances, and the construction of special trash bunkers. In Pomona the bunkers are attractively designed and contribute to the appearance of the parking lot. They require some merchants to carry their trash as far as a block (200 to 300 feet); so far there have been no objections.

- The increase in foot traffic at the rear of the stores has not decreased the foot traffic on the mall.

- The mall cost about $270 per lineal foot.

- The major activity in the mall is still in the center. However, the construction of the department store at one end and a new complex of commercial buildings at the other end is expected to encourage fuller use of the entire mall.

[1/] Memo by city administrative staff titled, "Brief Highlights of Progress in the City of Pomona . . .," dated August 1, 1963.

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- There is a need to provide a closure to the mall at each end. Even the placing of a temporary tent gave a more definite form to the mall. The value of "terminal" stores at each end of the mall is evident.

Other cities which have established permanent shopping district malls include Miami, Florida; Kalamazoo, Michigan; Knoxville, Tennessee; and Ottawa, Canada. It is reported that over 100 cities have considered or are planning to construct malls. A number of cities have attempted temporary malls and have discarded them. In general it appears that the other successful malls have had the same characteristics as the Pomona mall. These include a long term, comprehensive plan, adequate access, convenient parking, and merchant stimulation and participation.

The California Avenue Partial Mall. The merchants of California Avenue in Palo Alto with the cooperation of the city have developed a partial mall which has been very successful. Instead of the full mall treatment, they have provided fountains, landscaping, and special lighting while retaining a major portion of the parking on the main street. However, the street is much wider than 2nd street in Pomona or Telegraph Avenue. In this case, the improvements on California Avenue are part of a comprehensive program which has included improved access, increased parking, joint merchant programs, and merchant initiative and participation.

A similar type of partial mall has recently been constructed on Washington Street in downtown Oakland.

A Telegraph Avenue Mall. A mall on Telegraph Avenue would be a distinct advantage especially between Bancroft and Channing where the pedestrian traffic is so great. The obvious disadvantages of the mall are the loss of parking spaces (particularly critical where there are so few) and the loss of access (particularly critical where there are no obvious alternatives if Telegraph Avenue is converted). While streets can be developed to the rear of the commercial properties along Telegraph Avenue, the available space is limited and expensive to acquire, the competition for space between stores, access streets, and parking, is severe, and the new streets would separate the new commercial developments along Bancroft Way from the main grouping of stores along Telegraph. Non-physical disadvantages are that retail sales and activities in the Sather Gate Shopping District are increasing (therefore there is no incentive for a major change), and the merchants do not have a long established record of working together toward a comprehensive solution to their problems.

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Therefore, it is not recommended that a mall be developed on Telegraph Avenue at this time because of the greater need for improved access and additional parking, because there is no evidence that the mall would increase the amount of sales that the Shopping District can anticipate during the next few years, and because the merchant organization has not established a pattern in which the advantages of a mall can be clearly used to aid the District. Since these conditions can be expected to continue to change in the future it would be desirable to provide sufficient flexibility in the design of the project, such that when a need is felt and alternative circulation routes and parking are provided the mall could be constructed.

From a shopping district standpoint, it would be preferable for the two main east-west arterials (Bancroft and Durant) to be routed in tunnels under Telegraph Avenue so that there would be no cross traffic at these intersections. However, provision would have to be made for access from these arterials to the by-pass streets and parking structures. The advantages of the expensive approach would be the complete freedom of students and customers in circulating from the Student Union area down to Channing Way and along Bancroft without interference. At present such a solution appears to be prohibitively expensive and no commensurate increase in sales can be anticipated.

There is a distinct set of advantages to the creation of a partial mall such as the one at California Avenue in Palo Alto. Such a mall would show that the merchants and the city are interested in the appearance and improvement of the District, it would retain some of the parking spaces, it would provide direct access to the stores along Telegraph Avenue, and it would not be prohibitively expensive.

