



Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION
OCTOBER 13, 2022

2435 Haste Street

Use Permit #ZP2021-0210 to demolish an existing multi-family dwelling (eight units) and construct an eight-story, residential building with 37 units (including affordable replacement units) and 935 square feet of usable open space.

I. Background

A. Land Use Designations:

- General Plan: RMU – Residential Mixed-Use
- Zoning: R-SMU – Residential Southside Mixed-Use District

B. Zoning Permits Required:

- Use Permit under BMC Section 23.326.020 to demolish dwelling units
- Use Permit under BMC Section 23.326.030 to demolish dwelling units constructed before June 1980
- Use Permit under BMC Section 23.202.020 to construct a multi-family residential building
- Use Permit under BMC Section 23.202.140(E)(3) to allow a height of up to five stories and 65 feet
- Administrative Use Permit under BMC Section 23.304.030(B)(2) to reduce setbacks to zero in a main building containing dwelling units
- Administrative Use Permit under BMC Section 23.202.140(E)(5) to increase lot coverage maximum up to 100 percent for parcel with a main building containing dwelling units
- Administrative under BMC Section 23.304.050(A) to allow architectural elements to exceed the district height limit

C. Waivers Pursuant to State Density Bonus Law:

- Waiver of BMC Section 23.202.140(E)(3) to exceed the height and story limits (after Use Permit)
- Waiver of BMC Section 23.202.140(E)(1) to reduce minimum required usable open space

D. CEQA Recommendation: It is staff's recommendation to ZAB that the project is categorically exempt pursuant to §15332 ("In-Fill Development Projects") of the CEQA Guidelines. The determination is made by ZAB.

The project meets all of the requirements of this exemption, as follows:

- The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by City Transportation Division which concurred with the findings of less than significant impacts. Standard Conditions of Approval would address potential impacts related to traffic, noise, air quality, and water quality.
- The site can be adequately served by all required utilities and public services.

Furthermore, none of the exceptions in CEQA Guidelines §15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code §65962.5, and (f) the project would not affect any historical resource. See Section III.E for discussion of the project's CEQA review.

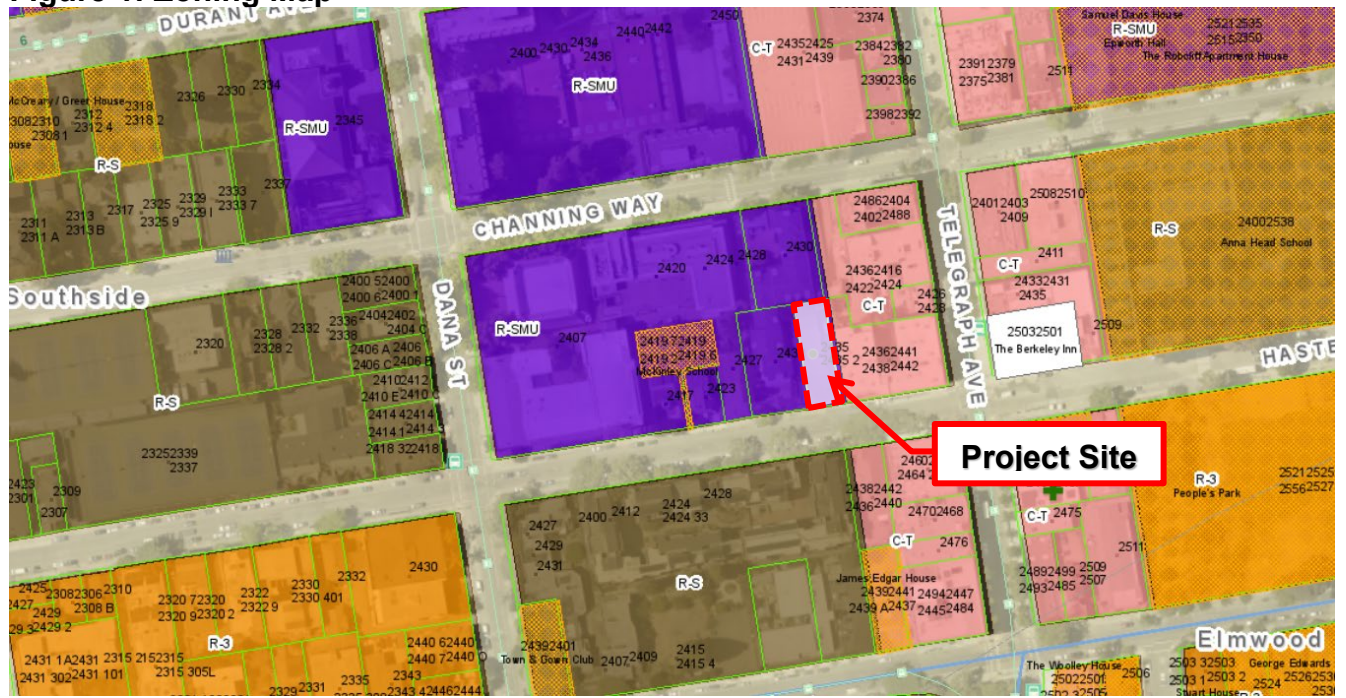
E. Parties Involved:

- Applicant Buddy Williams, Studio KDA, 1810 Sixth Street, Berkeley, CA 94710
- Property Owner Kenneth Ent, 2441 Haste Street, Berkeley, CA 94704


F. Application Materials, Staff Reports and Correspondence are available on the Internet:

<https://aca.cityofberkeley.info/citizenaccess/Default.aspx>
<https://cityofberkeley.info/your-government/boards-commissions/zoning-adjustments-board>

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- R-SMU: Residential Southside Mixed-Use District
- R-S: Residential Southside District
- C-T: Telegraph Avenue Commercial District
- R-3: Multiple Family Residential District

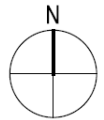


Figure 2: Elevations



South Elevation (Haste Street)

East Elevation



North Elevation

West Elevation

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Multi-family Residential (8 units)	R-SMU	RMU Residential Mixed-Use
Surrounding Adjacent Properties	North	Institutional (U.C. Berkeley)		
	West	Institutional (U.C. Berkeley)		
	South	U.C Berkley Co-op Housing/ Multi-family Residential	R-S	HDR High Density Residential
	East	Mixed-use Residential	C-T	AC Avenue Commercial

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee & Affordable Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	No	These fees apply to projects with more than 7,500 square feet of net new non-residential gross floor area. The project includes no net new non-residential gross floor area. Therefore, the project would not be subject to these fees.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	The project would include five or more market rate dwelling units and is therefore subject to the affordable housing provisions of BMC 22.20.065.
Coast Live Oaks	Yes	There is one Coast Live Oak tree on the project site that would be preserved in the project. An arborist report was submitted by the project arborist, and peer reviewed by the Forestry Division. A condition of approval is included in the permit to ensure that the tree protection measures in the arborist report and from Forestry Division are implemented with the project.
Creeks	No	The project site is not within a creek buffer.
Density Bonus	Yes	The project would provide five Very Low-Income units, or 20% of the Base Project/maximum allowable 26 units (25 taken), and qualifies for a 50% density bonus, or 13 bonus units (12 taken). See Section III.B for discussion.
Green Building Score	No	The project is not located in the C-DMU, Downtown Mixed-Use District, and is not subject to this requirement.

Characteristic	Applies to Project?	Explanation
Historic Resources	No	The project site does not contain any known historic resource. Demolition of a residential building is proposed, and is not subject to referral to the Landmarks Preservation Commission.
Housing Accountability Act (Govt. Code 65589.5(j))	Yes	The project is a “housing development project” consisting of an all-residential building, and requests no modifications to development standards beyond waivers and concessions requested under density bonus law. Therefore, the HAA findings apply to this project, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section III.C for discussion.
Public Art on Private Projects (BMC Chapter 23C.23)	Yes	The project is subject to the Percentage for Public Art on Private Projects Ordinance. The applicant is electing to pay the fee to comply.
Rent Controlled Units	Yes	The project site contains an existing multi-family residential building, with eight rent-controlled units proposed to be demolished.
Residential Preferred Parking	Yes	The site is located in RPP zone “I”.
Seismic Hazards (SHMA)	No	The project site is not located in an area susceptible to liquefaction, landslide or earthquake, as defined by the State Seismic Hazards Mapping Act (SHMA). No further investigation is required.
Soil/Groundwater Contamination	No	The project site is not located within the City’s Environmental Management Area, and is not known to be a Cortese List site. No further investigation is required. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is served by a local bus line that operates along Dana Street, Dwight Way, and Telegraph Avenue, and is approximately 0.7 miles from the Downtown Berkeley BART Station.

Table 3: Project Chronology

Date	Action
December 6, 2021	SB 330 Preliminary Application deemed complete
November 30, 2021	SB 330 Use Permit Application submitted
June 24, 2022	Application deemed complete; level of CEQA review determined by staff – Categorically Exempt
September 29, 2022	Public hearing notices mailed/posted
October 13, 2022	ZAB Hearing

Table 4: Development Standards

R-SMU Standards		Existing	Proposed	Permitted/Required
Lot Area (sq. ft.)		5,670	no change	n/a
Gross Floor Area (sq. ft.)		6,164	32,338	n/a
FAR		n/a	n/a	n/a
Dwelling Units		8 ¹	37	n/a
Building Height	Average	30'-2"	90'-0"	60' max. ² (65' w/Use Permit)
	Maximum	n/a	n/a	n/a
	Stories	2	8	4 max. ² (5 stories w/UP)
Building Setbacks	Front (Haste)	12'-8"	0'-3"	10' min. ³ (0' w/Administrative Use Permit)
	Rear	12'-0"	10'-5"	10'/10'/10'/17'/19' min. ³ (0' w/AUP)
	Left Side	2'-5"	3'-0"	4'/4'/6'/8'/10' min. ³ (0' w/AUP)
	Right Side ⁴	2'-5"	3'-0"	4'/4'/6'/8'/10' min. ³ (0' w/AUP)
Lot Coverage (%)		54	70	40 ⁵ (100 w/AUP)
Usable Open Space (sq. ft.)		n/a	935	1,480 min. (40 s.f./d.u.)
Car Parking		6	0	0 min./19 max. (0.5 spaces/du max.)
Bicycle Parking	Long Term	0	28	28 (1 space/3 bedrooms)
	Short Term	0	3	3 (1 space/40 bedrooms, or 2)
	Total	0	28/3 (long term/short term)	28/3 (long term/short term)

■ = Waiver or Concession requested to modify the district standard.

¹ The Rent Stabilization Board records indicated 16 individually leased units existing on the site. The City determined that only 8 of the units were legally created, and under Senate Bill 330, 8 would need to be replaced.

² The use permit to allow height up to 5 stories/65 feet is included in the Base Project for the calculation of the density bonus, and is not a requested waiver. Additional height beyond the use permit is being requested as a waiver.

³ The administrative use permit to reduce setbacks to zero in a Main Building containing dwelling units is included in the Base Project for the calculation of the density bonus, and is not a requested waiver.

⁴ A 10-foot no-build easement including the 3-foot-wide right side setback would be established for use by both 2435 and 2441 Haste for fire egress.

⁵ The administrative use permit to allow lot coverage up to 100% is included in the Base Project for the calculation of the density bonus, and is not a requested waiver.

II. Project Setting

A. Neighborhood/Area Description: The project site is located on the north side of Haste Street, a half-block west of the Telegraph Avenue commercial corridor, and three blocks south of the University of California at Berkeley campus. Adjacent parcels to the north and west are occupied by a five-story, student housing complex (U.C. Berkeley), while further west on the same block as the project site, are religious assembly and associated buildings of up to three stories (First Presbyterian Church of Berkeley) and one three-story, single-family dwelling. Nearby parcels to the east, in the Telegraph Avenue Commercial District (C-T) are occupied by one-and two-story commercial buildings, and mixed-use developments up to six stories. Nearby parcels to the south, in the Residential Southside District (R-S) are occupied by a four-story, student housing cooperative, and a three-story, four-plex dwelling.

A local AC Transit bus line operates less than one block away, along Dana Street, Dwight Way, and Telegraph Avenue. The site is approximately 0.7 miles from the Downtown Berkeley BART Station. (See Figure 1: Zoning Map.)

B. Site Conditions/Background: The project site is a rectangular interior lot with a frontage along Haste Street measuring 42 feet and 135 feet deep. . The parcel is occupied by a two-story building with a partially subterranean garage. The existing building contains eight rent-controlled dwelling units, which were registered with the Rent Stabilization Board as 16 individually leased units. The City determined that eight of the units were legally created, and would need to be replaced pursuant to Senate Bill 330 replacement requirements. See section III.B for the discussion of replacement units. One existing Coast Live Oak tree is located on the north property line at the northwest corner of the site that would be preserved.

III. Project Description

A. The project proposal consists of the demolition of the existing residential building, including the elimination of eight rent-controlled units, and the construction of an eight-story, 32,338-square-foot building, with 37 dwelling units. The eight demolished rent-controlled units would be replaced with three Extremely Low-Income (ELI), two Very Low-Income (VLI), one Low-Income (LI), one Moderate Income, and one market-rate unit in the new building, which also qualifies the project for a State density bonus. The unit composition would be 29 two-bedroom units and eight three-bedrooms units, for a total of 82 bedrooms in the building. A total of 935 square feet of usable open space will be provided in the project through a rear patio (oak tree to remain) and roof deck. A total of 28 bike parking spaces are provided through a 16-space room on the ground floor and covered exterior racks for 12 bikes at the rear property line. (See Figure 2: Elevations.)

B. Replacement of Demolished Units: Government Code Section 65915 (Density Bonus) and Government Code Section 66300 (SB 330) prohibits the demolition of occupied or vacant protected units (i.e. rent-controlled or affordable units) unless the

project will create at least as many residential units as will be demolished and will replace them with at least as many residential dwelling units as the greatest number of units that existed on the project site within the last five years. Further, if the income levels of the existing tenants or tenants within the last five years are unknown, they must be replaced with “equivalent” units of affordability levels that are the same or lower than the income distribution of renters for City of Berkeley according to the United States Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy (CHAS) database. As per the CHAS data, the affordability distribution of the eight replacement units in the project shall be three ELI, two VLI, one LI, and one MI, and one Market Rate. Lower income occupants of protected units would be entitled to relocation benefits and first right of refusal of a comparable unit in the new housing development. See V.D for discussion.

C. Base Project and Density Bonus: As discussed previously, the affordability distribution of the eight replacement units in the project is three ELI, two VLI, one LI, and one MI, and one Market Rate. For purposes of determining the qualifying units for the density bonus, the three ELI and two VLI units are combined to represent five VLI units.¹ By committing to provide five VLI units, the project is eligible for a density bonus under Government Code §65915. Under the City’s density bonus procedures, the Base Project was calculated to have 26 units, of which 25 are utilized, as the maximum allowable density for the site.² The Base Project has an average unit size of 904 square feet in a five-story building. Five VLI units, or 20 percent of the Base Project, qualifies the project for a 50 percent density bonus or 13 bonus units, of which the project would utilize 12. The resulting Proposed Project would be a six-story building with 37 units, with an average unit size of 874 square feet. (See Table 5: Density Bonus.)

Table 5: Density Bonus – CA Gov’t Code 65915

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
25 (26 max.)	5 VLI (20% of BP)	50%	12 (13 max.) (32.5%x50)	37 (39 max.)
*Per Gov’t Code 65915(q), all unit calculations are rounded up to the nearest whole number.				

¹ Pursuant to Gov’t Code Section 65915(c)(3)(B), “the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy”. Additionally, Pursuant to Section 66300(d)(2)(ii), “Any protected units replaced pursuant to this subparagraph shall be considered in determining whether the housing development project satisfies the requirements of Section 65915”.

² 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, §65915(f).

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

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

The Base Project complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduce the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, Section 65589.5(j) **does apply** to the Proposed Project. All findings discussed below are subject to the requirements of Government Code Section 65589.5.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting the application to the City on November 30, 2021, the applicant installed yellow Proposed Development Project signs at the project site.

October 11, 2021 a neighborhood outreach meeting was held by the applicant. Two members of the public attended.

On September 29, 2022, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. No further communications regarding the project were received as of the writing of this staff report.

B. Commissions: This application is not subject to review by the Landmarks Preservation Commission (LPC) or the Design Review Committee (DRC).

V. Issues and Analysis

A. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized

zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A “housing development project” means a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

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

The October 13, 2022 ZAB Hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold four additional public hearings on this project, if needed. One hearing must be reserved for a potential appeal to the City Council.

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

As discussed in the historic resource evaluation (State Department of Parks and Recreation Primary Record) prepared in February, 2022 for the existing property, there is no indication of historical significance on the parcel, and it is not considered eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmarks or Structures of Merit. The existing building to be demolished is a residential building, and is not subject to demolition referral from the LPC. Therefore, it was determined that the site is not an historic resource. Standard conditions of approval have been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The use permit application was deemed complete on June 24, 2022. Staff also determined on this date that the level of CEQA review was to be: “Categorically Exempt”.
4. Government Code §66300(d) prohibits the demolition of occupied or vacant protected units (i.e. rent-controlled or affordable units), unless the project will create

at least as many residential units as will be demolished and will replace them with at least as many residential dwelling units as the greatest number of units that existed on the project site within the last five years. The eight dwelling units proposed to be demolished would be replaced in the project. See section III.B for details.

- B. Density Bonus Waivers and Concessions:** The project is entitled to two concessions (or incentives), under Government Code §65915(d) for providing at least 10 percent of total units to very low-income households, and an unlimited number of waivers, under §65915(e). The project is not requesting any Concessions.

Waiver. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. Waivers from height (maximum height and number of stories) and usable open space are requested because they are necessary to physically accommodate the full density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low income, very low income, and moderate income households, or if the waiver would be contrary to State or Federal law. Staff has not identified any evidence that would support such a finding.

- C. Elimination/Demolition of a Dwelling Unit:** Pursuant to BMC Section 23.326.030, the Board may approve a Use Permit to demolish a building constructed prior to June 1980 on a property containing two or more dwelling units if at least one of the findings in BMC Section 23.326.030(A)(3) are satisfied. In addition, per BMC Section 23.326.030(A)(2), demolition is not allowed if the building was removed from the rental market under the Ellis Act during the preceding five years, or there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

The proposed project satisfies the finding in BMC Section 23.326.030(A)(3), which requires that “The demolition is necessary to permit construction approved pursuant to this Chapter of at least the same number of dwelling units”. As discussed in section III.B, the project would construct 37 dwelling units, including eight units to replace the units to be demolished, to be offered at the affordability levels required by Government Code Section 65915 (Density Bonus) and Government Code Section 66300 (SB 330), as discussed in section III.B.

The proposed project also satisfies the limitations in BMC Section 23.326.030(A)(2). While not under the purview of the ZAB, staff requested a review of the rental history and status of the subject site by the Rent Stabilization Board (RSB) pursuant to the Rent Stabilization and Eviction for Good Cause Ordinance (BMC Section 13.76). The

RSB found no record of Ellis Act activity, past harassment, or illegal eviction related to any of the units.

D. Occupying Tenant Protections: Pursuant to BMC 23.326.030(A)(5), the following occupying tenant protections under this section are applicable when units to be demolished are occupied:

1. The applicant shall provide assistance with moving expenses equivalent to in Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households).
2. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy.
3. Sitting tenants who are displaced as a result of demolition shall be provided the right of first refusal to move into the new building.
4. Tenants of units that are demolished shall have the right of first refusal to rent new below-market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues.
5. Income restrictions do not apply to displaced tenants.

In addition, pursuant to Government Code Section 66300(d)(2)(C), any existing residents will be allowed to occupy their units until six months before the start of construction activities with proper notice. Conditions of approval will be included in the permit to ensure implementation of the forgoing tenant benefits.

E. Coast Live Oak Tree Moratorium: Pursuant to BMC Chapter 6.52, removal of any single stem Coast Live Oak tree of a circumference of 18 inches or more and any multi-stemmed Coast Live Oak with an aggregate circumference of 26 inches or more at a distance of four feet up from the ground within the City is prohibited. One existing Coast Live Oak tree is located on north property line, at the northwest corner of the site, that the project would preserve. An arborist report was submitted by the project arborist, and peer reviewed by the Forestry Division. A condition of approval is included in the permit to ensure that the tree protection recommendations in the report and from Forestry Division are implemented with the project.

VI. Other Considerations

The project is consistent with the following City goals and policies, provided here for informational purposes only, to provide context; they are not required because the proposed project is HAA-compliant.

