

Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: June 1, 2021

Item Number: 16

Item Description: ZAB Appeal: 2421 Fifth Street, Use Permit #ZP2020-0043

Supplemental/Revision Submitted By: Jordan Klein, Director, Planning & Development Department

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

The Appellant and Applicant have reached an agreement that resolves the appeal and jointly request that Council amend the conditions of approval as described in their agreement (attached).

Staff recommends that Council amend Condition #11, which reads:

11. Privacy Screening. The applicant shall submit plans for building permits that include translucent glass in the second and third floor window openings on the north elevation of Unit 3, and screening material (not solid) in the north balcony opening of Unit 4.

To instead read:

11. Privacy Mitigations.

- A. *The Applicant shall provide partial payment for the cost of installing privacy glass on the south elevation windows of 2413-C Fifth Street that are listed in the written agreement between the Appellant and Applicant. Additional terms of the replacement are detailed in the written agreement.*
- B. *The Applicant shall submit plans for building permits that represent:*
 - i. *The trash and recycling bins for Units 1, 2, 3, and 4 located within the enclosed garages.*
 - ii. *The north door of Unit 4 garage removed.*
 - iii. *Screen planting along the width of the property line between 2413-C Fifth Street and Unit 4. Plant species, spacing, size and maintained height shall be reviewed by the owner of 2413-C Fifth Street.*

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds roll call vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

AGREEMENT BETWEEN SONJA KASSUBA AND PROPERTIES 180, LLC

Date: June 1, 2021

Re: Proposed Project, 4 unit development of 2421 Fifth St, Berkeley CA 94705

Sonja Kassuba, Owner 2413-C Fifth St, Berkeley CA 94705

Raul Luna, Managing Member of Properties 180, LLC

Owner of 2421 Fifth St, Berkeley CA 94705: Properties 180, LLC - PO Box 1340 Ceres, CA 95307

In consideration of the impacts from the construction and occupancy of the Proposed Project at 2421 Fifth Street in Berkeley, the Owner of 2421 Fifth St agrees to provide the following:

Changes to 2421 Fifth Street:

1. Refuse, Recycling & Green bins for all Units to be permanently located within the enclosed garages.
2. Remove the north door from the Unit 4 garage.
3. Provide permanent green screen planting and maintenance as mutually agreed at the full width of the north property line common to 2413-C Fifth St. Review proposed planting species, spacing, size and maintained height with the Owner of 2413-C Fifth St.

Mitigation measures for 2413-C Fifth Street:

Replace existing glazing with privacy glass of the following south elevation windows of 2413-C Fifth St: See attached 2/A3.2 South Elevation for window # reference.

- #3 First Floor bath
- #8 Mezzanine Floor bath
- #15 Second Floor kitchen (2 pieces)
- #16 Second Floor living @ stair

Terms of glazing replacement at 2413-C Fifth Street:

1. Glazing specification including privacy treatment shall be provided by the Owner of 2413-C Fifth St, who shall obtain a minimum of 3 bids.
2. Properties 180, LLC may obtain additional bids for competitive price comparison and consideration.
3. Properties 180, LLC will cover \$6,500 of the cost of replacing the glazing at 2413-C Fifth Street.

AGREEMENT BETWEEN SONJA KASSUBA AND PROPERTIES 180, LLC

4. The contract for the glazing replacement shall be between the glazing contractor and the Owner of 2413-C Fifth Street.
5. Payment in full shall be made directly to the glazing contractor by the Owner of 2413 -C Fifth Street.
6. Payment of \$6,500 by owner of 2421 Fifth Street to the owner of 2413-C Fifth Street for glazing replacement will occur after glazing replacement has been completed at 2413-C Fifth Street.
7. Replacement of glazing shall be completed prior to start of demolition of existing structure and any construction at 2421 Fifth Street.