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To: William C. Hanley, City Manager
From: Norman Murdoch, Director of Planning

August 2, 1968

Subject: MALL OR PARTIAL MALL ON TELEGRAPH AVENUE BETWEEN DWIGHT WAY AND BANCROFT WAY -- A REVIEW OF PAST STUDIES

During the early sixties the question of a mall or partial mall on Telegraph Avenue was examined in detail as part of the planning for the proposed South Campus Urban Renewal Project. A number of alternatives were analyzed in depth. After discussion by a citizens committee -- and some exposure to the Sather Gate Merchants -- the City staff and consultants on the renewal program agreed that a plan which embodied a partial mall on Telegraph Avenue (i.e. sidewalk widening) combined with a new street 150 feet west of Telegraph Avenue would be a desirable solution providing a balanced response to the sometimes conflicting demands for pedestrian access, vehicular access, parking, and amenity.

The City Council discussed the evaluation of the South Campus Plan at not less than eight meetings starting in 1961. After formulation of the Urban Renewal Plan, the City Council -- acting as the official Urban Renewal Agency -- held a series of seven public hearings on the proposed Urban Renewal Plan. Strong opposition to the new street and partial mall concept was presented by Telegraph Avenue merchants. Opposition increased and expanded to include expressions of relocation fears and great concern with the stringency of rehabilitation standards relating to seismic forces. Responding to the apparently united opposition of residents, merchants and many U.C. students, the City Council voted to abandon the Urban Renewal effort on June 30, 1966.

Subsequently, the City developed alternate approaches to improvement of the South Campus area. An intensified code enforcement effort was initiated in 1967. In the Spring of 1968 the City Council approved the conversion of Telegraph and Dana to a one-way pair to provide some improvement for vehicular and pedestrian circulation. The University has proceeded with its previously planned acquisition program.

Blight in the area has been reduced. In addition the Department of Housing and Urban Development has established socially oriented priorities for the use of Urban Renewal funds. Combined, these factors make it very unlikely that the Telegraph Avenue area could be revived as a Federally-Assisted Urban Renewal Area.

Initiation of Planning

As early as 1960 the South Campus Renewal area was the subject of considerable examination under the auspices of the office of Urban Renewal Coordinator, City Manager's Office. The project eligibility and boundaries were firmed up in discussion with federal officials early in 1961 and a sample survey of the area was conducted in April 1961 indicating that physical conditions were such as to allow a feasible renewal effort.

Apparently there was considerable interest in the possibility of creating a mall on Telegraph Avenue and in May 1962 a report to the City Planning Commission on a South of Campus Landscape and Circulation Plan prepared by a Berkeley Liaison Committee--Arthur Hargrave, chairman recommended a possibility of one-way parallel couplets on the east and west sides of Telegraph Avenue to allow a mall on Telegraph Avenue.

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On August 20, 1963 the Berkeley City Council established planning goals for the South Campus Urban Renewal Project including:

"The plan should recognize the demands for pedestrian circulation and for bicycle and automobile circulation and make balanced provision for each within the limited public rights-of-way available."

"Study should be given to the feasibility of converting Telegraph Avenue to a pedestrian mall, to a one-way street or to a limited traffic street, and to plans that solve related circulation, parking and loading problems."

During the course of renewal planning a number of specialized consultants were engaged including Wilbur Smith and Associates (traffic and parking), Riches Research (economic analysis) and DeMars and Reay (design). Each of these consultants were involved in the question of converting Telegraph Avenue to a mall or partial mall and reported as summarized in the following paragraphs.

Traffic and Parking Study (Wilbur Smith)

The first phase report dated August 1963 by Wilbur Smith and Associates presented the results of field studies undertaken in May of that year. The study area was bounded by Bancroft, Bowditch, Dwight and Fulton. Major conclusions included:

1) Of the 56,000 vehicles entering the area daily, approximately 70 percent travel through without stopping;

2) Public transit delivers approximately 8 per cent of all vehicular passengers to the area during business hours;

3) Pedestrian volumes along Telegraph near the campus total 20,000 persons during the business day, exceeding vehicular traffic in the area;

4) If all the parkers who had destination in the area or parked here and walked out to the campus or other location were to be served, there would be a need for 250 more parking spaces.