F. Southside Area Plan Mitigation Monitoring Program: Pursuant to BMC Section 23.304.140(B), with the implementation of the attached conditions of approval, the project is compliant with the Southside Area Plan Mitigation Monitoring Program.

- G. General Non-Detriment:** Pursuant to BMC Section 23.406.040, with the implementation of the attached conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, the project would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.
- H. Shadow Studies:** The additional height above the district limits allowed by density bonus provisions would cast shadows in the affected directions further than if the project were limited to the base district height standards. The shadow impacts from the project would be reasonable and are expected in an urban environment. See Sheets G006 to G008 in the Plans.
- I. General Plan:** The project is consistent with the following General Plan goals and policies.
1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
 2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
 3. Policy 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.
 4. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
 5. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
 6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
 7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
 8. Policy H-19–Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG’s Regional Housing Needs Determination for Berkeley.
 9. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2021-0210, pursuant to BMC 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received October 3, 2022
3. Rent Stabilization Board Memorandum and Applicant Response
4. Notice of Public Hearing

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429

ATTACHMENT 1

FINDINGS AND CONDITIONS

OCTOBER 13, 2022

2435 Haste Street

Use Permit #ZP2021-0210 to demolish an existing multi-family dwelling (eight units) and construct an eight-story, residential building with 37 units (including affordable replacement units) and 935 square feet of usable open space.

PERMITS REQUIRED

- Use Permit under BMC Section 23.326.020 to demolish dwelling units
- Use Permit under BMC Section 23.326.030 to demolish dwelling units constructed before June 1980
- Use Permit under BMC Section 23.202.020 to construct a multi-family residential building
- Use Permit under BMC Section 23.202.140(E)(3) to allow a height of up to five stories and 65 feet
- Administrative Use Permit under BMC Section 23.304.030(B)(2) to reduce setbacks to zero in a main building containing dwelling units
- Administrative Use Permit under BMC Section 23.202.140(E)(5) to increase lot coverage maximum up to 100 percent for parcel with a main building containing dwelling units
- Administrative under BMC Section 23.304.050(A) to allow architectural elements to exceed the district height limit

CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- Waiver of BMC Section 23.202.140(E) to exceed the height and story limits (after Use Permit)
- Waiver of BMC Section 23.202.140(E) to reduce minimum required usable open space

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 (“In-Fill Development Projects”)

The project meets all of the requirements of this exemption, as follows:

- A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
- E. The site can be adequately served by all required utilities and public services.

2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
(a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
 - A. Under the City's methodology for implementing density bonuses, the "base project" consists of 25 units (26 maximum);
 - B. Five Very Low-Income qualifying units are provided in the 25-unit (out of 26 maximum) "base project", as more fully set forth in the Below Market Rate Conditions. The project will provide at least three Extremely Low-Income, two Very Low-Income, one Low-Income, one Moderate Income, one Market Rate unit as replacement for the eight demolished protected units. For purposes of determining the qualifying units for the density bonus, the three ELI and two VLI units are combined to represent five VLI units.
 - C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus two concessions or incentives. This equates to a density bonus of 12 units (out of 13 maximum) above the Base Project, for a total of 37 units (out of 39 maximum).
2. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers:
 - A. Waiver of BMC Section 23.202.140(E) to exceed the height and story limits (after Use Permit)
 - B. Waiver of BMC Section 23.202.140(E) to reduce minimum required usable open space

These waivers are required because state law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the Zoning Adjustments Board hereby finds that the density bonus units can best be accommodated by granting these waivers.

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

III. FINDINGS FOR APPROVAL

1. The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
 - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density.

B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

The project includes construction of 37 dwelling units. Because the base project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff.

2. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - A. The project is consistent with all applicable R-SMU District standards and qualifies for waivers for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915.
 - B. One existing Coast Live Oak tree is located on north property line, in the northwest corner of the site that the project will preserve. An arborist report was submitted by the project arborist, and peer reviewed by the Forestry Division. A condition of approval is included in the permit to ensure that the tree protection recommendations in the report and from Forestry Division are implemented with the project.
 - C. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
3. As required by BMC Section 23.326.020, the Board finds that eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley because:
 - A. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
4. As required by BMC Section 23.326.030, the Board finds that:
 - A. The proposed project satisfies the finding in BMC Section 23.326.030(A)(3), which requires that "The demolition is necessary to permit construction approved pursuant to this Chapter of at least the same number of dwelling units". The project will construct 37 dwelling units, including eight units to replace the units to be demolished, to be offered at the affordability levels required by Government Code Section 65915 (Density Bonus) and Government Code Section 66300 (SB 330).

- B. The proposed project satisfies the limitations in BMC Section 23.326.030(A)(2). The Rent Stabilization Board (RSB) found no record of Ellis Act activity, past harassment, or illegal eviction related to any of the units.
 - C. Conditions of approval have been included in the permit to ensure the implementation of protections for occupying tenants pursuant to BMC 23.326.030(A)(5) and Government Code Section 66300(d)(2)(C).
5. As required by BMC Section 23.202.140(E)(3), the Board finds that the height limit may be increased because:
- A. The project is all residential (100 percent residential use), and at least 50 percent of the total floor area is designated for residential use.
 - B. The project meets the purposes of the R-SMU district (BMC Section 23.202.140.A) by constructing a high-density, multi-story residential development close to the U.C. Berkeley campus and community, which is a major shopping, transportation, and employment center; and by creating housing for persons who desire a convenient location, but require relatively small amounts of usable open space.
6. As required by BMC Section 23.304.030(B)(2), the Board finds that:
- A. The reduction of the front and side setbacks are appropriate given the setbacks and architectural design of surrounding buildings.
7. As required by BMC Section 23.202.140(E)(5), the Board finds that the increase of lot coverage to 70 percent (100 percent maximum) is permissible because:
- A. The project contains dwelling units.
 - B. The lot coverage increase is appropriate given the setbacks and architectural design of surrounding buildings.
8. As required by BMC Section 23.304.050(A), the Board finds that the rooftop architectural elements may exceed the district height limit because:
- A. The total area of the rooftop architectural elements is 9 percent and does not exceed 15 percent of the average floor area of all of the building's stories.
 - B. The rooftop architectural elements will not be used as habitable space or for any commercial purpose, other than the mechanical needs of the building.
-

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions and Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Pay Transparency Acknowledgement (BMC Section 13.104.030)

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that:
(1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)

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

11. Posting of Ordinance (BMC Section 13.104.050)

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

12. Conditions of Approval (BMC Section 13.104.060)

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

13. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, 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. Live Oak Tree Protection. The Applicant shall submit plans that demonstrate implementation of the tree protection measures detailed in the Arborist Report by Tree Management Experts, dated September 2, 2021. The Applicant shall retain the project arborist to inspect the construction site quarterly for the duration of construction work to ensure that tree protection measures are properly implemented.

16. Long Term Bike Parking. All long term bike parking shall comply with the guidelines in the 2017 Berkeley Bicycle Plan: https://cityofberkeley.info/sites/default/files/2022-01/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox.pdf
17. 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 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.
18. Construction Noise Reduction Program. The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
 - A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
 - D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
 - E. Prohibit unnecessary idling of internal combustion engines.
 - F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
 - H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
 - I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.
19. Damage Due to Construction Vibration. The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted

in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall

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

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

- 20. Compliance with Conditions and Environmental Mitigations.** The building permit application is subject to verification of compliance to the adopted. 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)

- 21. Fee Deferrals.** All zoning project application fees that were deferred at the time of application submittal shall be paid in full.
- 22. Occupying Tenant Protections.** Pursuant to BMC 23.326.030(A)(5)(c), (i) the applicant shall provide assistance with moving expenses equivalent to those in Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households), and (ii) shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City. The applicant shall submit proof of implementation of the preceding prior to submittal for building permits.
- 23. 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.

24. 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.
25. 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.
26. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
27. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
 - A. Environmental Site Assessments:
 - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at:
http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
 - B. Soil and Groundwater Management Plan:
 - 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units,

that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Prior to Issuance of Any Building (Construction) Permit

28. 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.

29. 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.

30. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
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 (ET_o) for Berkeley is 41.8.
32. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
33. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
34. 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.

Prior to Demolition or Start of Construction:

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

During Construction:

36. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
37. 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.
38. 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.
- 39. Public Works - Implement BAAQMD-Recommended Measures during Construction.** For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
- 40. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project’s on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
 - B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

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

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
- 41. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 42. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 43. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 44. 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.
- 45. 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.
- 46. 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.

47. 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.
48. 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.
49. 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. 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.
 - J. 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.
- 50. 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.
- 51. 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.
- 52. 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.
- 53. 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.

54. 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.
55. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

56. Occupying Tenant Protections.

- A. Pursuant to BMC 23.326.030(A)(5)(d), (i) sitting tenants who are displaced as a result of demolition shall be provided the right of first refusal to move into the new building, and (ii) tenants of units that are demolished shall have the right of first refusal to rent new below-market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues. (iii) Income restrictions do not apply to displaced tenants.
- B. Sitting tenants that do not qualify for a below-market rate unit shall be provided first right of refusal to rent another unit in the building, at the rent that would have applied if they had remained in place, for as long as their tenancy continues. The maximum rent for such tenancies shall increase on January first of each year by no more than 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous June 30.
- C. Pursuant to Government Code Section 66300(d)(2)(C), any existing residents will be allowed to occupy their units until six months before the start of construction activities with proper notice.

57. Percent for Public Art: Consistent with BMC §23C.23, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

58. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.

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

60. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **October 3 2022**, except as modified by conditions of approval.

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

BELOW MARKET RATE UNITS

- 62. Number of Below Market Rate Units.** The project shall provide: three (3) Extremely Low-Income, two (2) Very Low-Income, one (1) Low-Income, one (1) Moderate Income, below market rate rental dwelling units ("BMR Units"), which are required to comply with the State Density Bonus Law (Government Code Section 65915). (For purposes of determining the qualifying units for the density bonus, the three ELI and two VLI units are combined to represent five VLI units.) The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City. Income qualification for the Moderate-Income unit will be monitored separately from the Regulatory Agreement by the Housing and Community Services Department (HHCS).
- 63. Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and 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 maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low-income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review and approval.
- 9.** In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
- B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also

includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

C. BMR units will be provided for the life of the project under Section 22.20.065.

64. Determination of Area Median Income (AMI).

- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one person household
One-bedroom unit	AMI for a two person household
Two-bedroom unit	AMI for a three person household
Three-bedroom unit	AMI for a four person household

65. 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, than are required in the foregoing provisions.

At All Times:

66. Transportation Demand Management Compliance. The property owner shall submit to the Land Use Division annual TDM Compliance Reports, subject to the review and oversight of Land Use Division staff. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).

67. 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.

68. 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.

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. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property

owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.

- 72. 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.
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2435 HASTE APARTMENTS

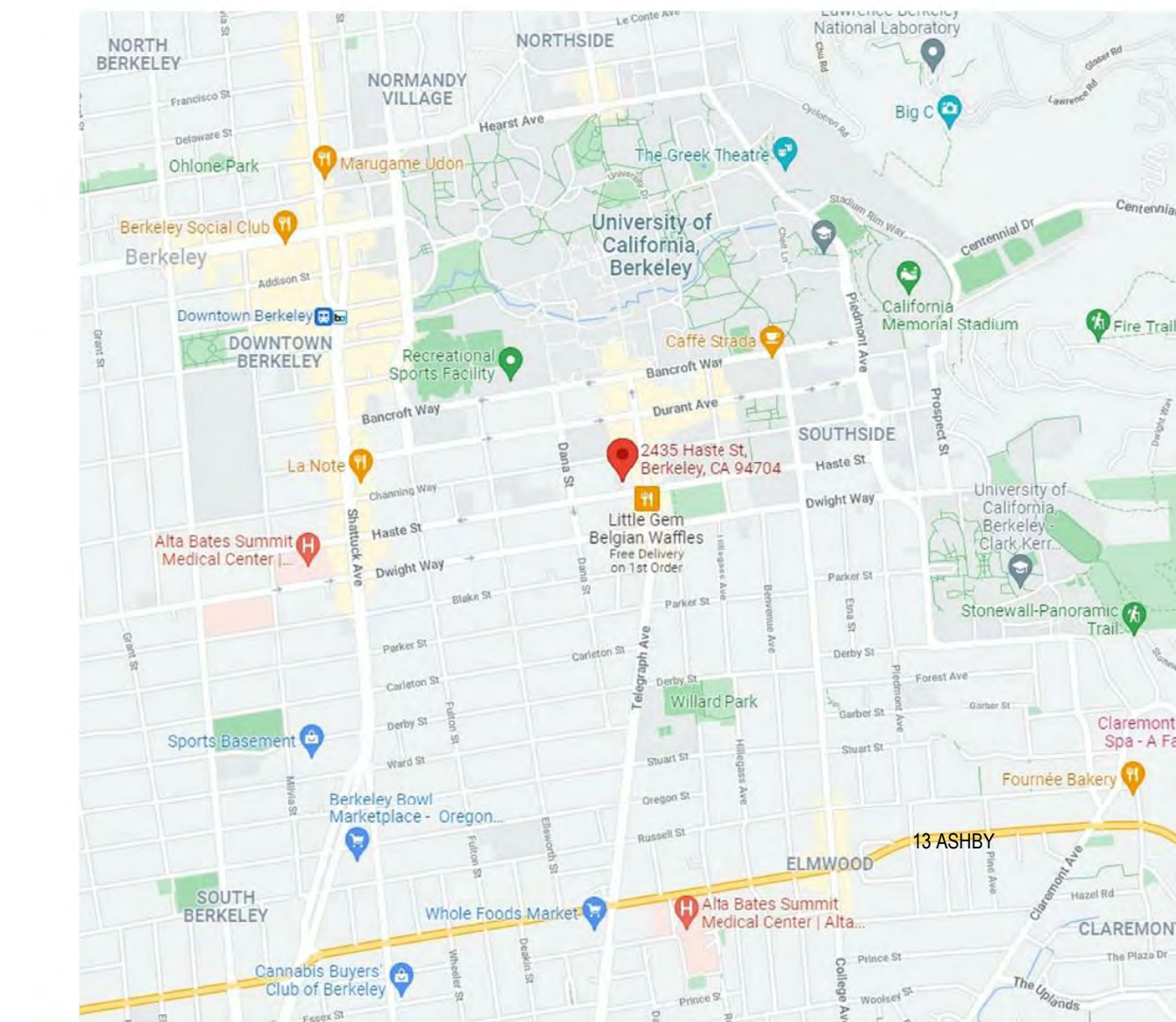
2435 HASTE STREET BERKELEY, CA

ZONING PROJECT APPLICATION

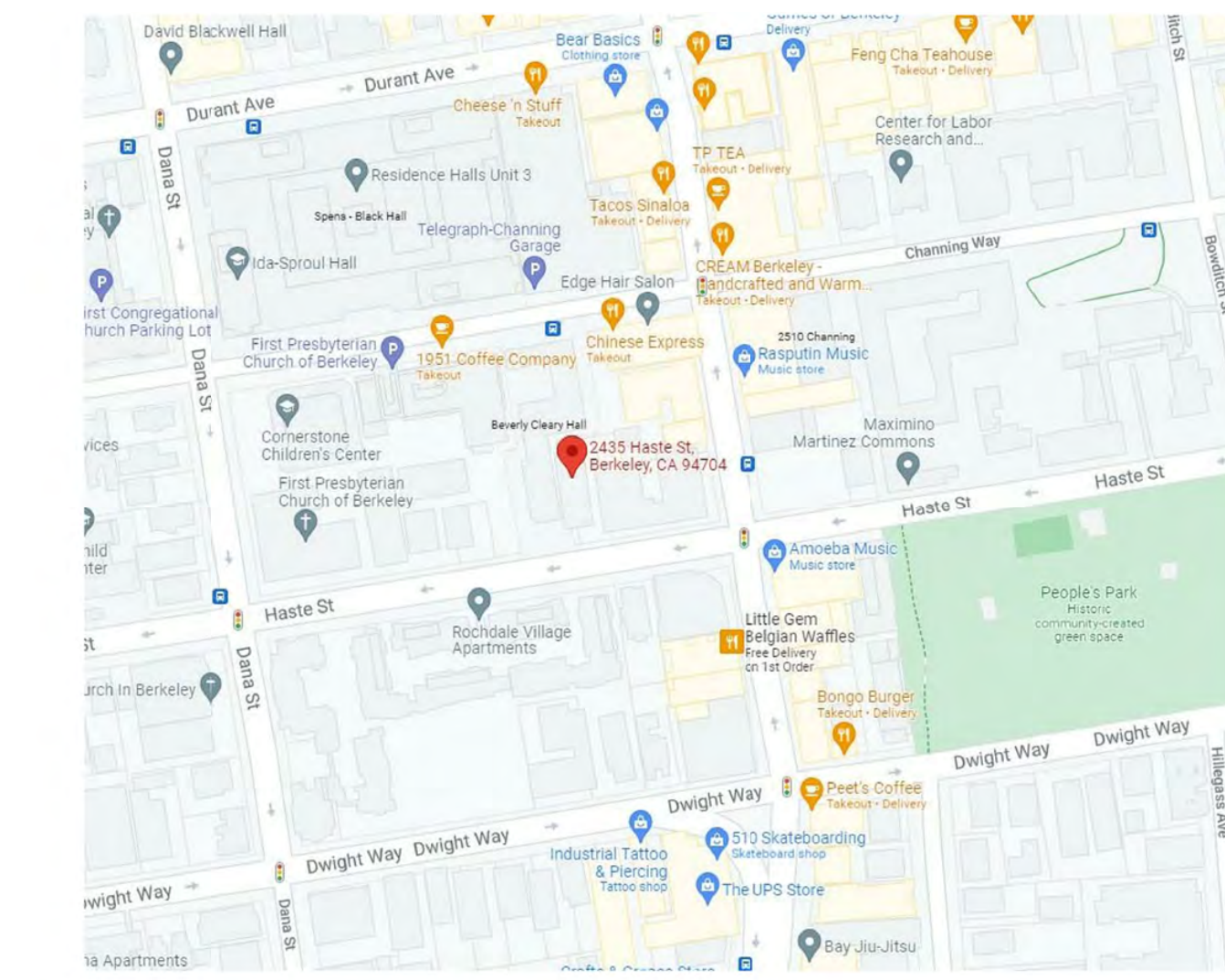
2435 HASTE APARTMENTS

2435 HASTE STREET BERKELEY, CA

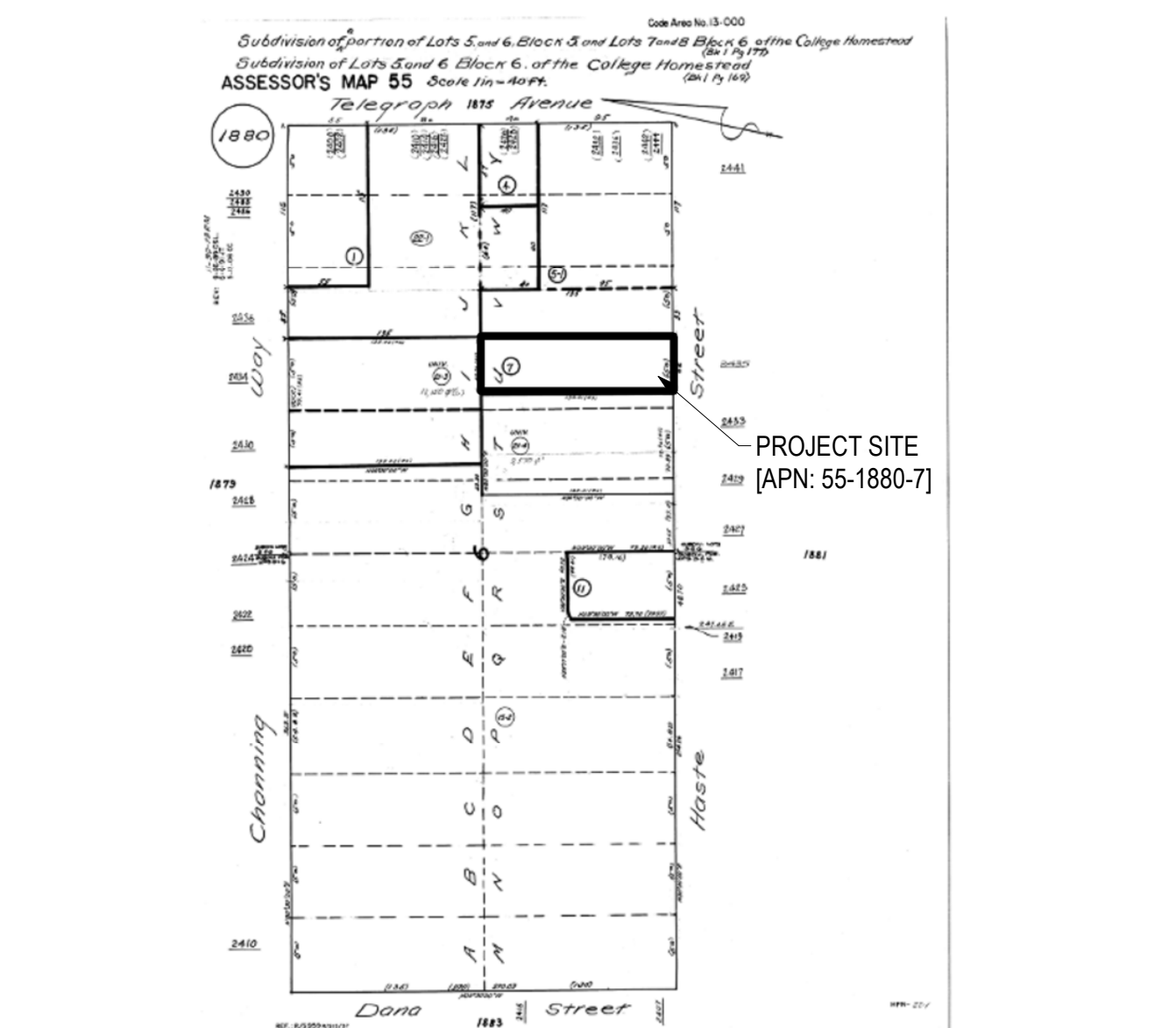
ENT01 - ZONING PROJECT APPLICATION - 11/30/21