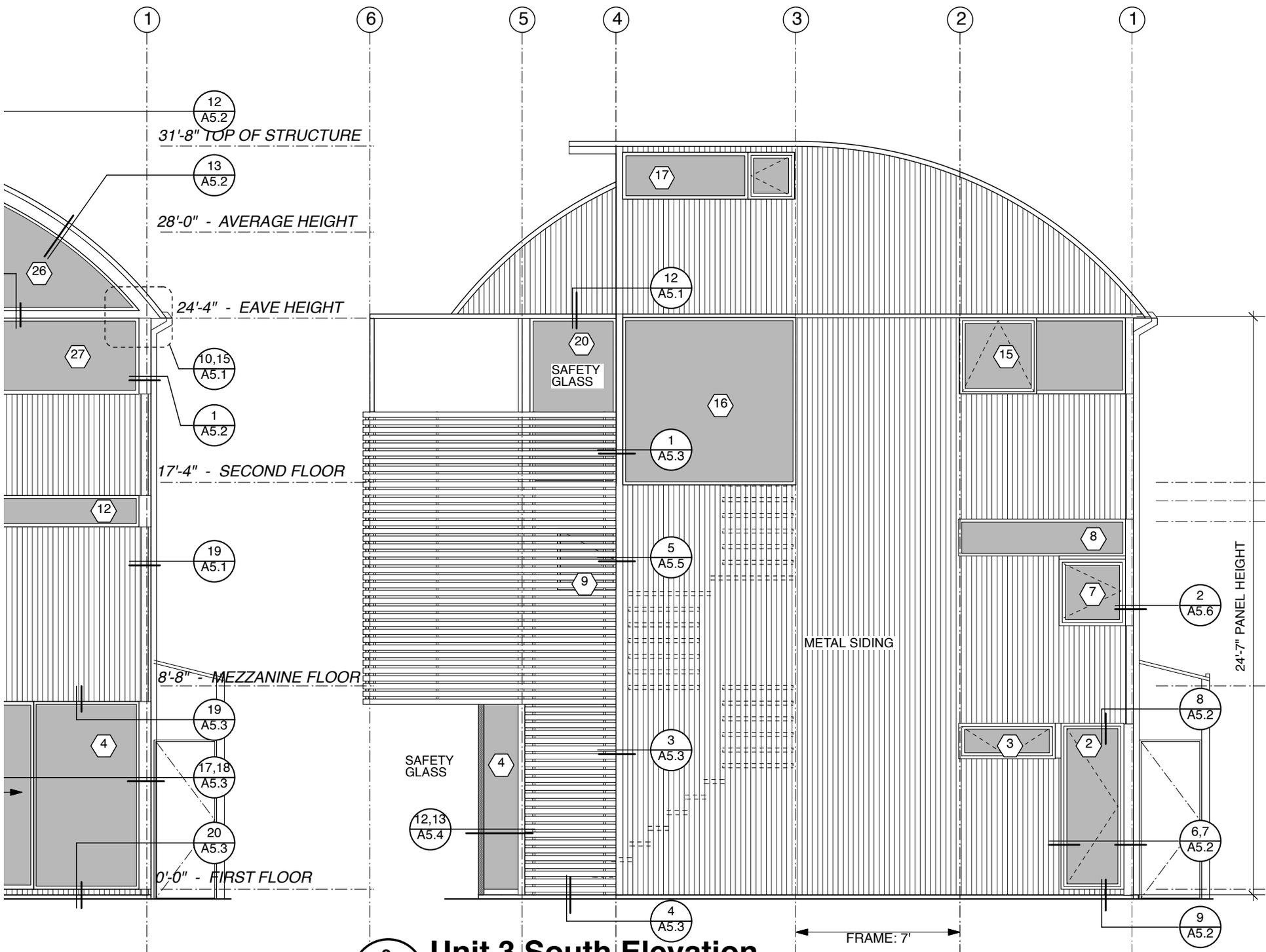
These terms only apply to this site if developed according to plans filed under #ZP2020-0043 as approved by the City of Berkeley.

In exchange, Sonja Kassuba will advise the City of Berkeley that she will not enforce privacy glazing condition and deck screening condition for Unit 3 and Unit 4 as recorded as Condition 11 in the ZAB decision letter for this project.

Signature of this contract between both parties is legally binding.

Sonja Kassuba Sonja Kassuba, Owner 6/1/21
 2413-C Fifth St, Berkeley CA 94705

RAUL LUNA Raul Luna, Managing Member 6/1/2021
 Properties 180 LLC PO Box 1340 Ceres, CA 95307



2
Unit 3 South Elevation
A3.2
 scale : 1/4" = 1'-0"