In their second phase report dated September 1964, Wilbur Smith and Associates recommended the circulation plan subsequently shown in the Renewal Plan (i.e. semi-mall on Telegraph Avenue and new one-way street 150 west of Telegraph Avenue) for the following reasons:

1) Traffic volumes greater than 1975 projections can be accommodated;

2) Decrease in traffic concentrations makes possible greater freedom of operation for both vehicles and pedestrians;

3) One-way operation offers safer pedestrian crossing opportunities and elimination of turn conflicts.

4) Permits Telegraph Avenue sidewalk widening particularly at intersections;

5) New street provides added traffic capacity.

Economic Analysis (Riches Research, Inc.)

In January 1964 Riches Research, Inc. completed its economic analysis of the South Campus Area for the Urban Renewal Agency. One of the specific assignments to Riches Research was to examine the possibility of converting Telegraph Avenue between Bancroft Way and Dwight Way into a mall. Riches Research recommended against the conversion of Telegraph Avenue to a full mall because:

1) A mall would require replacement of parking and (vehicular) access which would be eliminated;

2) No indication that mall would cause increase in sales;

3) The new streets (necessary adjuncts to a mall) will separate the district's expansion areas from main groups of shops and stores.

Design Program (DeMars and Reay)

In October 1964, the architectural consultants reported on the proposed South Campus Urban Renewal Project. Their recommended design concepts for the Telegraph Avenue commercial area included:

1) Wider sidewalks along both sides of Telegraph Avenue can provide the much needed space for heavy pedestrian movements and the areas necessary for the installation of street furniture and landscaping.

2) Repaving the sidewalk in brick with concrete bands, and providing benches, poster kiosks, bulletin boards, coordinated newspaper stands, well-designed trash containers, decorative street lamps, etc. are means for improving the physical and visual aspects of the shopping environment;

3) Parking bays of two cars each can be spaced in the widened sidewalk area of the street pavement to provide for short term parking and spot servicing to the stores;

4) Midblock cross walks can encourage to and fro shopping movements - these cross walks are best located at the widened sidewalk areas, so that the street crossing distance is a minimum.

Analysis of Alternatives

While the consultants reported separately their efforts were coordinated by the staff. Documentation is not complete but it is clear that in 1963 and 1964 a large number of alternatives were seriously examined. The staff and consultants were struggling to develop a solution which would balance the legitimate demands of the pedestrian, vehicular traffic and parking, all of which are heavy in Sather Gate commercial area. The major alternatives examined are summarized below:

Proposed / Existing Situation	Characteristics	Evaluation
	Retain existing two-way traffic on Telegraph Avenue.	Does not respond to heavy pedestrian movement and growing traffic congestion.
A	Convert Telegraph Avenue to pedestrian mall with two new streets east and west of Telegraph Avenue	Does respond to major problems but is a costly solution for both the public and private owners.
B	Telegraph one-way north and Dana one-way south	This does provide a modest increase in traffic capacity but makes for an inconvenient southbound movement. (This was the interim solution adopted by the City Council in May 1968.)
C	Make Telegraph Avenue mall with Bowditch north and Dana one-way south.	Creates mall but with serious traffic disadvantages and very difficult service access to stores.
D	Mall on Telegraph Avenue between Durant and Bancroft only	Serious traffic circuities are created and no improvement in amenity south of Durant.
E	Telegraph Avenue northbound, Dana southbound. Convert Bancroft to two-way traffic.	New traffic couplet provides no traffic advantage compared with Plan B; Bancroft is wider than Channing Way.
F	Mall between Bancroft and Durant with two one-way streets east and west of Telegraph.	Traffic pattern is awkward and new streets take most valuable property.
G	Telegraph one-way north, with widened sidewalks and new street 150 feet west, southbound.	Despite high acquisition costs between Durant and Bancroft, this was a solution with apparently minimum drawbacks and was thus adopted as recommended urban renewal plan; provides only widened sidewalks rather than full mall.