5 VICINITY MAP
G000 NOT TO SCALE



4 LOCATION MAP
G000 NOT TO SCALE



3 PARCEL MAP
G000 NOT TO SCALE

ZONING TABULATION		NOTES	
SITE INFORMATION			
ADDRESS	2435 HASTE STREET		
APN	55-1880-7		
ZONING DISTRICT	R-SMU		
OVERLAY OR SPECIAL DISTRICT	SOUTHSIDE AREA PLAN		
SEISMIC SAFETY			
ALQUIST-PRIOLO	NO	LIQUEFACTION	NO
LANDSLIDE	NO	UNREINFORCED MASONRY	NO
HISTORIC PRESERVATION			
LANDMARK	NO	STRUCTURE OF MERRIT	NO
ENVIRONMENTAL SAFETY			
CREEK BUFFER	NO	FIRE ZONE	1
ENVIRONMENTAL MGMT	NO	FLOOD ZONE	NO
PROJECT INFORMATION			
	EXISTING	PROPOSED	PERMITTED / REQUIRED
BUILDING AND LOT			
LOT AREA (SF)	5,670	NO CHANGE	-
BUILDING FOOTPRINT (SF)	3,043	3,945	2,268
LOT COVERAGE	54%	70%	40%*
BUILDING AREA & USE			
USE	MULTI-FAMILY	MULTI-FAMILY	YES, NO CHANGE
GROSS FLOOR AREA (SF)	6,164	32,338	
NET RESIDENTIAL AREA (SF)	6,127	24,314	
USABLE OPEN SPACE	-	935 SF*	40 SQ FT / DWELLING UNIT
HEIGHT			
STORIES HT	2 + BASEMENT	8 + BASEMENT*	4*
AVERAGE HT			
MAX HT	30'-1 1/2"	90'-0"*	60 ft*
SETBACKS			
	LEVEL 1	LEVEL 2	LEVEL 3
FRONT	EXISTING	12'-7 1/2"	12'-7 1/2"
	PROPOSED	3'-0"	0'-3"
	PERMITTED	10'-0"	10'-0"
SIDE	EXISTING	3'-4"	2'-5"
	PROPOSED	3'-0"	3'-0"
	PERMITTED	4'-0"	4'-0"
REAR	EXISTING	12'-0"	12'-0"
	PROPOSED	10'-5 1/2"	10'-5 1/2"
	PERMITTED	10'-0"	10'-0"
UNITS			
COUNT	8 UNITS*	37 UNITS	NONE
DENSITY	N/A	N/A	NONE
STUDIO	0	0	
1 BD	0	0	
2BD	8	29	
3 BD	0	8	
TOTAL	16 BEDS	82 BEDS	
PARKING			
CAR	6	0	NONE
BICYCLE		3	3
	SHORT TERM		
	LONG TERM	0	28
TRASH & RECYCLING			
TRASH	-	(1) 3 YD BIN	*
PAPER	-	(1) 2 YD BIN	*
GLASS, METAL, & PLASTIC	-	(1) 2 YD BIN	*
ORGANICS	-	(4) 64 GAL CARTS	*

NOTES:

23D.52.070
*100% ALLOWABLE VIA ADMINISTRATIVE USE PERMIT

23D.52.070 G
* REDUCTION BY REQUEST OF DENSITY BONUS WAIVER

23D.52.070 C
*BY REQUEST OF DENSITY BONUS WAIVER
*5 STORIES WITH USE PERMIT

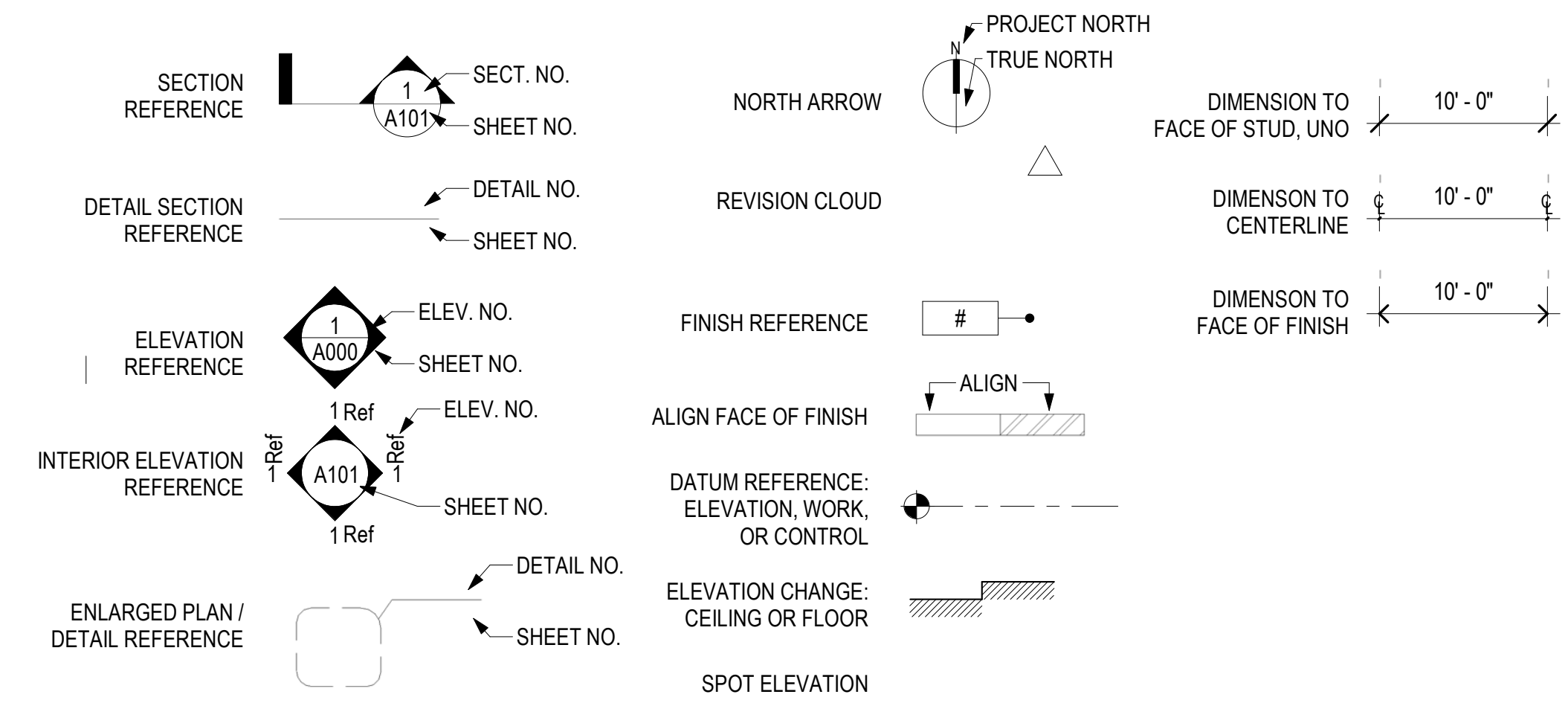
23D.52.070 C. EXCEPTION 2
*BY REQUEST OF DENSITY BONUS WAIVER
*65 FT WITH USE PERMIT

*RENT BOARD RECORDS SHOW (16) RENT-CONTROLLED INDIVIDUALLY LEASED GLA UNITS ON SITE. PER PRE-APPLICATION ADVISORY COMMENT (1), DATED 02/24/2021 AND GOV. CODE SECTION 66300(d), (16) REPLACEMENT UNITS OF EQUIVALENT SIZE ... OR EIGHT UNITS, EACH WITH TWO BEDROOMS ... WOULD SATISFY UNIT REPLACEMENT IN THE PROJECT.

REFER TO G011 FOR REPLACEMENT TABULATION

23D.52.080
23E.28.070 C
23E.28.070 C

*1/4 CUBIC YARD PER 3 RESIDENTS PER CITY OF BERKELEY SPACE GUIDELINES FOR WASTE CONTAINERS



GRAPHIC SYMBOLS
1/8" = 1'-0"

APPLICABLE BUILDING CODE REGULATIONS

- 2019 CALIFORNIA BUILDING CODE (CBC)
- 2019 CALIFORNIA FIRE CODE (CFC)
- 2019 CALIFORNIA MECHANICAL CODE (CMC)
- 2019 CALIFORNIA ELECTRICAL CODE (CEC)
- 2019 CALIFORNIA PLUMBING CODE (CPC)
- 2019 CALIFORNIA ENERGY CODE (CBEES)
- 2019 CALGREEN

WHEN APPLICABLE FOR DEFERRED SUBMITTALS:
SPRINKLER SYSTEM: NFPA 13
FIRE ALARM SYSTEM: NFPA 72

SHEET #	SHEET NAME	10/15/21 - SB330 PRE-APP	11/30/21 - ZONING APP
GENERAL			
G000	PROJECT INFORMATION	*	*
G003	SITE PHOTOS	*	*
G004	STREET STRIP ELEVATION	*	*
G006	SHADOW STUDIES - DEC 21	*	*
G007	SHADOW STUDIES - JUNE 21	*	*
G008	SHADOW STUDIES - SEPT. 29	*	*
G009	WINDOW ALIGNMENT	*	*
G010	PHOTO SIMULATION	*	*
G011	DENSITY BONUS CALCULATION	*	*
G012	GREEN BUILDING CHECKLIST	*	*
G013	LANDSCAPE & USABLE OPEN SPACE PLAN	*	*
G014	LOT COVERAGE DIAGRAM	*	*
SURVEY			
TP1	TOPOGRAPHIC SURVEY PLAN	*	*
CIVIL			
C1.0	COVER SHEET	*	*
C3.0	PRELIMINARY GRADING AND DRAINAGE PLAN	*	*
C4.0	PRELIMINARY UTILITY PLAN	*	*
DEMOLITION			
AD101	EXISTING FLOOR PLAN	*	*
AD102	EXISTING BUILDING ELEVATIONS	*	*
ARCHITECTURAL			
A100.1	PROPOSED SITE PLAN FOR SIG	*	*
A101	PROPOSED BASEMENT & GROUND FLOORS	*	*
A102	PROPOSED TYPICAL RESIDENTIAL FLOOR, 8TH FLOOR, & ROOF PLAN	*	*
A201	BUILDING ELEVATIONS	*	*
A202	BUILDING ELEVATIONS	*	*

PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01

ISSUE DATE: 10/15/21

PROJECT INFORMATION

G000

- THIS PROJECT PROPOSES TO:**
- DEMOLISH AN EXISTING 2-STORY APARTMENT BUILDING COMPRISING (8) PROTECTED 2-BEDROOM RENTAL UNITS.
 - REQUEST A DENSITY BONUS TO CONSTRUCT A NEW 8-STORY (37) UNIT APARTMENT BUILDING COMPRISING (29) 2-BEDROOM AND (8) 3-BEDROOM UNITS IN A SINGLE-LOADED EGRESS BALCONY CONFIGURATION. ALL DEMOLISHED PROTECTED UNITS ARE REPLACED. **REF. G011**
 - ESTABLISH A NEW NO-BUILD RESERVE EASEMENT ON 2441 HASTE STREET, [APN 55-1880-5-1] FOR ASSUMED PROPERTY LINE FIRE SEPARATION DISTANCE TO PROPOSED EGRESS BALCONY.
 - ESTABLISH A NEW NO-BUILD RESERVE EASEMENT ON 2435 HASTE STREET [APN 55-1880-7] FOR AN EGRESS COURT BOUNDED BY ABOVE-MENTIONED ASSUMED PROPERTY LINE FOR USE BY BOTH PROPERTIES.

OWNER:
SEQUIOIA APARTMENTS
2441 HASTE STREET
BERKELEY, CA 94704

ARCHITECT:
STUDIO KDA
1810 6TH ST.
BERKELEY, CA 94710
TEL: (510) 841-3555

CIVIL & SURVEY
HOHBACH-LEWIN
260 SHERIDAN AVE, STE 150
PALO ALTO, CA 94306
TEL: (650) 617-5930

ARBORIST:
TREE MANAGEMENT EXPERTS
3109 SACRAMENTO STREET
SAN FRANCISCO, CA 94115
TEL: (847) 630-3599

IAN THERIAULT-SHAY, RA
ian@studiokda.com

2 PROJECT TEAM
G000

MICHAEL MORGAN, P.E., Q.S.D.
mmorgan@hohbach-lewin.com

AARON WANG
aaron@treemanagementexperts.com

1 PROJECT DESCRIPTION
G000



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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

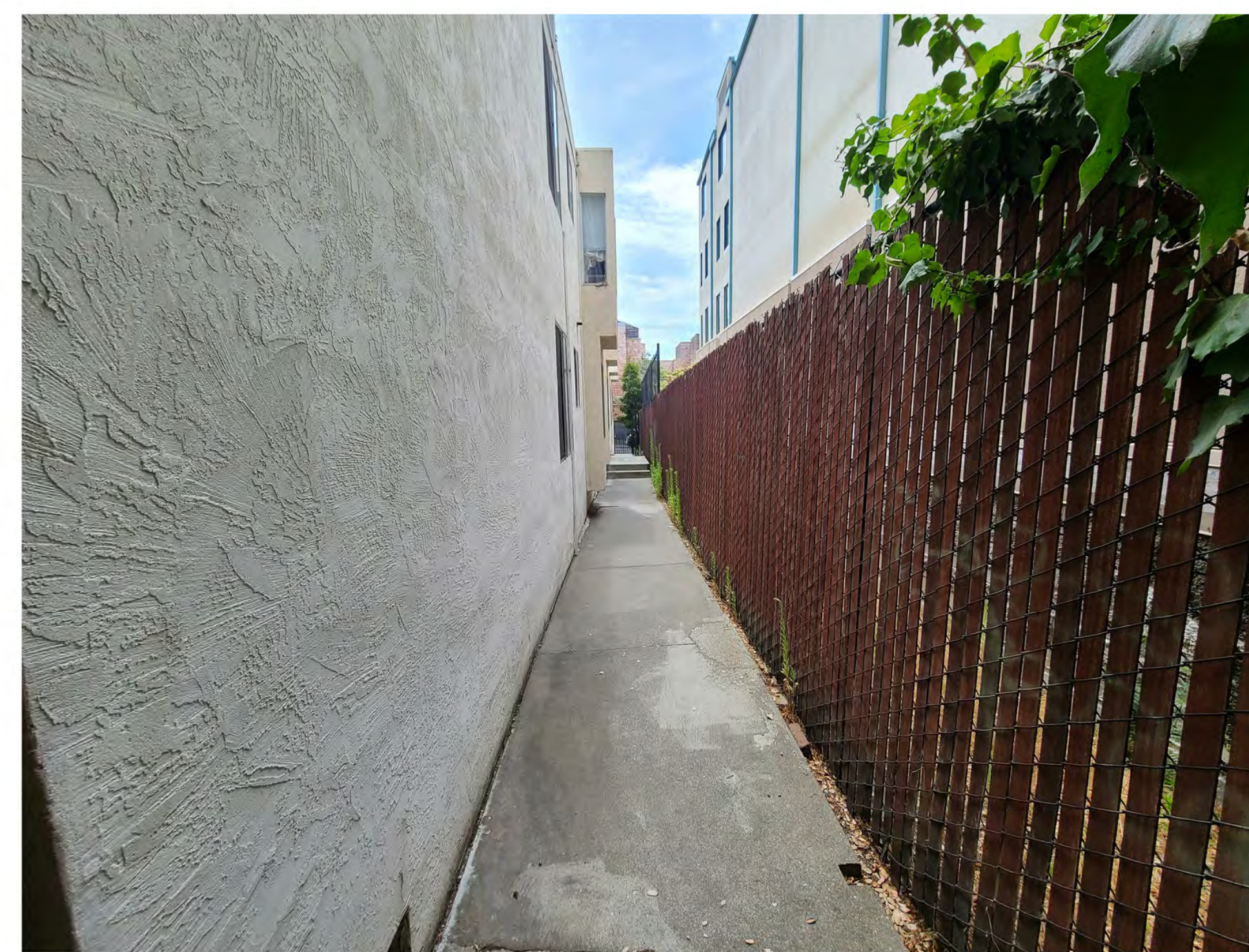
ZONING PROJECT APPLICATION



6 EXISTING APARTMENT STAIR, WEST SIDE
G003 1/2" = 1'-0"



5 EXISTING STREET VIEW
G003 1/2" = 1'-0"



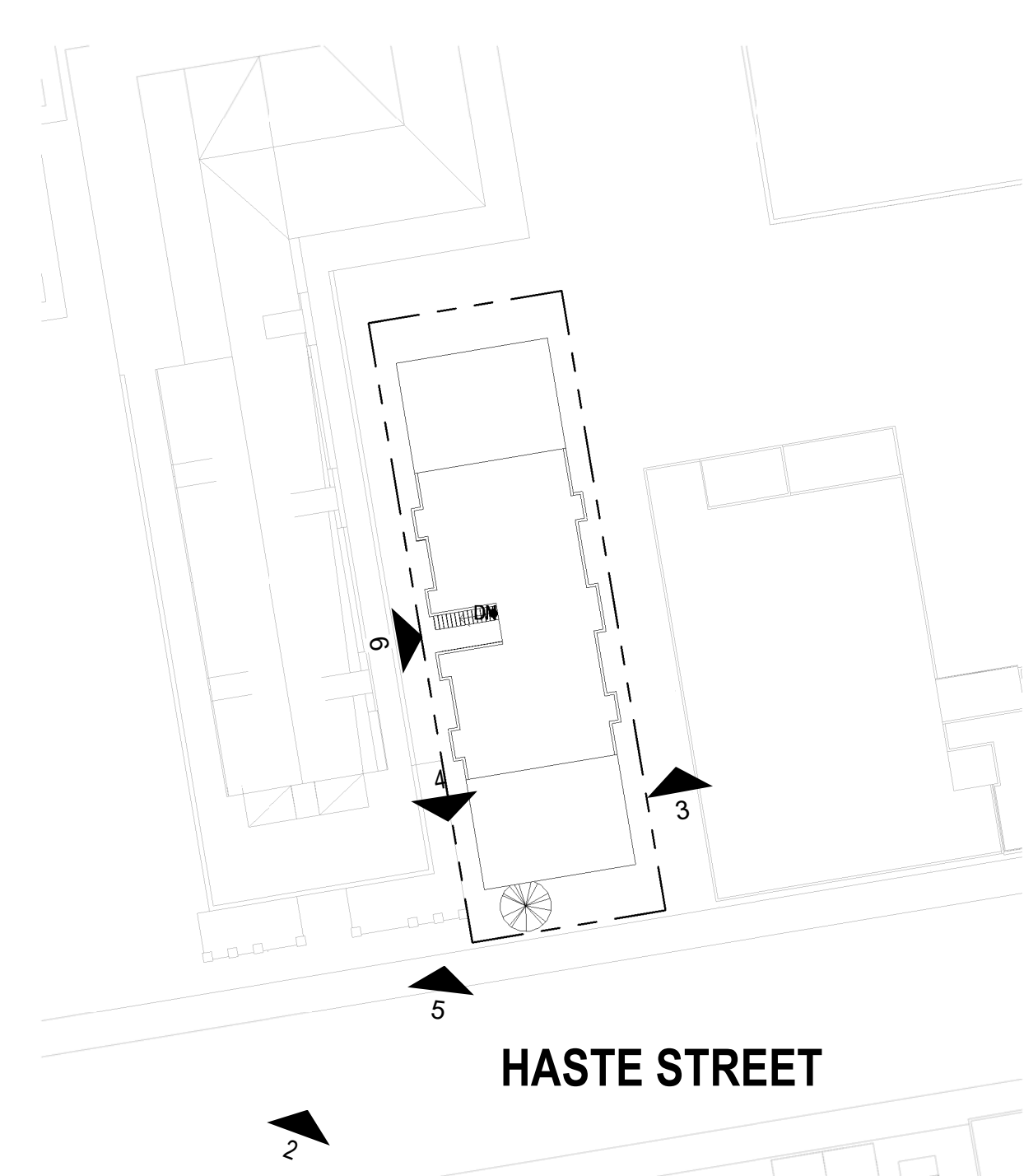
4 EXISTING WEST SIDE YARD
G003 1/2" = 1'-0"