Norman Murdoch
Director of Planning

MAYOR'S TASK FORCE REPORT ON TELEGRAPH AVENUE

Mayor Loni Hancock
November 23, 1992

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REPORT AND RECOMMENDATIONS
MAYOR'S TASK FORCE ON TELEGRAPH AVENUE

INTRODUCTION

On September 28, 1992, the Mayor of Berkeley announced the creation of a special Task Force to evaluate the physical and social problems impacting Telegraph Avenue, People's Park, and other Southside areas and to offer recommendations to the Mayor and Council. The members of the Task Force are listed in Appendix A.

The Task Force appointed by the Mayor had five meetings. Initial discussion led to agreement that although the situation in many ways is a microcosm of problems facing our larger society, it is also a situation that must improve for the good of the entire community.

The report contains the recommendations of the Task Force in the following areas:

- Community Values
- A Long Term Vision
- Adult Social Services
- People's Park Activities
- Physical Improvements to Telegraph
- Law Enforcement
- Alternatives for Youth
- A Process for Continuing Work

TASK FORCE ACTIVITIES

The Task Force divided into five working groups to develop specific recommendations on law enforcement, alternative activities for youth, urban design improvements, social services for adults, and a working group devoted to drafting a values statement to guide our work and share it with the larger community during implementation.

In addition to the formal meetings, there were small group meetings of the Task Force members and young people, university students, business people, owners of buildings in the South Campus area, People's Park supporters, judges and probation staff, urban design experts and youth workers. These meetings were extremely helpful to our understanding of "other people's realities" and an important source of inspiration and ideas.

The Task Force recommends that this report, its recommendations and the Values statement be shared with the larger community at a forum sponsored by the League of Women Voters and through a speakers bureau that will provide speakers to all interested community groups.

An Affirmation of Community Values

The Berkeley community shares a commitment to assure:

- The safety of its citizens;
- Respect for the rights of each person in their free and open pursuit of social, political, academic and business activities;
- The enrichment of our civic environment through cultural and ethnic diversity and cooperation.

These values and aspirations deserve clear and explicit definition of the roles and responsibilities of government and of citizens.

Berkeley's well-deserved reputation for tolerance and openness to new ideas has been interpreted by some as an attitude that "anything goes" here. The community must reassert the reasonable standards of mutual respect that are part of the tradition of free speech and exchange of ideas that have made our city one of the most forward looking on the earth. Diverse styles of life enrich our community as long as they do not impinge upon the right of others to the peaceful enjoyment of their own lives. Dissent and debate are vital, as long as it is recognized that the community has a right to come to decisions and take action to carry them out.

We citizens, and elected representatives of the city of Berkeley commit ourselves to these values.

A LONG TERM VISION

The proposals for short and long term actions and the process for continuing work are based upon a long term vision.

A long term *vision for the Telegraph/Southside Area* includes:

- a vital and diverse commercial area that meets the needs of residents and the campus population and that attracts and serves a citywide and regional market;
- public open spaces that are well maintained, attractive, safe and used by all segments of the community;

- a pedestrian street for a portion of Telegraph Avenue;
- the development and maintenance of public, private, and campus property that is clean and attractive;
- a safe environment day and night for living, business, shopping, recreation and cultural activities;
- significant reduction in illegal activities and behaviors that harass people;
- significant reduction in criminal and drug related activities;
- an on-going close working relationship between the city, merchants, property owners, residents, university administration, students, churches and other institutions and community groups for continuing commitments, actions and programs to enhance the Southside.