3 EXISTING SIDE YARD, EAST SIDE LOOKING NORTH
G003 1/2" = 1'-0"



2 AERIAL
G003 1/2" = 1'-0"



1 EXISTING SITE KEY PLAN
G003 1/32" = 1'-0"

PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

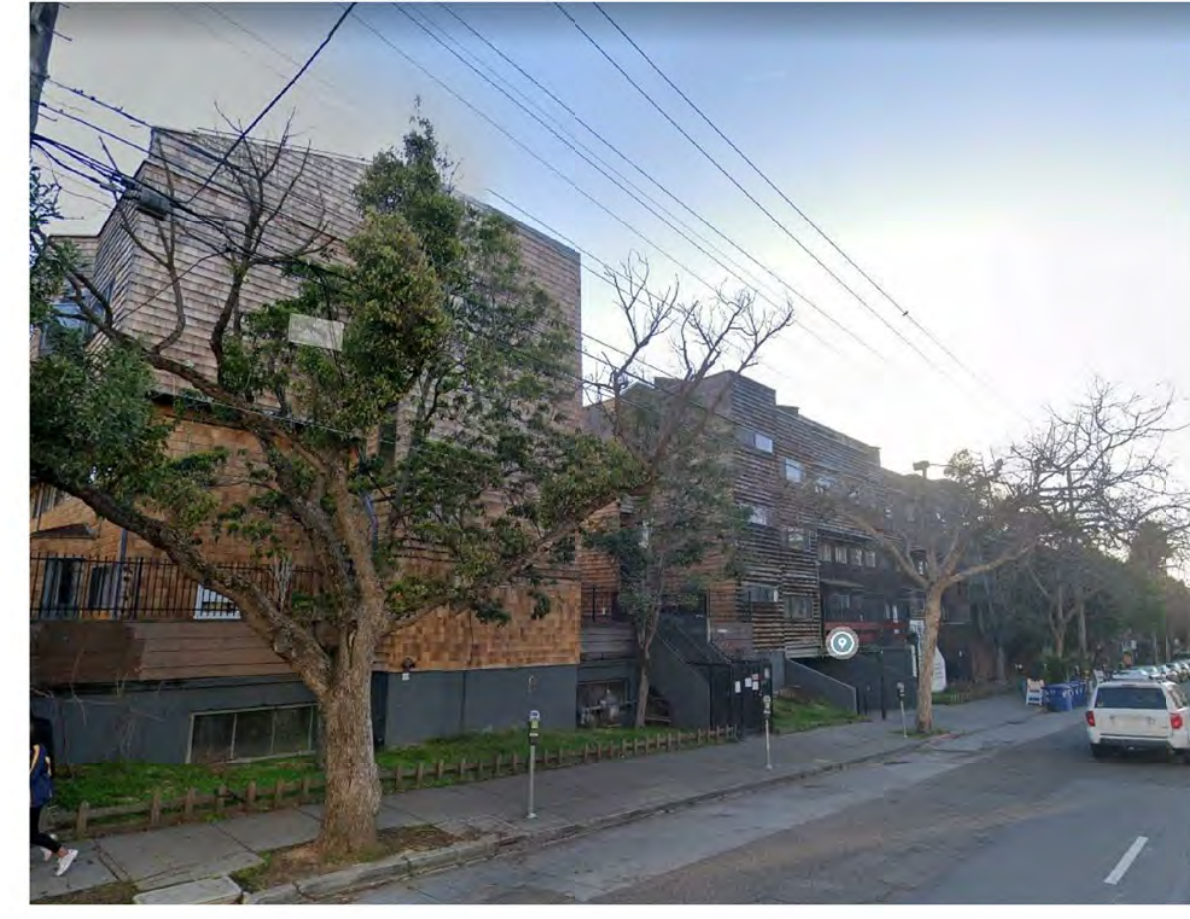
PROJECT #: ENT01
ISSUE DATE: 10/15/21
SITE PHOTOS

G003

5/17/2021 4:56:36 PM



2440 HASTE STREET (ACROSS)



2424 HASTE STREET (ACROSS)



2423 HASTE STREET



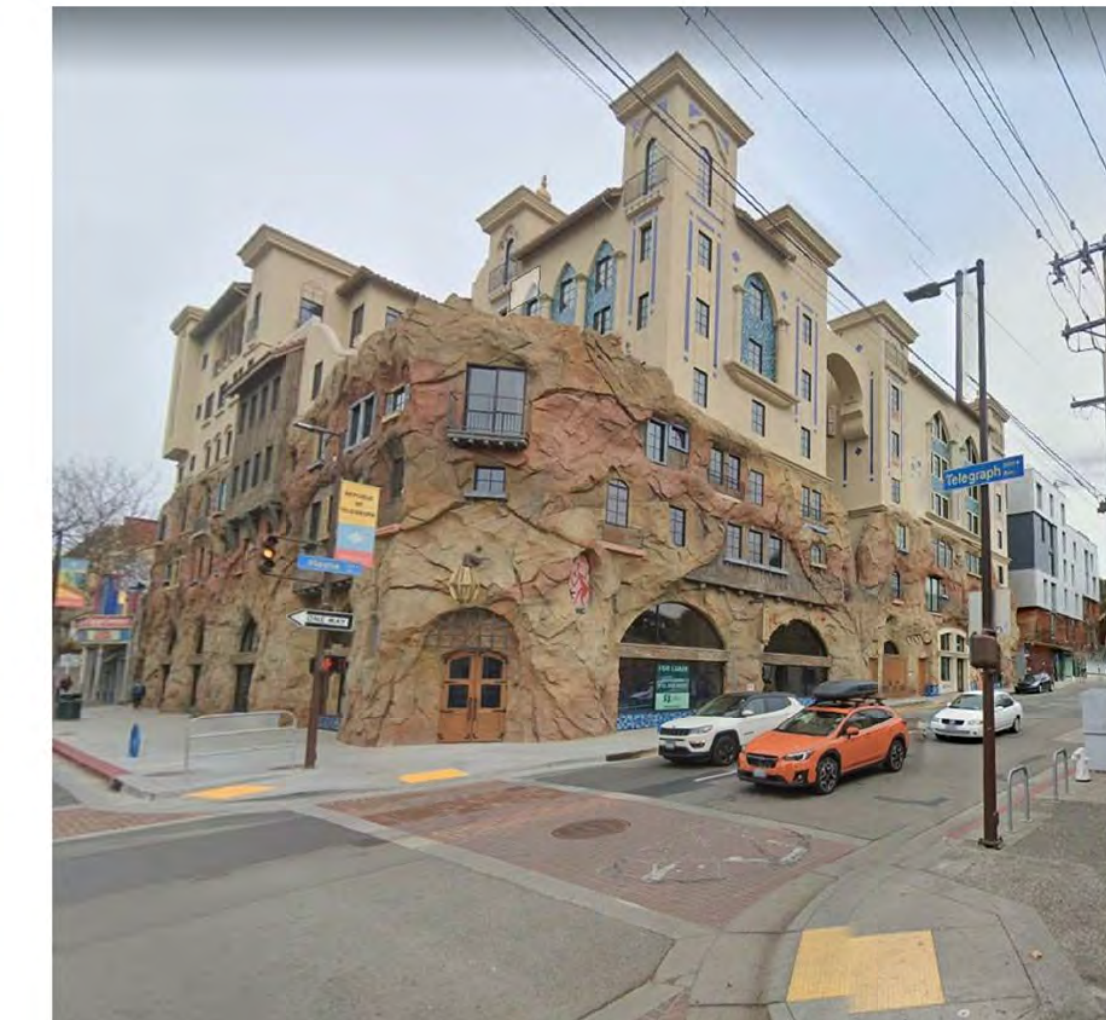
2433 HASTE STREET



2454 HASTE STREET (ACROSS)



2441 HASTE STREET



2503 HASTE STREET



2423 HASTE STREET

2407 DANA STREET (BEHIND)

2433 HASTE STREET

2435 HASTE STREET
PROPOSED PROJECT SITE

2441 HASTE STREET

TELEGRAPH AVE

2503 HASTE STREET

1 STREET STRIP ELEVATION
G004 1/16" = 1'-0"

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**2435 HASTE
APARTMENTS**

2435 HASTE STREET
BERKELEY, CA

**ZONING
PROJECT
APPLICATION**

PROJECT ISSUE RECORD:	
11/30/21	ZONING APPLICATION

PROJECT #: ENT01

ISSUE DATE: 11/30/21

STREET STRIP
ELEVATION

G004



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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

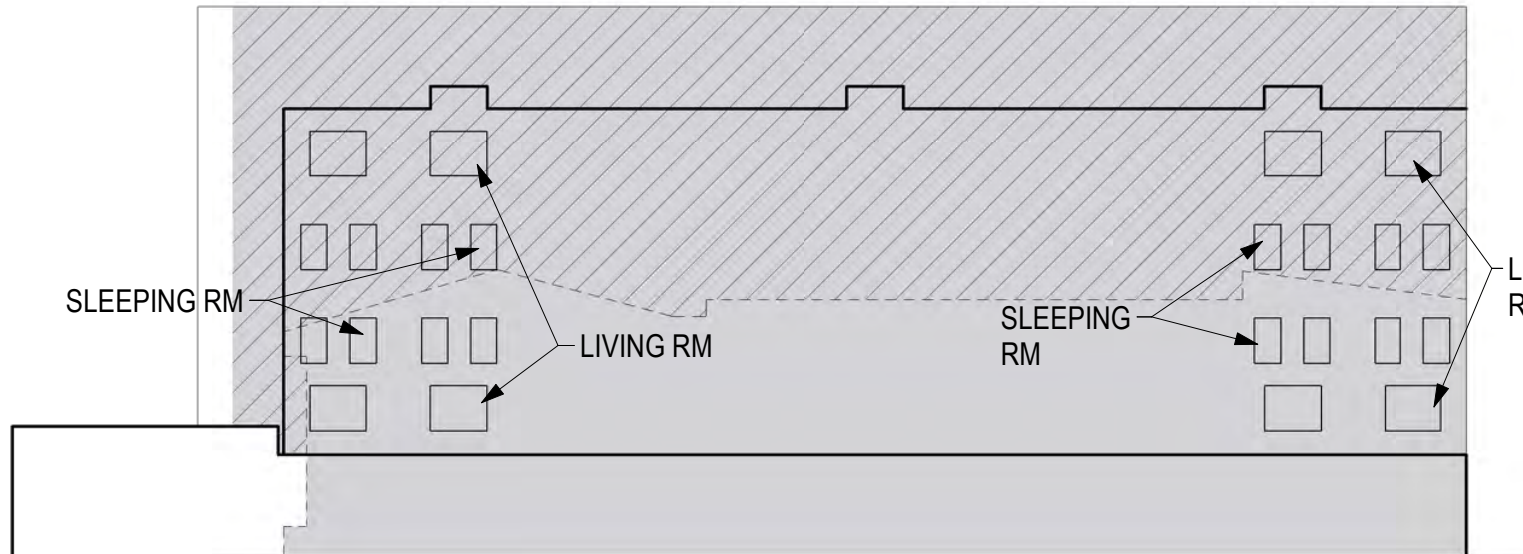
**ZONING
PROJECT
APPLICATION**



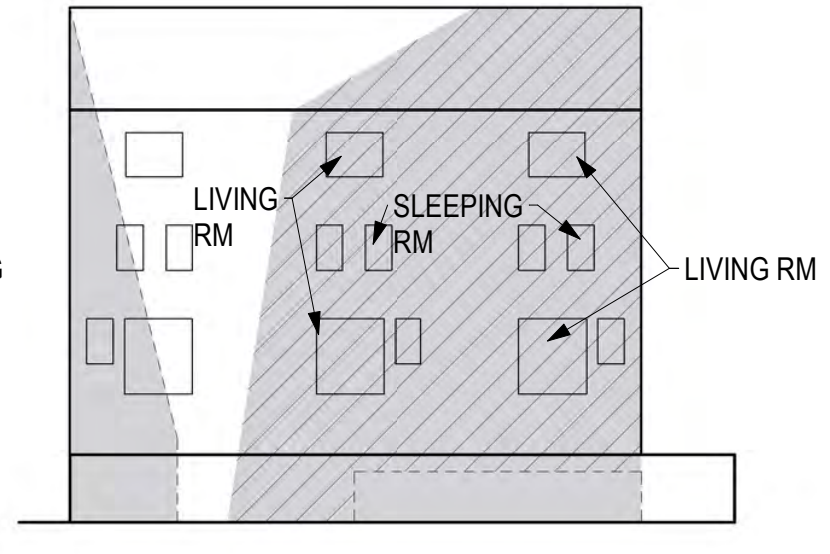
3 SHADOW STUDY - DEC 21 NOON
G006 1" = 40'-0"



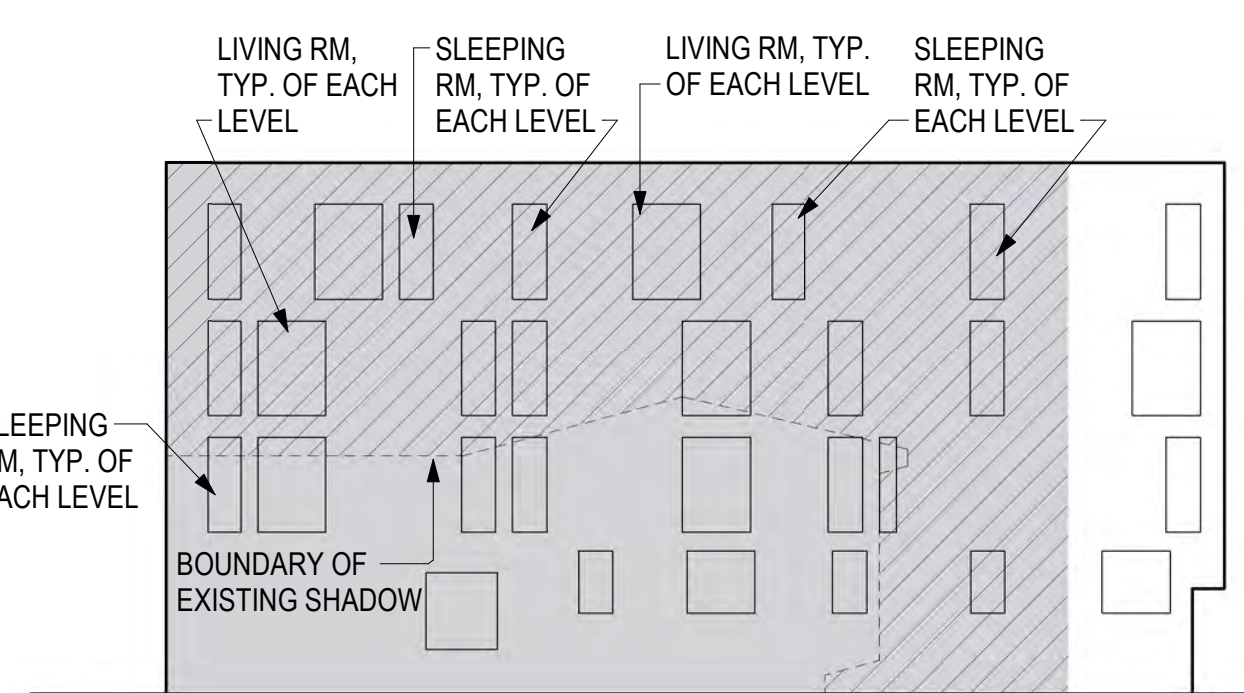
2 SHADOW STUDY - DEC 21 9.21AM
G006 1" = 40'-0"



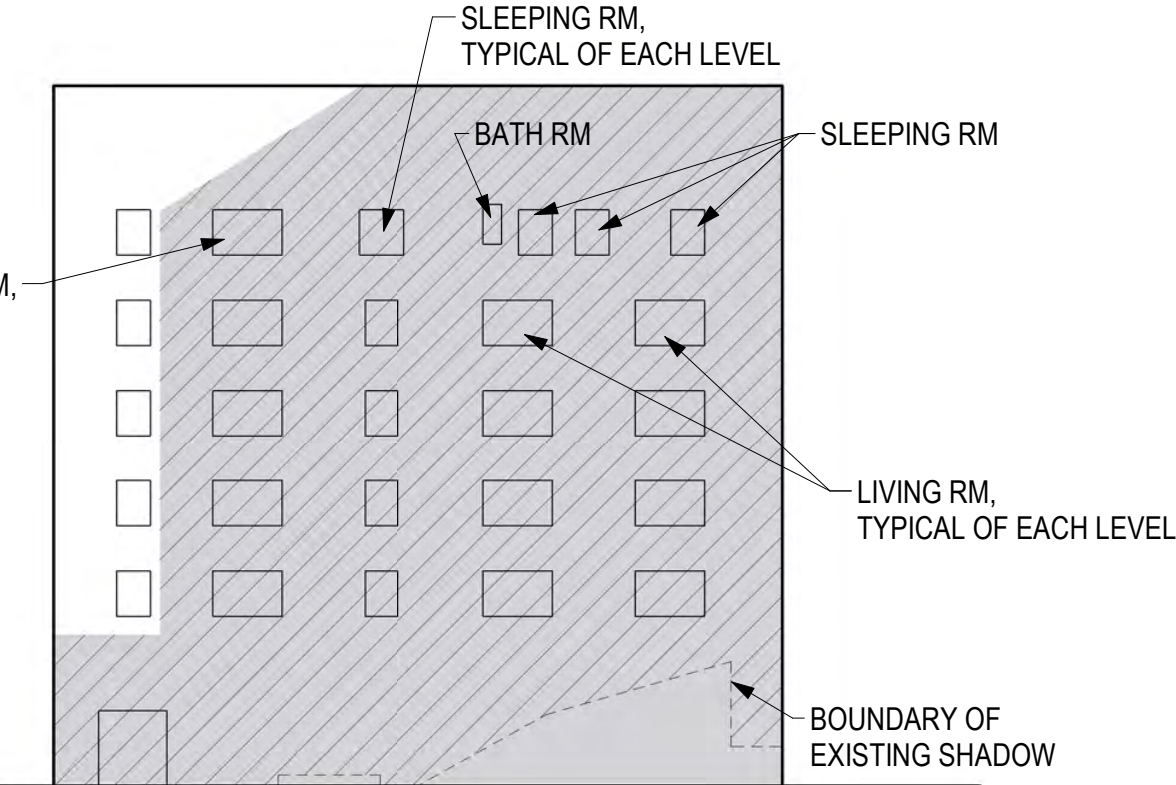
7 EAST ELEVATION OF 2433 HASTE DEC. 21 9.21 AM
G006 1/16" = 1'-0"



6 SOUTH ELEVATION OF 2433 HASTE DEC 21. NOON
G006 1/16" = 1'-0"



5 WEST ELEVATION OF 2441 HASTE DEC. 21 2.53PM
G006 1/16" = 1'-0"



4 WEST ELEVATION OF 2410 TELEGRAPH DEC. 21 2.53PM
G006 1/16" = 1'-0"



1 SHADOW STUDY - DEC 21 2.53PM
G006 1" = 40'-0"

VIEW REFERENCE
XX

TOTAL SHADOW CAST OF PROPOSED BUILDING
[Red outline]

NEW SHADOW CAST BY PROPOSED BUILDING
[Green fill]