A long term *vision for youth in the community* includes:

- a sense of hope and opportunity for all young people;
- support systems and mentoring for youth at risk;
- job training and job opportunities integrated with school and services;
- a network of support and opportunity programs using public and private facilities throughout the community;
- a broad-based civic commitment to the success of all youth;
- a teen center to serve as a hub for safe youth activities throughout the city.

A long term *vision for the homeless and mentally ill on the streets* include:

- coordinated and immediate mental health, community and police crisis intervention;

- a central mental health facility providing all crisis, outpatient and substance abuse programs under one roof;
- daytime facilities providing a place off the streets with referral services;
- reduction in the overall population on the streets through increased low rent housing, residential treatment centers, and jobs;
- coordinated regional activities with other cities for fair share the responsibility for providing essential services.

PHYSICAL IMPROVEMENTS
RECOMMENDATIONS OF THE TASK FORCE

The long term social and economic health of the Telegraph area is dependent on an attractive physical environment for living , working, shopping, and recreation. As the Task Force deliberated, Mayor Hancock and Councilmember Woodworth worked with the City Manager to ensure that agreed upon improvements were enacted. Actions already taken or are underway include:

- **Increased wattage in street lights**
- **Newly painted curbs and crosswalks**
- **A graffiti abatement program hiring homeless people**
- **Youth anti-graffiti work with local artists to plan and paint murals**
- **Purchase of distinctive shade umbrellas and other streetscape improvements.**

In addition we recommend:

IMMEDIATE ACTION RECOMMENDATIONS:

- **CLOSE TELEGRAPH AVENUE TO TRAFFIC ON HOLIDAY WEEKENDS THIS DECEMBER.** Utilize the street for high quality commercial activities, arts and crafts, music and food. To be effective this program will need publicity, improved signage, parking and traffic control. Planning should begin immediately.

- **INCREASE AFFORDABLE PARKING** by establishing a flat night rate at the Sather Gate garage and by requesting that the University make its parking lots open to the public during the holidays, vacations, after business hours, and on weekends. Also, the city should have "free parking days" in the Telegraph area during the holidays.

- **ENFORCE SIDEWALK SWEEPING AND LITTER LAWS** by an enforcement program to ensure compliance with city regulations requiring merchants to sweep the area in front of their stores and by citations for littering to be issued by the police

- **INITIATE AN ANTI-LITTER CAMPAIGN** which includes a poster contest, signs on trash containers (for example "Do the Right Thing"), and the purchase of recycling containers similar to those in Sproul Plaza obtained by the ASUC.

LONG TERM RECOMMENDATIONS:

- **CONSIDER MAKING TELEGRAPH AVENUE A PEDESTRIAN STREET.** Telegraph Avenue has unique attributes that make it perfect for consideration as a pedestrian street on the model of college towns, including Boulder, Colorado; Burlington, Vermont; Santa Monica, California; as well as many European cities. The dynamic and colorful layers of activity here include an array of street vendors, many restaurants, major book and record stores, and a very dense residential neighborhood. These factors suggest that concentrating pedestrian activity into a narrower street, from Dwight to Bancroft, could further the enjoyment and economic viability of the Avenue.

- **COMPLETE PLANS FOR PEDESTRIAN LIGHTING.**

- **DEVELOP A LONG RANGE ECONOMIC/MARKETING STRATEGY** for Telegraph including the existing commercial and retail sectors, and the possibility of considering a farmer's market to directly serve students and other residents of the southside.

- **COORDINATE PLANNING BETWEEN THE CITY AND THE UNIVERSITY** for development of the vacant lot at Haste and Telegraph.

22. ESTABLISH A FOCUSSED NEIGHBORHOOD PLANNING PROCESS TO CONSIDER MAKING TELEGRAPH INTO A PEDESTRIAN PROMENADE (intermediate action). Part of this process could include an 8 week experiment in weekend closure of Telegraph Avenue during daytime hours. This experiment should be in late spring and summer, when outdoor dining and street use for a variety of activities are most feasible. A committee should be established to plan for this closure experiment. The charge to the committee should include development of criteria for evaluating success, such as improved sales for existing merchants, minimal traffic and parking problems, and reduced social and crime problems.	Telegraph Assoc. UC-Dorothy Walker, City-Planning, Gil Kelley	
23. EXPLORE INTERIM USE FOR THE HASTE STREET (intermediate action) vacant lot, such as for a bicycle parking lot.	City-Ted Burton	Exploring legal options. Possible site for produce or flower mart.
24. CONSIDER MAKING TELEGRAPH AVENUE A PEDESTRIAN STREET (long term action). Telegraph Avenue has unique attributes that make it perfect for consideration as a pedestrian street on the model of college towns, including Boulder, Colorado; Burlington, Vermont; Santa Monica, California; as well as many European cities. The dynamic and colorful layers of activity here include an array of street vendors, many restaurants, major book and record stores, and a very dense residential neighborhood. These factors suggest that concentrating pedestrian activity into a car-free street would enhance the enjoyment and economic viability of the Avenue.		Presently making calls to set up tour of Santa Monica.
LAW ENFORCEMENT		

Rigel Robinson
Councilmember District 7

SUPPLEMENTAL AGENDA MATERIAL

for Supplemental Packet 1

Meeting Date: **February 22, 2022**

Item Number: **27**

Item Description: **Southside Complete Streets Project Conceptual Designs**

Submitted by: **Councilmember Rigel Robinson**

This supplemental material contains a referral to the City Manager to develop a process to explore limits on private automobiles on Telegraph Avenue, in response to community feedback the City received during the Southside Complete Streets public engagement process. This supplemental is complementary to the resolution and direction in Item 27 as presented by staff, accompanying but not modifying the existing item.

RECOMMENDATION

Refer to the City Manager to develop a community process to explore limits on private automobiles on Telegraph Avenue and make recommendations. Staff should engage merchants, property owners, students, visitors and tourists, artists, UC Berkeley, local schools, faith institutions, relevant government agencies including AC Transit, and other stakeholders, as well as relevant city commissions, such as the Transportation Commission and the Commission on Disability.

In the evaluation of various approaches, staff should consider strategies to:

- Maintain access for public transit, emergency vehicles, refuse collection vehicles, delivery vehicles, and other commercial vehicles that are essential to Telegraph business operations
- Preserve access for people with disabilities and reduce conflicts between pedestrians and bicyclists
- Improve the pedestrian environment and meet the needs of merchants and the commercial district

BACKGROUND

Outreach for the Southside Complete Streets project[1] has been underway since Summer 2021 and construction is expected to take place starting in 2023. This outreach process culminates in a Council vote to approve conceptual project designs. This referral is presented as a supplemental to the approval of said project designs.

City staff and Toole Design have led an incredibly engaging public process for the Southside Complete Streets project. Decals promoting the project were placed on sidewalks in the neighborhood, posters went up in the windows of small businesses, and flyers were mailed directly to residents. The project's open houses were well attended, and the surveys reached an even broader swath of residents and interested stakeholders.

Through this outreach, a clear demand emerged from organized members of the community: a Car-Free Telegraph. Community advocates, including the student-led coalition Telegraph for People, have given extensive public comment in support of considering a car-free option for Telegraph Avenue.[2] The public engagement process also captured a diversity of public opinions on the proposal which will need to be addressed. These include merchant and business concerns about commercial loading, and transit advocates' concern about initial suggestions that buses could be diverted from Telegraph.