SHADOW CAST BY EXISTING BUILDING
[Cross-hatched fill]

PROPOSED SHADOW (ELEVATION)
[Diagonal line fill]

EXISTING SHADOW (ELEVATION)
[Dotted fill]

LEGEND

PROJECT ISSUE RECORD:

DATE	ISSUE
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
ISSUE DATE: 11/30/21
SHADOW STUDIES - DEC 21

G006

5/17/2021 1:57:21 PM



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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

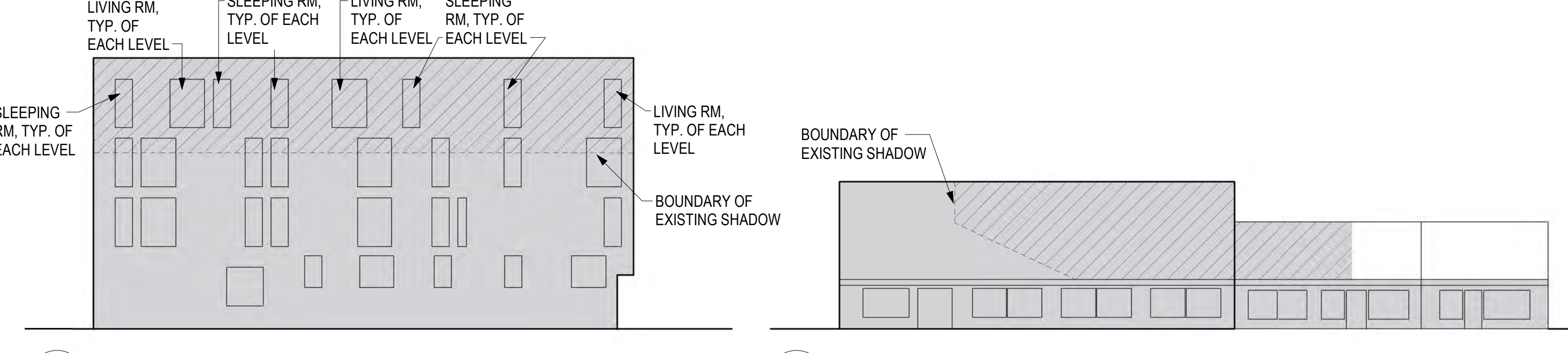
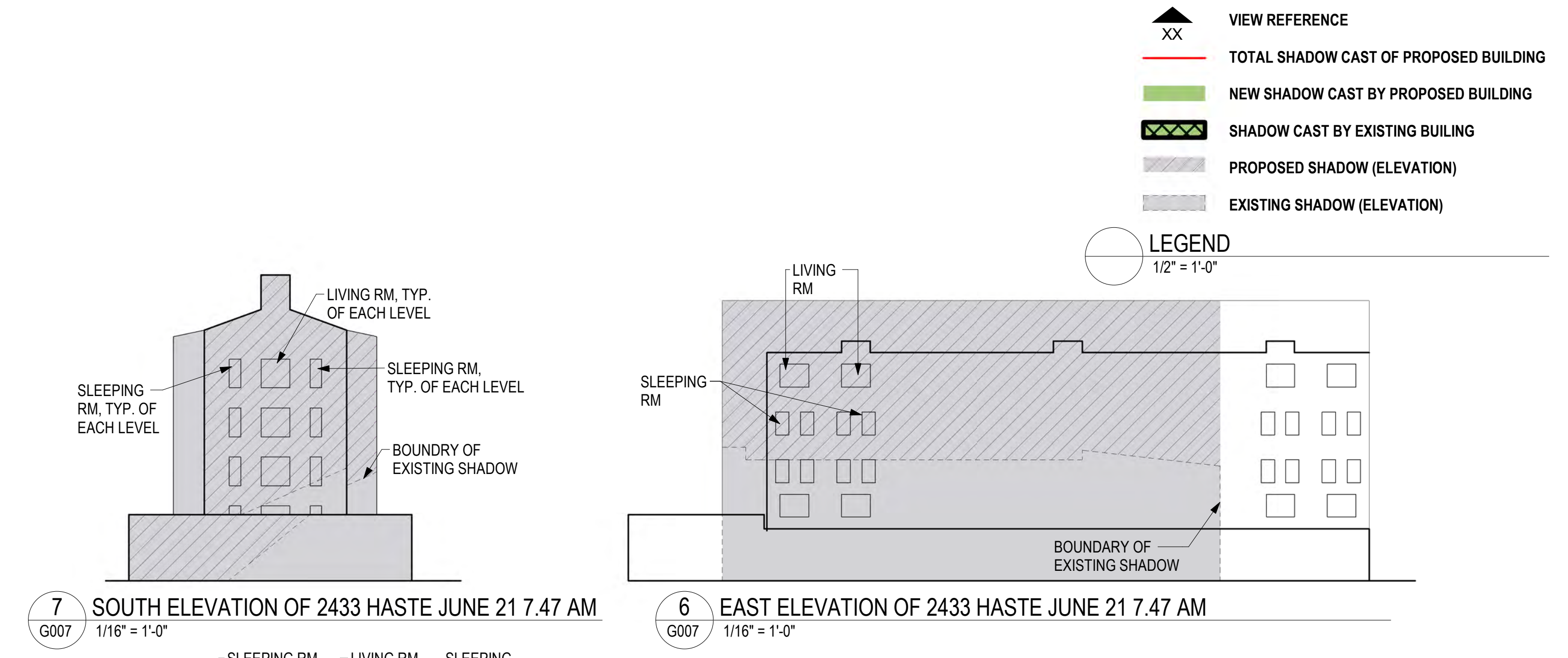
ZONING PROJECT APPLICATION



3 SHADOW STUDY - JUNE 21 7.47AM
G007 1" = 40'-0"



2 SHADOW STUDY - JUNE 21 NOON
G007 1" = 40'-0"



1 SHADOW STUDY - JUNE 21 6.34PM
G007 1" = 40'-0"

- VIEW REFERENCE
 - TOTAL SHADOW CAST OF PROPOSED BUILDING
 - NEW SHADOW CAST BY PROPOSED BUILDING
 - SHADOW CAST BY EXISTING BUILING
 - PROPOSED SHADOW (ELEVATION)
 - EXISTING SHADOW (ELEVATION)
- LEGEND**
1/2" = 1'-0"

PROJECT ISSUE RECORD:

DATE	DESCRIPTION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
ISSUE DATE: 11/30/21
SHADOW STUDIES - JUNE 21

G007

5/17/2022 1:57:39 PM



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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION

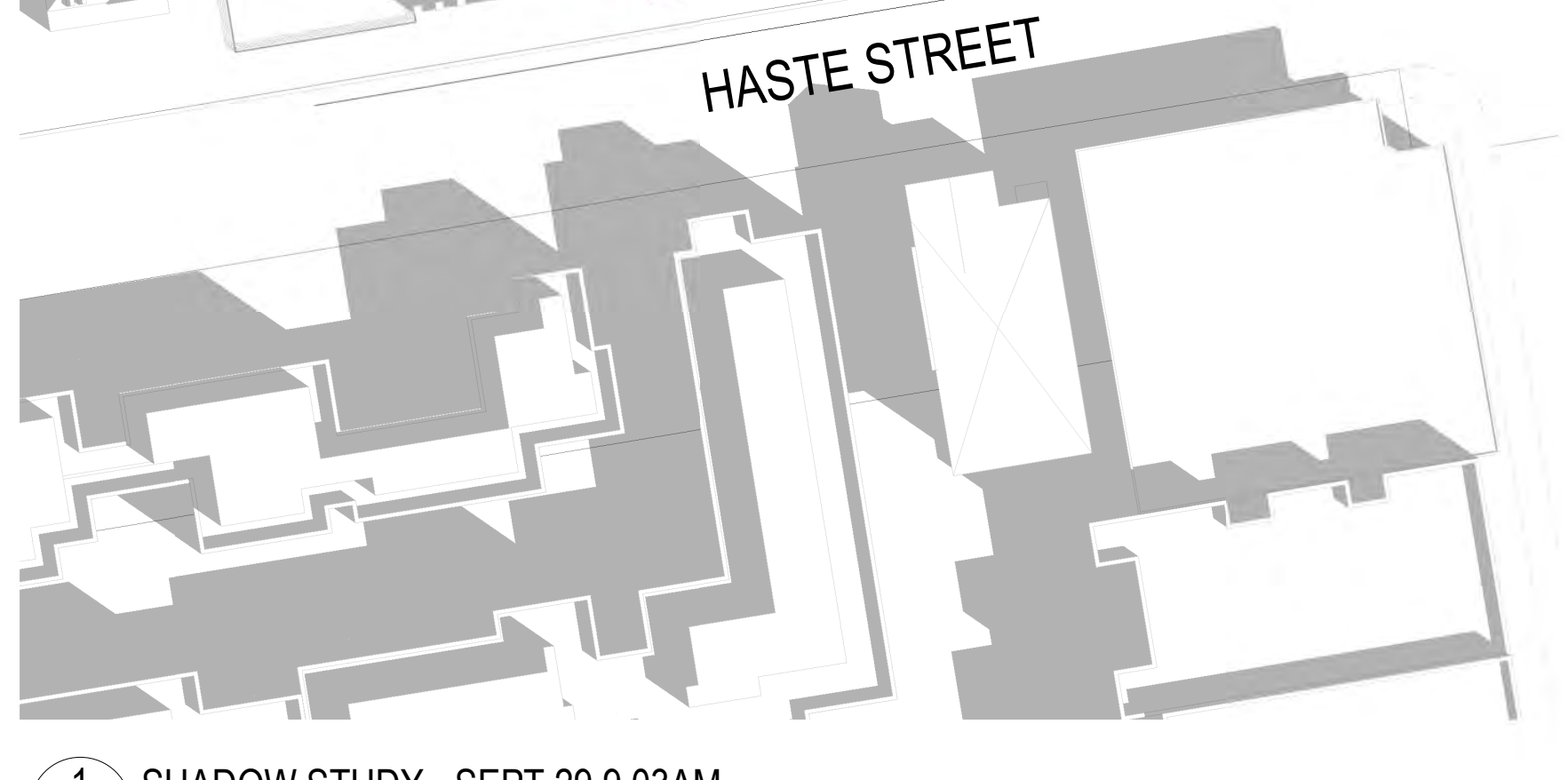
PROJECT ISSUE RECORD:

DATE	ISSUE	RESOLUTION
11/30/21	ZONING APPLICATION	

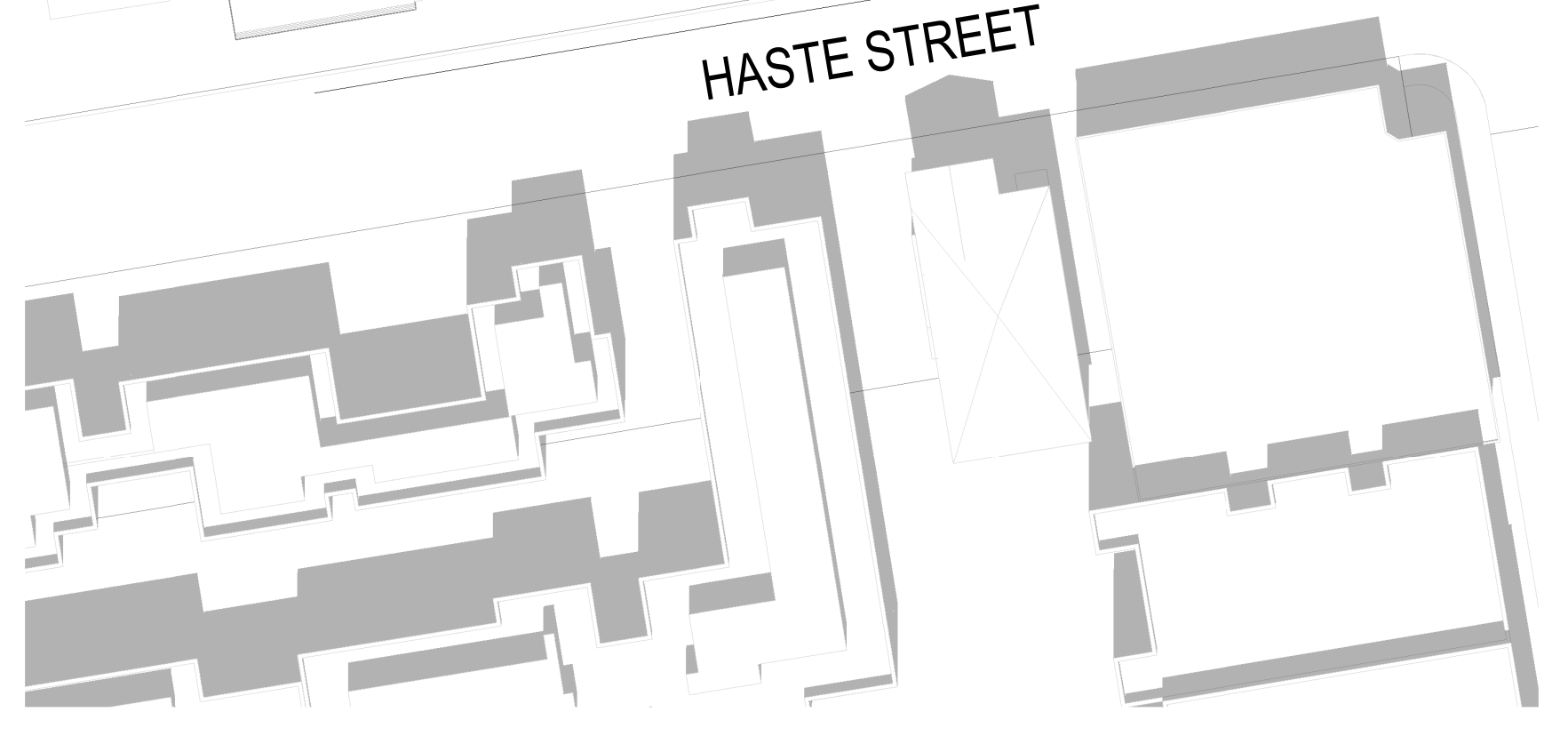
PROJECT #: ENT01
ISSUE DATE: 11/30/21

SHADOW STUDIES - SEPT. 29

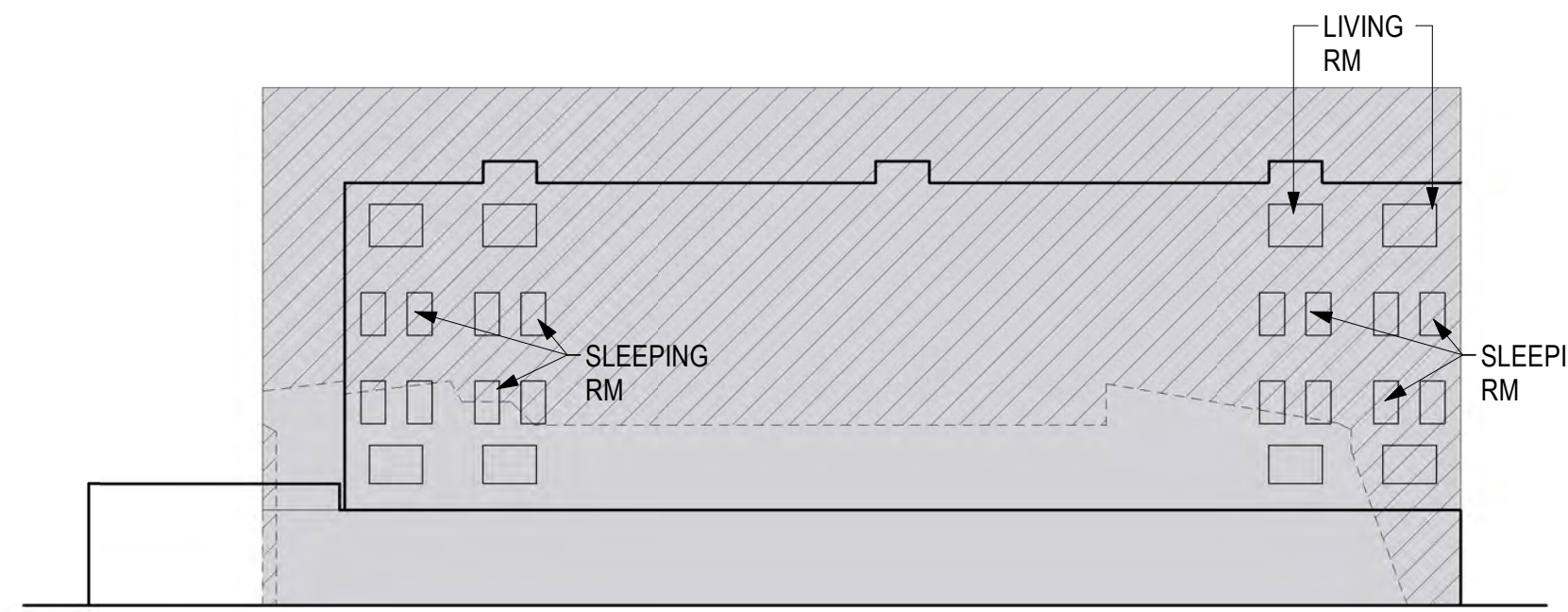
G008



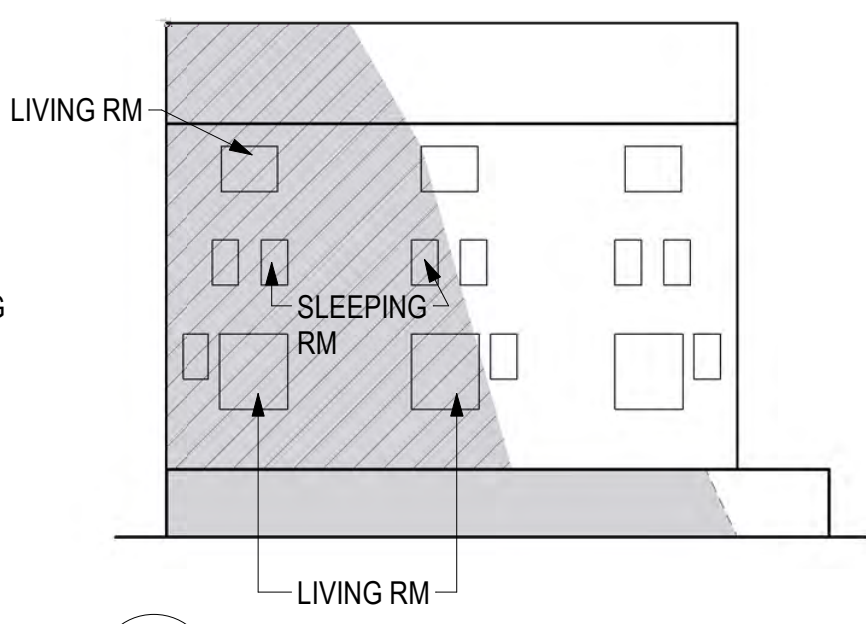
1 SHADOW STUDY - SEPT 29 9.03AM
G008 1" = 40'-0"