This community call for limits on private vehicles was further reflected in discussion at the Transportation Commission on January 20, 2022. The Commission passed a motion supporting the staff-recommended design options for the Southside Complete Streets Project, and additionally requesting further research into a car-free approach to Telegraph Avenue, as follows:

> *"It was Moved/Seconded (Parolek/Ghosh) that the Transportation Commission… support Telegraph Option #4. The Commission strongly recommends that staff demonstrate how Option #4 can be operationalized as a car-free street with a transit lane, and with 2-way bike and micromobility facilities."*

However, considering limits on the use of private automobiles on Telegraph is outside of the scope of the ACTC grant that the City received for this project. Therefore, this supplemental

[1] https://berkeleysouthsidecompletestreets.org/

[2] https://www.telegraphforpeople.com/option-five

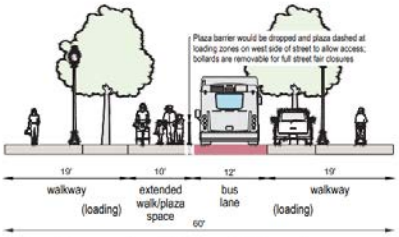
serves to directly respond to community input and provide explicit direction to City staff to explore limits on private automobiles on Telegraph Avenue from Bancroft to Dwight, and design a corresponding community engagement process.

By approving the conceptual designs for the Southside Complete Streets Project, the City is committing to a long-overdue reorientation of Telegraph Avenue that is a reflection of years of city planning and community advocacy, including various City plans and Council referrals.[3] The proposed design is adaptable to a range of use cases, ranging from status quo vehicle traffic to a car-free zone. As the project moves forward, it is timely for staff to begin to apply concerted planning efforts to the operational questions of Telegraph Avenue.

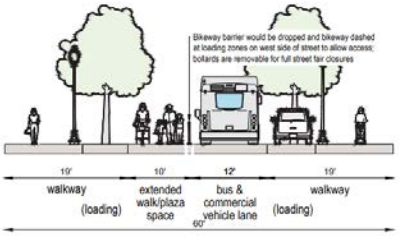
All over the globe, cities have developed ways to return streets to the people and design plazas that center modes of transportation other than cars. Cities such as Paris[4] have designated zones through which private automobiles are to be permanently prohibited. Other cities, like Bogota,[5] have limited private automobiles on certain days of the week. And just across the Bay, San Francisco[6] is developing its Better Market Street plan, which prohibits private automobiles from traveling along Market Street, though they can still cross at intersections. The space is instead prioritized for public transit, pedestrians, cyclists, commercial vehicles, and taxis.

As part of the project outreach for Southside Complete Streets, the consultant group, Toole Design, assembled the following visual aids to respond to the community push for a car-free option and illustrate potential scenarios the city could consider and work towards:

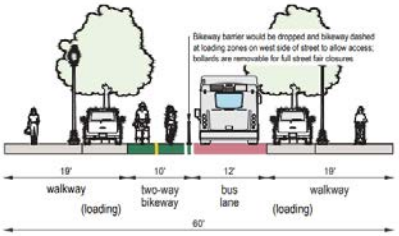
What could Telegraph Ave look like without private motor vehicles?



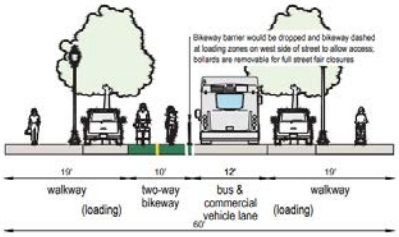
4a. Extended Plaza & Bus Lane



4b. Extended Plaza & Bus /Commercial Lane



4c. Two-way Bikeway & Bus Lane



4d. Two-way Bikeway & Bus /Commercial Lane

[3] https://www.berkeleyside.org/wp-content/uploads/2019/11/2019-10-29-Item-30-Referral-Telegraph-Shared-Streets.pdf

[4] https://www.bloomberg.com/news/articles/2021-05-13/new-paris-car-ban-will-target-through-traffic

[5] https://www.nationalgeographic.com/environment/article/bogota-colombia-ciclovia-bans-cars-on-roads-each-sunday#:~:text=Spurred%20by%20environmental%20concerns%2C%20an,out%20to%20bike%20or%20ride

[6] https://www.vox.com/the-goods/2019/10/28/20932554/new-york-san-francisco-car-free-zones

These cross-sections demonstrate how the proposed design could be programmed and operated in different ways without major hardscape changes.