2 SHADOW STUDY - SEPT 29 NOON
G008 1" = 40'-0"



4 EAST ELEVATION OF 2433 HASTE SEPT 29 9.03 AM
G008 1/16" = 1'-0"



5 SOUTH ELEVATION OF 2433 HASTE SEPT 29 9.03 AM
G008 1/16" = 1'-0"

VIEW REFERENCE
XX

TOTAL SHADOW CAST OF PROPOSED BUILDING

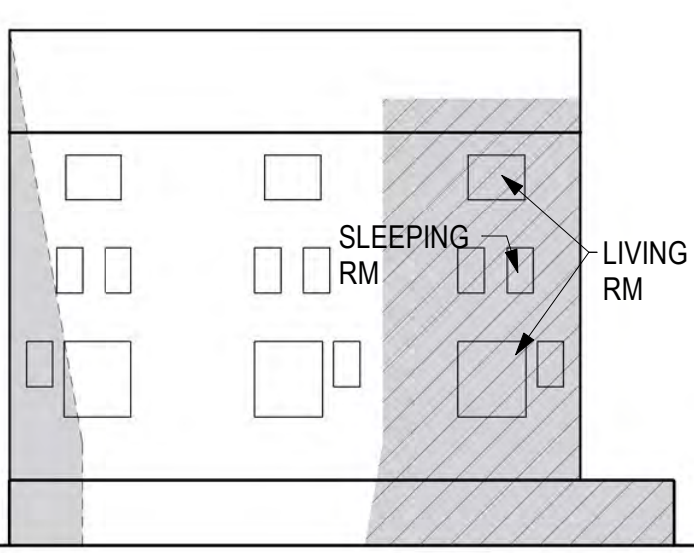
NEW SHADOW CAST BY PROPOSED BUILDING

SHADOW CAST BY EXISTING BUILDING

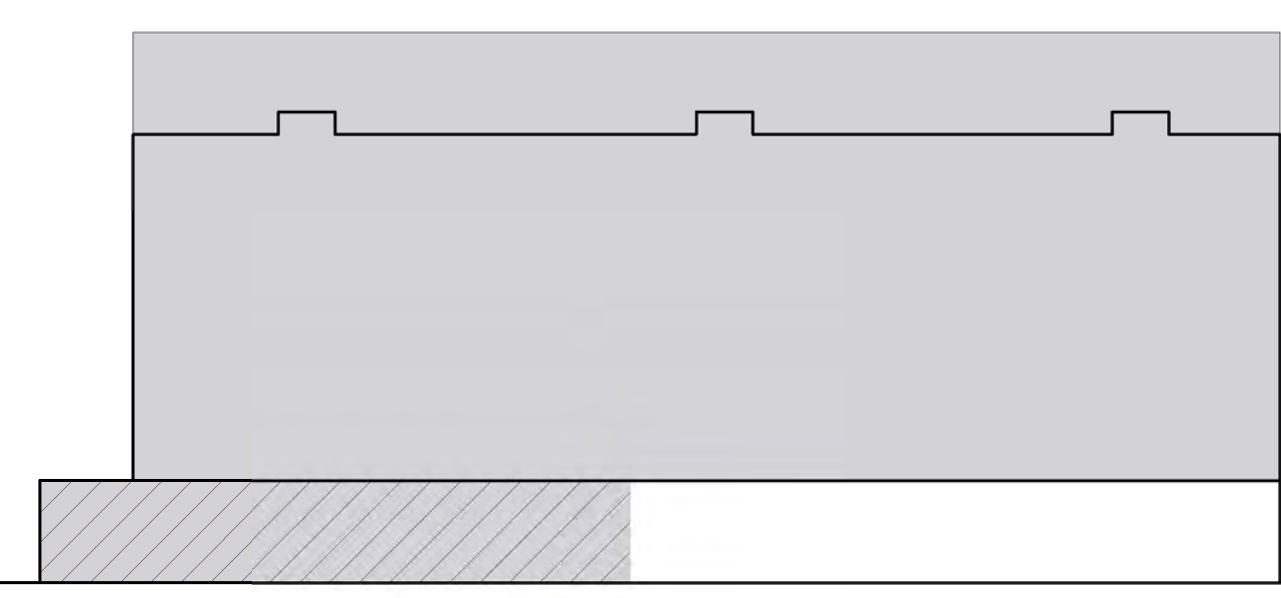
PROPOSED SHADOW (ELEVATION)

EXISTING SHADOW (ELEVATION)

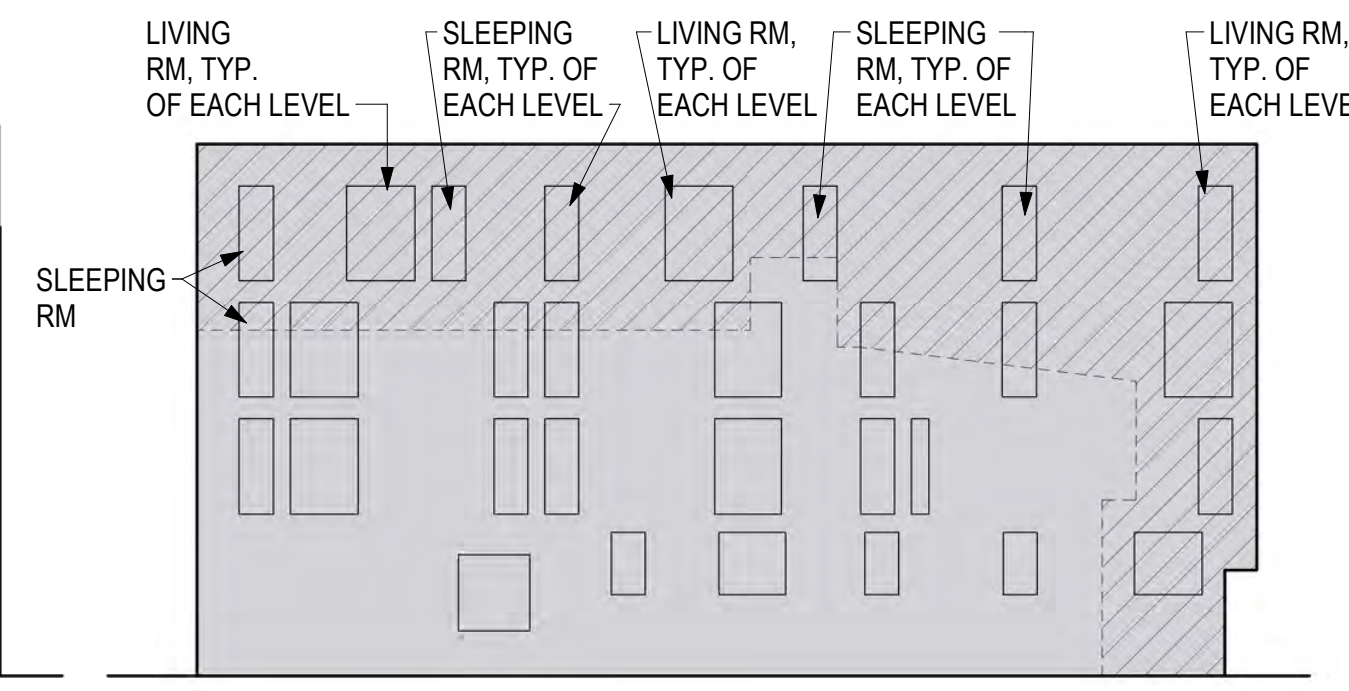
LEGEND
1/2" = 1'-0"



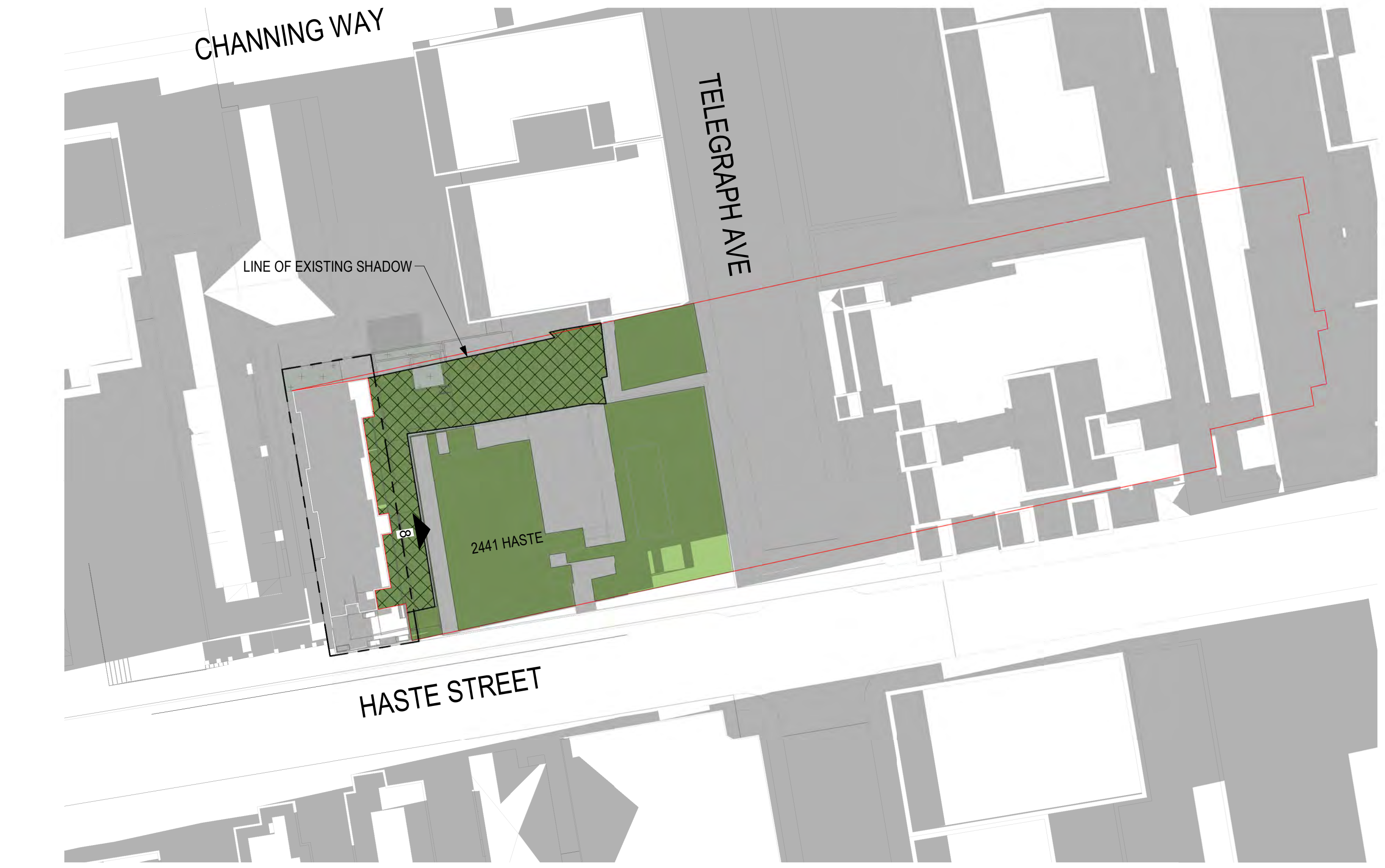
6 SOUTH ELEVATION OF 2433 HASTE SEPT 29 NOON
G008 1/16" = 1'-0"



7 EAST ELEVATION OF 2433 HASTE SEPT 29 NOON
G008 1/16" = 1'-0"



8 WEST ELEVATION OF 2441 HASTE SEPT 29 4.55 PM
G008 1/16" = 1'-0"



3 SHADOW STUDY - SEPT 29 4.55 PM
G008 1" = 40'-0"

5/17/2021 5:57 PM

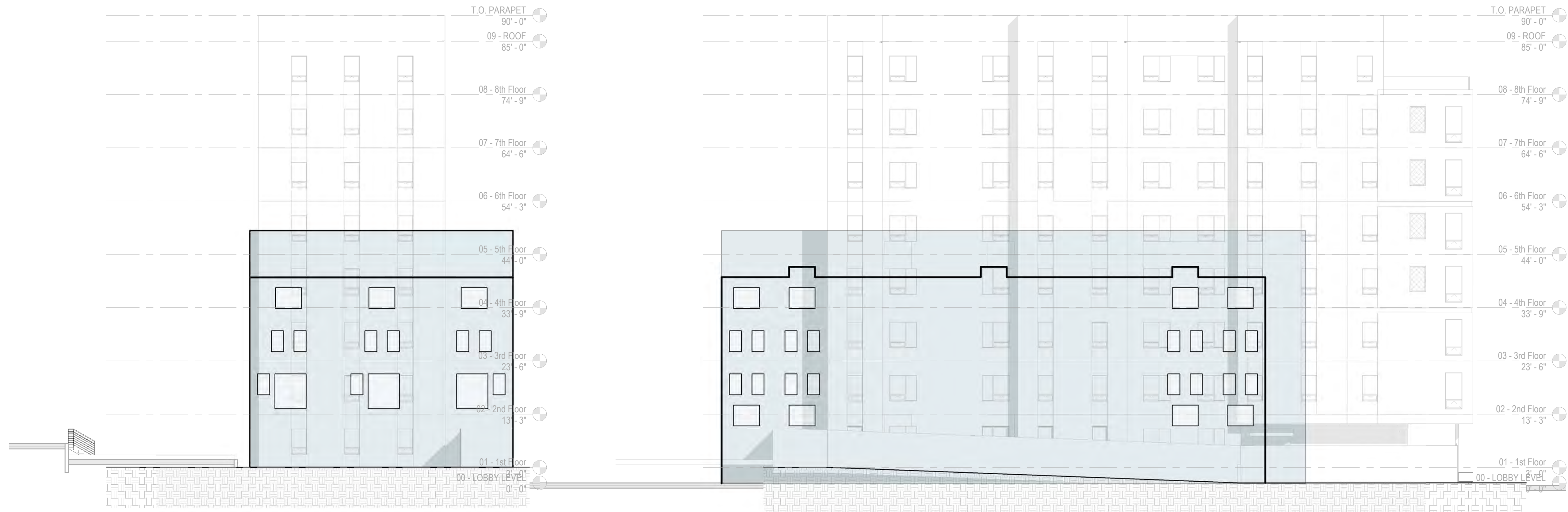


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2435 HASTE APARTMENTS

2435 HASTE STREET
 BERKELEY, CA

ZONING PROJECT APPLICATION



2 NORTH ELEVATION WINDOW ALIGNMENT TO 2433 HASTE
 G009 3/32" = 1'-0"

3 WEST ELEVATION WINDOW ALIGNMENT TO 2433 HASTE
 G009 3/32" = 1'-0"



1 EAST ELEVATION WINDOW ALIGNMENT TO 2441 HASTE
 G009 3/32" = 1'-0"

PROJECT ISSUE RECORD:	
DATE	DESCRIPTION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
 ISSUE DATE: 11/30/21
 WINDOW ALIGNMENT

G009



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**2435 HASTE
APARTMENTS**

2435 HASTE STREET
BERKELEY, CA

**ZONING
PROJECT
APPLICATION**



4 HASTE STREET LOOKING EAST
G010



3 HASTE STREET LOOKING WEST
G010



2 LOBBY
G010



1 AERIAL
G010

PROJECT ISSUE RECORD:	
11/30/21	ZONING APPLICATION

PROJECT #: ENT01

ISSUE DATE: 11/30/21

PHOTO SIMULATION

G010

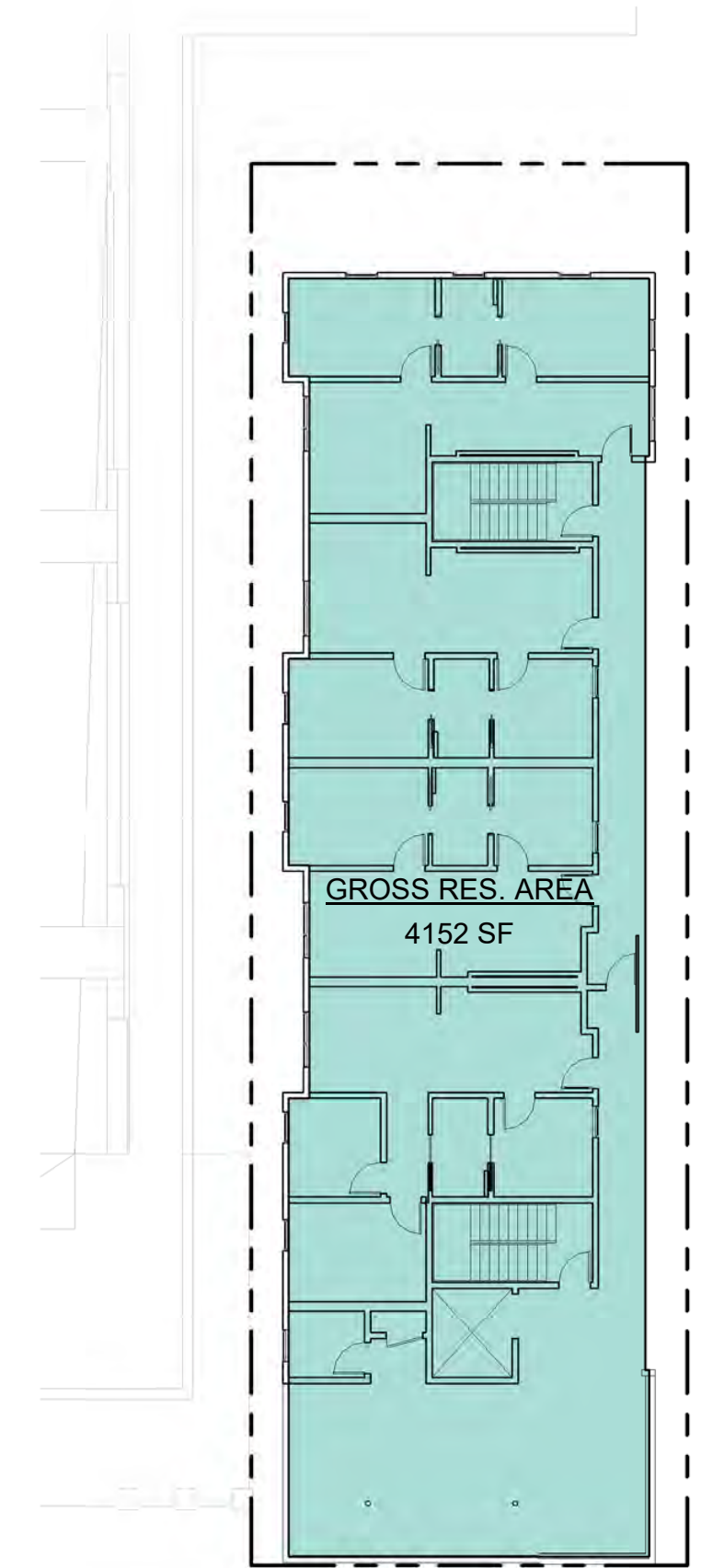


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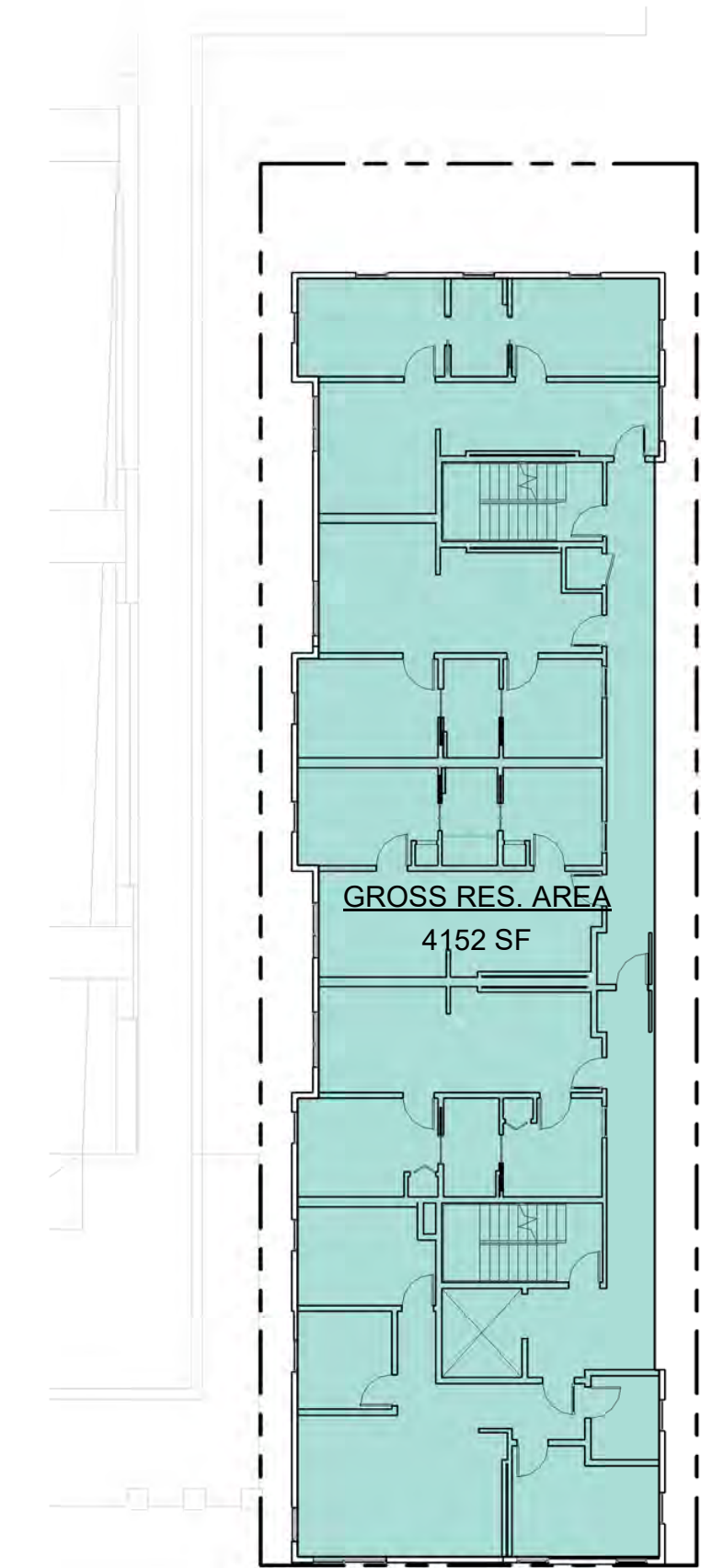
2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

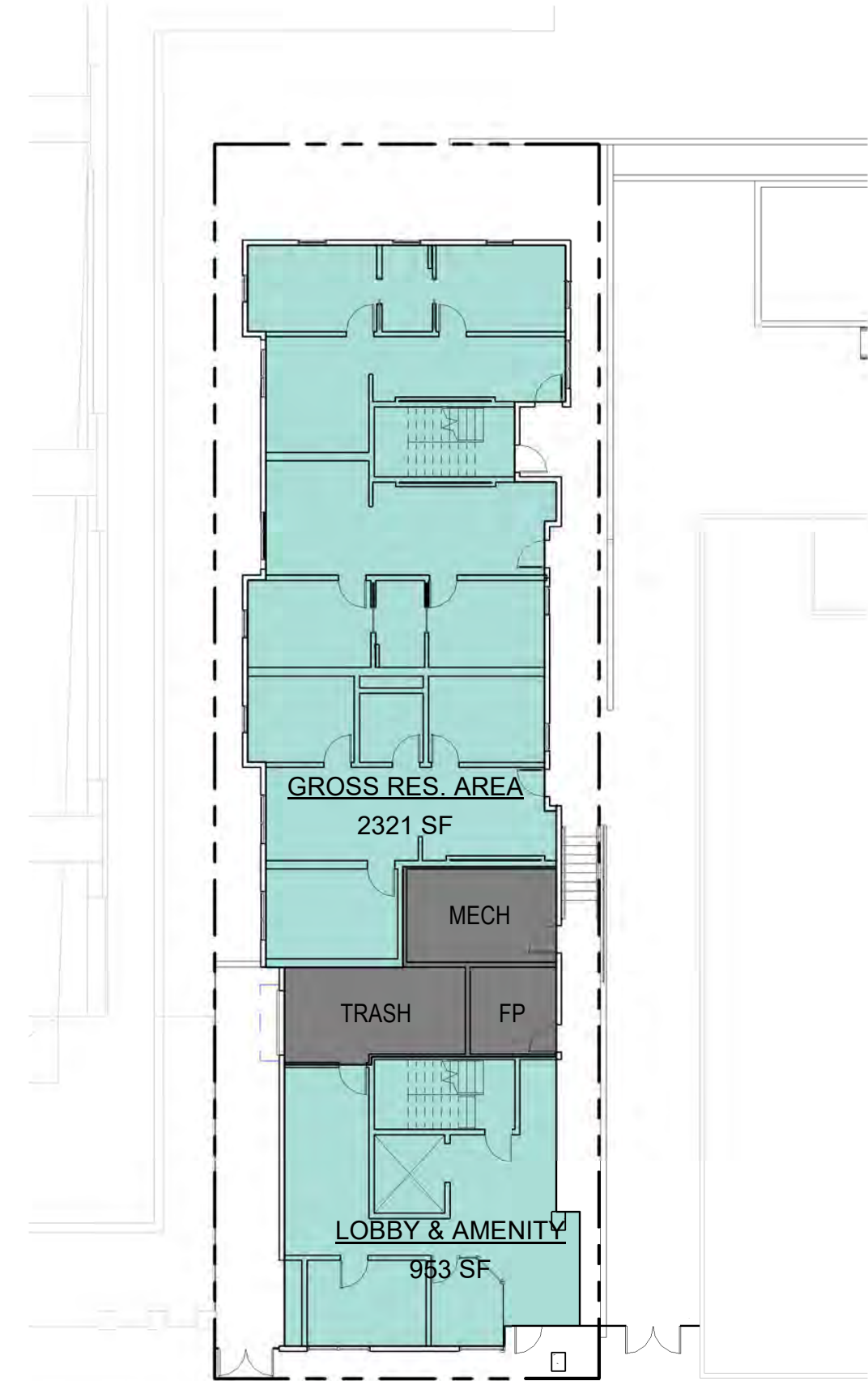
ZONING PROJECT APPLICATION



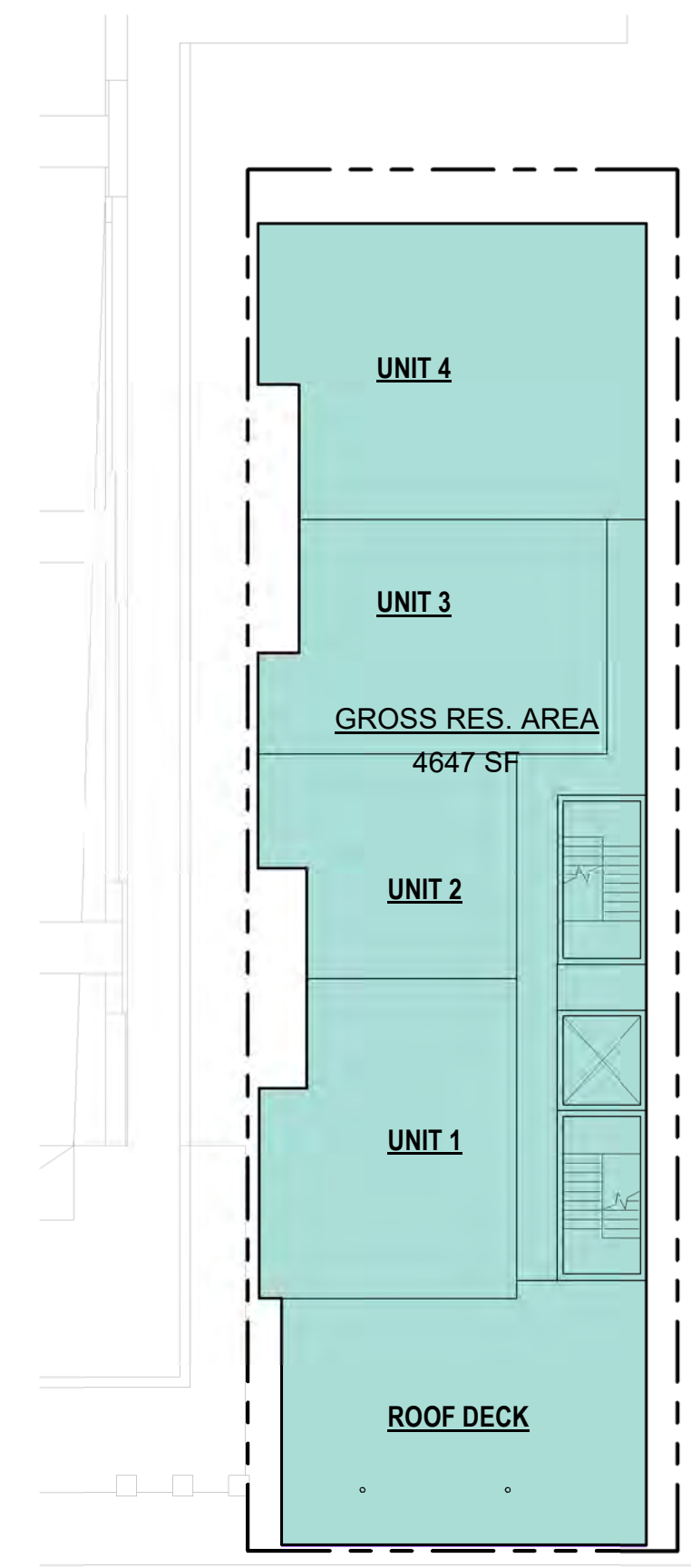
3B PROPOSED PROJECT 8TH LEVEL
G011 1/16" = 1'-0"



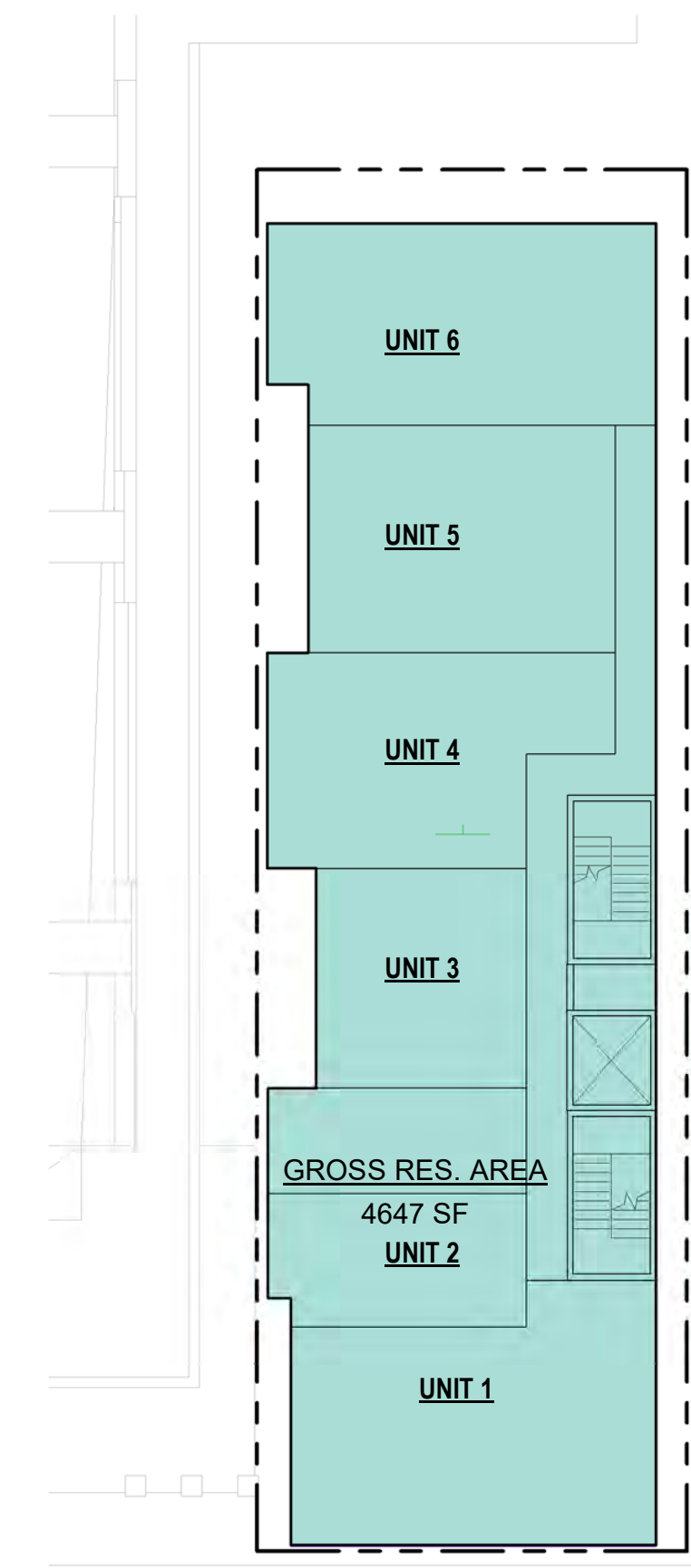
2B PROPOSED PROJECT TYPICAL LEVEL (2-7)
G011 1/16" = 1'-0"



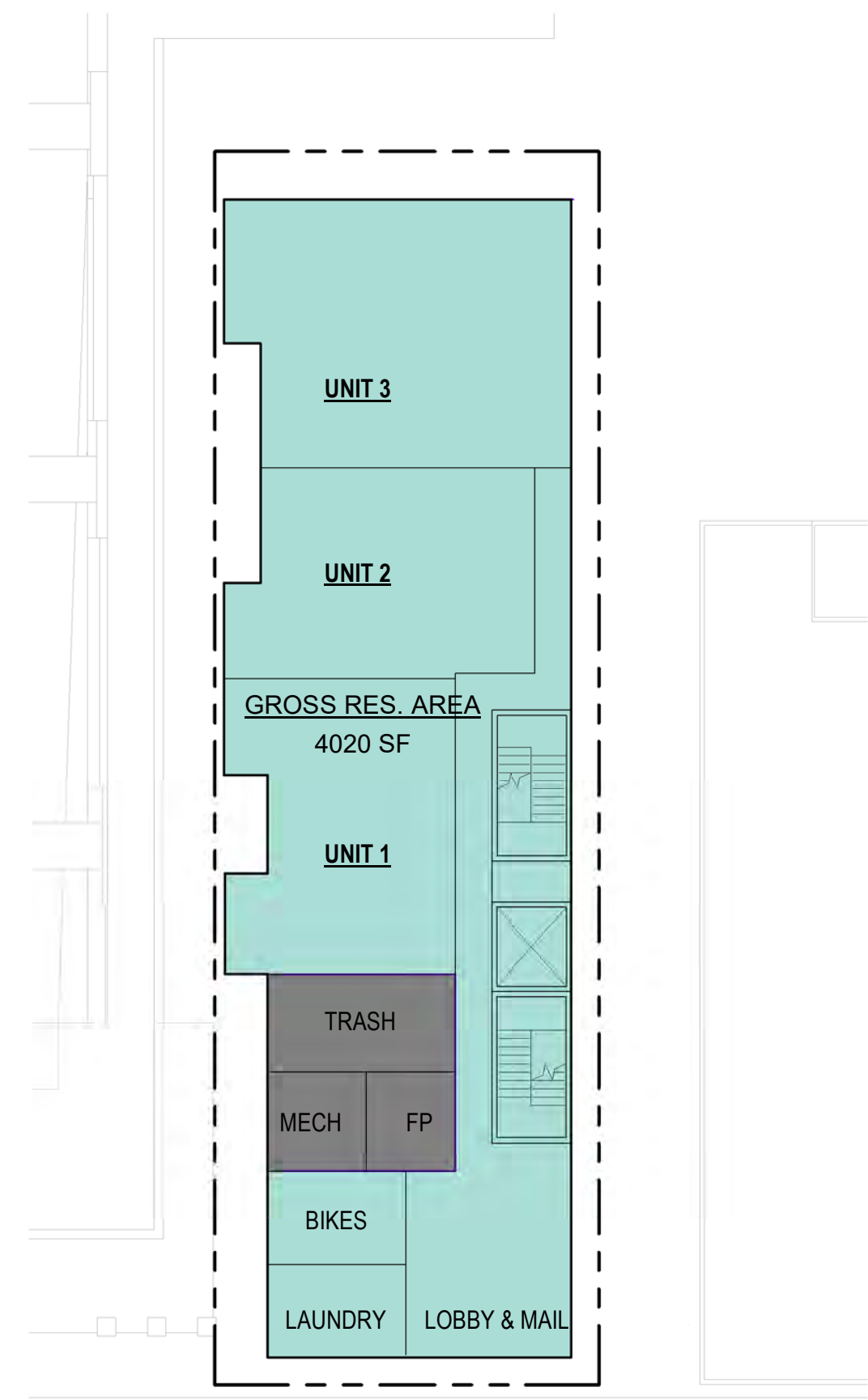
1B PROPOSED PROJECT GROUND LEVEL
G011 1/16" = 1'-0"



3A BASE PROJECT 5TH FLOOR LEVEL
G011 1/16" = 1'-0"



2A BASE PROJECT TYPICAL LEVEL (2-4)
G011 1/16" = 1'-0"



1A BASE PROJECT GROUND LEVEL
G011 1/16" = 1'-0"

2435 Haste Density Bonus							
Base Project	Base Project Units	Base Project Units	%VLI Units	# VLI Units	% Bonus	# Bonus Units	# Bonus Units
See Area Table	Base Area / Avg Unit Area	(Round Up)	Per 65915	% VLI x Base Project Units	Per 65915	% Bonus x Base Units	(Round Up)
22,600	25.86	26.00	14%	3.64	46.3%	12.025	13

Base & Proposed Project Areas		
Base Project (SF)	Level	Proposed Project (SF)
4,520	1st	3,274
4,520	2nd	4,152
4,520	3rd	4,152
4,520	4th	4,152
4,520	5th	4,152
	6th	4,152
	7th	4,152
	8th	4,152
Total		32,338

Bonus Summary			
Proposed Area	32,338	Allowable Base Project Area	28350
Proposed Units	37	Proposed Base Project Area	22,600
Proposed Avg Unit Area	874	Proposed Bonus Area	11,486
Base Avg. Unit Area	923	Max. Proposed Project Area	34,086

1A. DETERMINE THE PROPOSED PROJECT'S AVERAGE UNIT SIZE		
LEVEL 1		3,274
LEVEL 2		4,152
LEVEL 3		4,152
LEVEL 4		4,152
LEVEL 5		4,152
LEVEL 6		4,152
LEVEL 7		4,152
LEVEL 8		4,152
PROPOSED PROJECT RESIDENTIAL FLOOR AREA		32,338
PROPOSED PROJECT # OF UNITS		37
PROPOSED PROJECTS AVERAGE UNIT SIZE		874

1B. DETERMINE THE BASE PROJECT RESIDENTIAL AREA		
	BASE	USE PERMIT
LEVEL 1	2,268	2,252
LEVEL 2	2,268	2,252
LEVEL 3	2,268	2,252
LEVEL 4	2,268	2,252
LEVEL 5	2,268	4,520
BASE PROJECT + USE PERMIT RESIDENTIAL FLOOR AREA		22,600

1C. BASE PROJECT NUMBER OF UNITS		
BASE PROJECT FLOOR AREA	22,600	
AVERAGE UNIT SIZE	923	
BASE PROJECT # OF UNITS	26	

3A. CALCULATE THE DENSITY BONUS		
% VLI UNITS (ACTUAL)	14%	
# VLI UNITS	4	
# LI UNITS	0	
% BONUS	46.3	
# BONUS UNITS	13	

3B. APPLY THE DENSITY BONUS		
DENSITY BONUS	11,486	
BASE + DENSITY BONUS (MAX. OF 39 UNITS X 874 SF)	34,086	

Affordable Unit %	VLI Density Bonus
11%	35%
12%	38.75%
13%	42.50%
14%	46.25%
15%	50%
16%	50%
17%	50%
18%	50%

NOTE:
100% LOT COVERAGE ALLOWABLE VIA USE PERMIT. BMC 23D.52.070.F.1
0'-0" SETBACKS ALLOWABLE VIA USE PERMIT. BMC 23D.52.070.E.1 & 2
PER CITY OF BERKELEY 8/2/21 LAND USE PLANNING MEMORANDUM:
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.

EXISTING AND REPLACEMENT UNIT MIX						
	EXISTING		REQUIRED		PROPOSED	
	COUNT	TYPE	COUNT	TYPE	COUNT	TYPE
ELI			(3)		(3)	
VLI			(2)		(2)	
LI		2BD	(1)	2BD	(1)	2BD
MI			(1)		(1)	
MARKET			(1)		(1)	
TOTAL	(8)*		(8)**		(8)	

NOTE: REPLACEMENT UNIT COUNT AND DISTRIBUTION TO BE CONFIRMED BY CITY STAFF DURING ZONING PERMIT APPLICATION REVIEW

*(2) OCCUPIED UNITS, (6) UNOCCUPIED UNITS
** PER STATE DENSITY BONUS SECTION 65915 (c)(3)(B) BMR INCOME MIX BASED ON CHAS DATA & EXISTING TENANT INCOME

WAIVERS & CONCESSIONS:

THIS PROJECT REQUESTS THE FOLLOWING WAIVERS PURSUANT TO GOVERNMENT CODE SECTION 65915:

1. WAIVER OF ZONE MAXIMUM BUILDING HEIGHT & STORIES. BMC 23D.52.070.C.2
ALLOWABLE: 5 STORIES & 65'-0", VIA USE PERMIT PROPOSED: 8 STORIES & 90'-0"
REQUIRED: 40 SF/UNIT PROPOSED: 23 SF/UNIT
2. WAIVER TO REDUCE REQUIRED USABLE OPEN SPACE. BMC 23D.52.070.G

PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
ISSUE DATE: 10/15/21

DENSITY BONUS CALCULATION

G011

GreenPoint RATED NEW HOME RATING SYSTEM, VERSION 7.0 MULTIFAMILY CHECKLIST. Includes sections for CALIFORNIA, A. SITE, B. FOUNDATION, C. LANDSCAPE, D. EXTERIOR, E. INSULATION, F. PLUMBING, G. FLOORING, H. APPLIANCE AND LIGHTING, and I. COMMUNITY. Each item is a table with columns for 'Points Available', 'Points Required', 'Points Earned', and 'Notes'.