Councilmember Robinson, the representative for District 7, which encompasses the UC Berkeley campus and Southside neighborhood, has spoken publicly in support of a car-free vision for Telegraph a number of times.[7] However, implementing such a vision is much easier said than done. A process designed to explore limits to private automobiles on Telegraph Avenue must be thorough and transparent, and it must explore openly and honestly all potential benefits and drawbacks.

Telegraph Avenue is a historic destination and a beautiful commercial district that enjoys heavy foot traffic. Because of this, Telegraph, specifically the four blocks from Bancroft to Dwight which have been the focus of the Southside Complete Streets project, is an ideal candidate for a street that could be re-envisioned to limit the presence of the private automobile. However, it is also a narrow street with various utilities running just below the pavement. Businesses do not have a back alley as they do in many commercial districts, so commercial loading as well as refuse collection all happens on the main street itself. The street services a major bus route as well as campus shuttles. Fire engine access is critical as well, and there are already frustrations among merchants and business owners around the availability of on-street parking spaces.

There are a variety of considerations to be mindful of while exploring such a concept for a street as complicated and with as many uses and stakeholders as Telegraph:

- **Dedicated bus lane:** California Vehicle Code states that only buses and emergency vehicles are allowed to drive in a bus only lane. The only exceptions are vehicles trying to access a parking space/loading zone, making a turn, or going around an obstacle in the roadway. But even in those cases, they can't drive predominantly in the bus only lane. Would this prevent a scenario with *only* a dedicated lane of vehicle travel for buses from being feasible?
- **Double-parking:** All potential designs must anticipate challenges related to double-parking, which is an issue throughout the Southside neighborhood. FedEx, UPS, Amazon, et cetera all essentially have double parking tickets baked into the cost of doing business, so it is difficult to deter this behavior without substantial enforcement that would far exceed current parking enforcement capacity.
- **Definition of commercial vehicles:** Proposals that would treat private vehicles differently from commercial vehicles would need to carefully assess how to define and distinguish commercial vehicles. Would that mean vehicles with commercial license plates? Or with visible merchant parking permits? Or transportation network companies? Or taxis? Or food delivery services? How can we accommodate the needs of sidewalk vendors, who are currently not eligible for merchant parking permits?
- **Disabled access:** Disabled drivers at present are legally allowed to share the loading zones by using disabled placards or plates. Without private vehicle access, would these vehicles also be prohibited? Could such concerns be ameliorated with designated ADA parking spaces nearby on cross-streets?
- **Ped-bike conflicts:** How would bikes circulate in the southbound direction, and how would that be separated from main pedestrian traffic areas to avoid pedestrian injuries, particularly for the visually impaired?
- **Emergency vehicle access:** How would fire lane requirements for Telegraph Avenue complicate potential limits on vehicles and roadway width?
- **Refuse vehicle access:** How would refuse collection activities be affected by different operations on the street?
- **Telegraph Channing Garage access:** How would vehicles arriving from the south be directed to the Telegraph Channing Garage?

[7] https://www.mercurynews.com/2020/02/04/not-just-market-street-this-iconic-bay-area-avenue-could-ban-cars-too/

These are just a select few of the questions that a community process to explore limits on private automobiles on Telegraph Avenue would need to answer, in addition to new questions and concerns that may arise during the process. With this referral, Council refers to the City Manager to determine the best course of action to answer these questions and to engage the community in deciding the future of mobility on Telegraph Avenue.

FINANCIAL IMPLICATIONS

A robust community process will incur meaningful costs for staff time and outreach. Staff are encouraged to return to Council with funding estimates and to pursue grant opportunities from regional agencies for active transportation projects to finance this work. Implementation of any proposed changes to the traffic configuration on Telegraph, whether by way of new striping, retractable bollards, or active enforcement, would also require resources and funding in an amount that could only be determined by a thorough planning process.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Angie Chen, Legislative Assistant

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