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Project Name: 2435 Haste Apartments. GreenPoint RATED NEW HOME RATING SYSTEM, VERSION 7.0. Includes sections for A. SITE, B. FOUNDATION, C. LANDSCAPE, D. EXTERIOR, E. INSULATION, F. PLUMBING, G. FLOORING, H. APPLIANCE AND LIGHTING, and I. COMMUNITY. Includes a 'POINTS REQUIRED' bar chart.

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Project Name: 2435 Haste Apartments. GreenPoint RATED NEW HOME RATING SYSTEM, VERSION 7.0. Includes sections for J. BUILDING PERFORMANCE AND TESTING, K. FINISHES, and a Summary section. Includes a 'POINTS REQUIRED' bar chart.

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Project Name: 2435 Haste Apartments. GreenPoint RATED NEW HOME RATING SYSTEM, VERSION 7.0. Includes sections for J. BUILDING PERFORMANCE AND TESTING, K. FINISHES, and a Summary section. Includes a 'POINTS REQUIRED' bar chart.

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Project Name: 2435 Haste Apartments. GreenPoint RATED NEW HOME RATING SYSTEM, VERSION 7.0. Includes sections for J. BUILDING PERFORMANCE AND TESTING, K. FINISHES, and a Summary section. Includes a 'POINTS REQUIRED' bar chart.

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Project Name: 2435 Haste Apartments. GreenPoint RATED NEW HOME RATING SYSTEM, VERSION 7.0. Includes sections for J. BUILDING PERFORMANCE AND TESTING, K. FINISHES, and a Summary section. Includes a 'POINTS REQUIRED' bar chart.

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2435 HASTE
APARTMENTS
2435 HASTE STREET
BERKELEY, CA

ZONING
PROJECT
APPLICATION

PROJECT ISSUE RECORD table with columns for Date and Description. Includes entry for 11/30/21 ZONING APPLICATION.

PROJECT #: ENT01
ISSUE DATE: 11/30/21

GREEN BUILDING
CHECKLIST

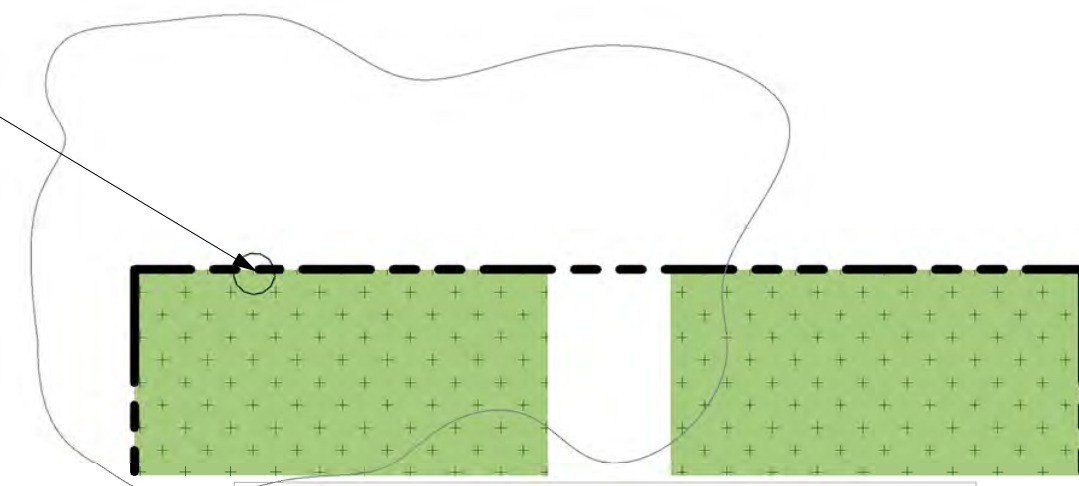
G012

2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION

(E) LIVE OAK TREE, TO REMAIN.
SEE ARBORISTS REPORT FOR
TREE PROTECTION MEASURES

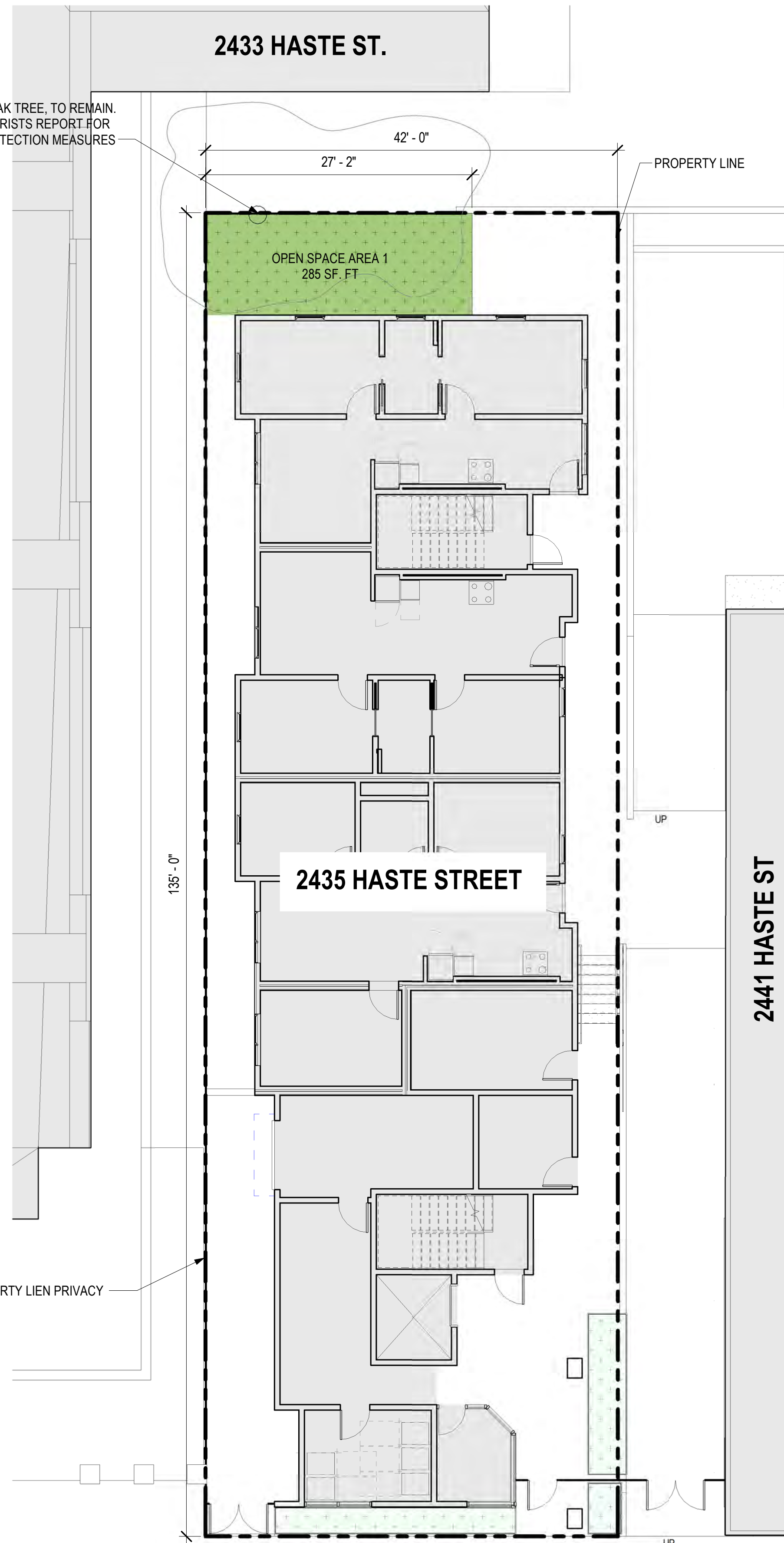


(E) CHAINLINK FENCE

EXISTING 22" JUNIPER
TREE TO BE REMOVED

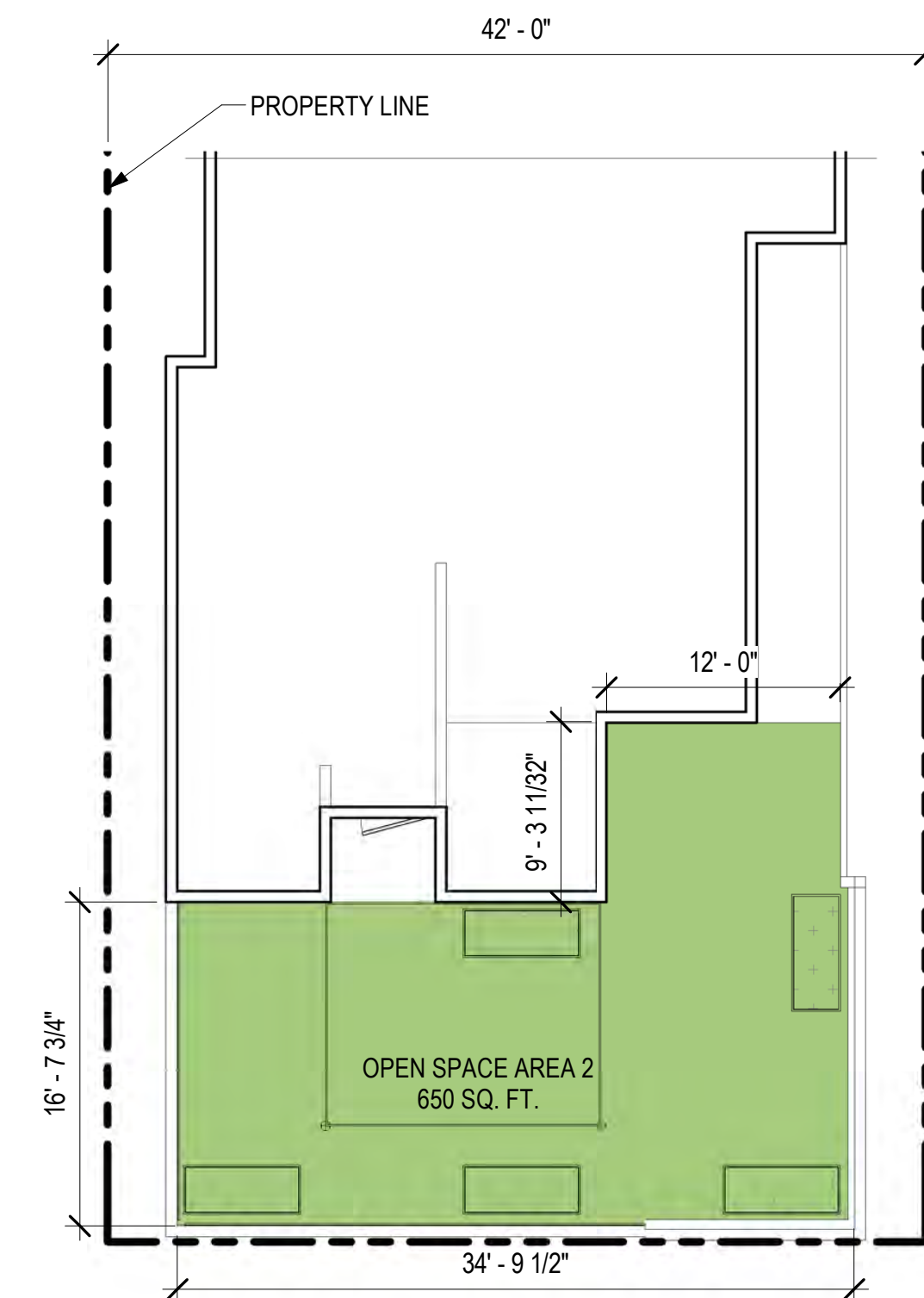
3 EXISTING USABLE OPEN SPACE
G013 1/8" = 1'-0"

(E) LIVE OAK TREE, TO REMAIN.
SEE ARBORISTS REPORT FOR
TREE PROTECTION MEASURES



(N) PROPERTY LIEN PRIVACY
FENCE

2 PROPOSED GROUND FLOOR USABLE OPEN SPACE
G013 1/8" = 1'-0"



1 PROPOSED ROOF USABLE OPEN SPACE
G013 1/8" = 1'-0"

SETBACK REDUCTIONS REQUESTED VIA DENSITY BONUS WAIVER

USABLE OPEN SPACE

40 SF PER UNIT REQUIRED

37 PROPOSED UNITS

40 SF X 37 UNITS = 1,480 SF

ROOF DECK - AREA 2 (650 SF)

+ REAR YARD - AREA 1 (285 SF)

= 935 SF USABLE OPEN SPACE PROVIDED
500 SF LANDSCAPED AREA

**REQUESTING REDUCTION OF REQUIRED USABLE
OPEN SPACE TO 23 SF PER UNIT VIA DENSITY BONUS WAIVER**

1,480 SF REQUIRED - 935 SF PROVIDED = **545 SF REDUCTION**

- LANDSCAPE AREA
- USABLE OPEN SPACE
- LANDSCAPED USABLE OPEN SPACE

Usable Open Space Diagram
1/2" = 1'-0"

PROJECT ISSUE RECORD:

DATE	ISSUE	STATUS
11/30/21	ZONING APPLICATION	

PROJECT #: ENT01

ISSUE DATE: 11/30/21

LANDSCAPE & USABLE
OPEN SPACE PLAN

G013

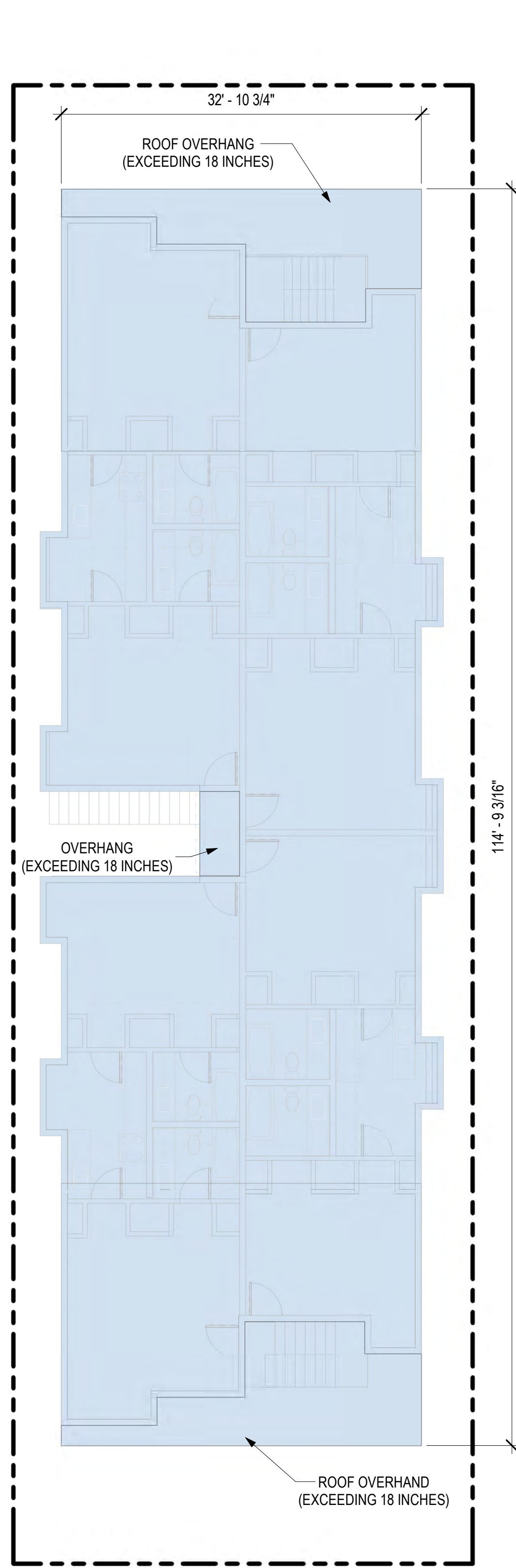


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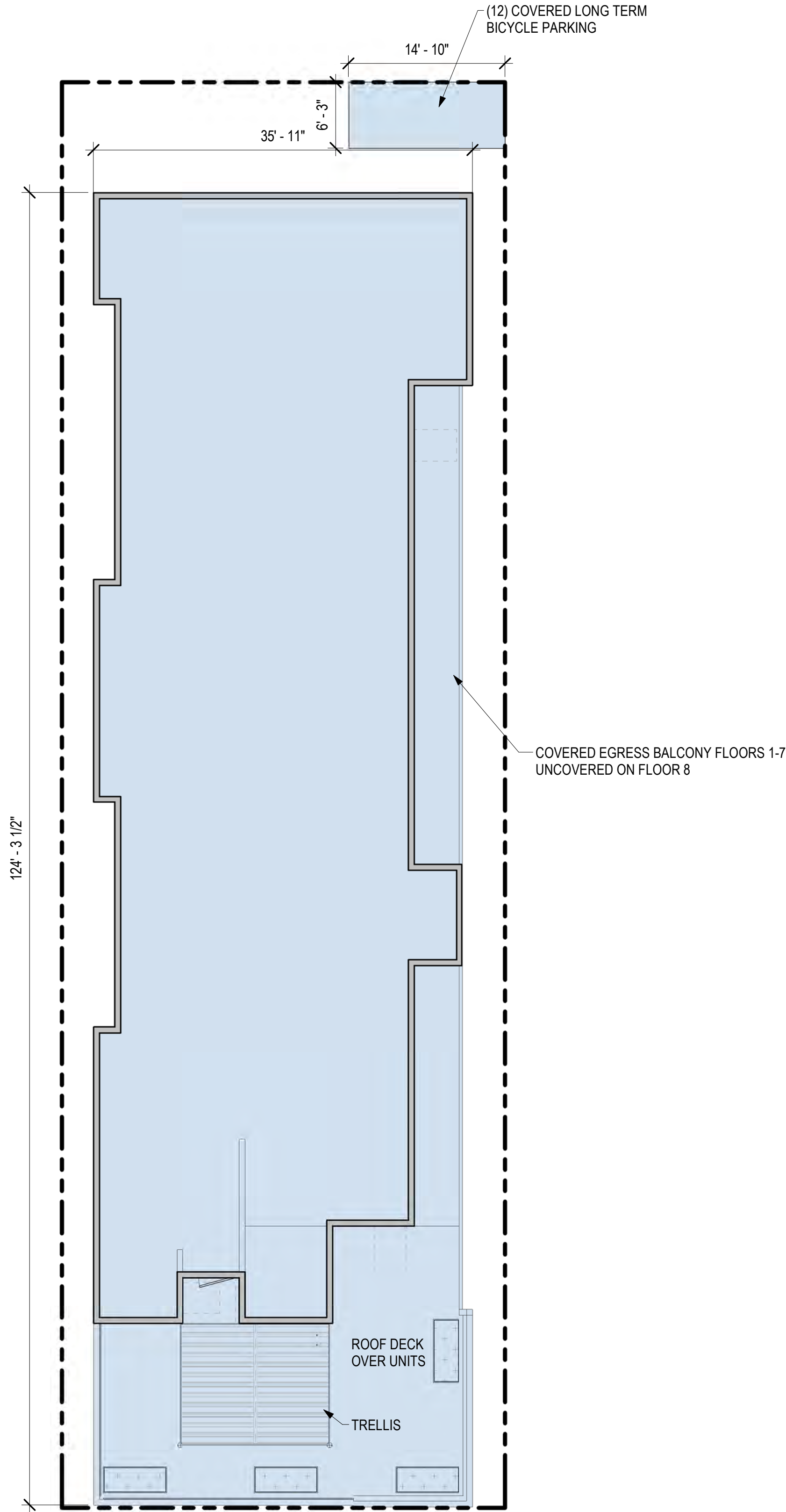
2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION



2 EXISTING LOT COVERAGE
G014 1/8" = 1'-0"



1 PROPOSED LOT COVERAGE
G014 1/8" = 1'-0"

LOT COVERAGE

LOT AREA = 5,670 2,268 SF (40%) COVERAGE PERMITTED
EXISTING LOT COVERAGE = 3,043 SF (54%)
LOT COVERAGE = 3,945 SF (70%) VIA USE PERMIT
SETBACK REDUCTIONS REQUESTED VIA DENSITY BONUS WAIVER

AREA COUNTING AS LOT COVERAGE

LOT COVERAGE DIAGRAM LEGEND
1/2" = 1'-0"

PROJECT ISSUE RECORD:

DATE	ISSUE
11/30/21	ZONING APPLICATION

PROJECT #: ENT01

ISSUE DATE: 11/30/21

LOT COVERAGE DIAGRAM

G014

A B C D E F G H

1

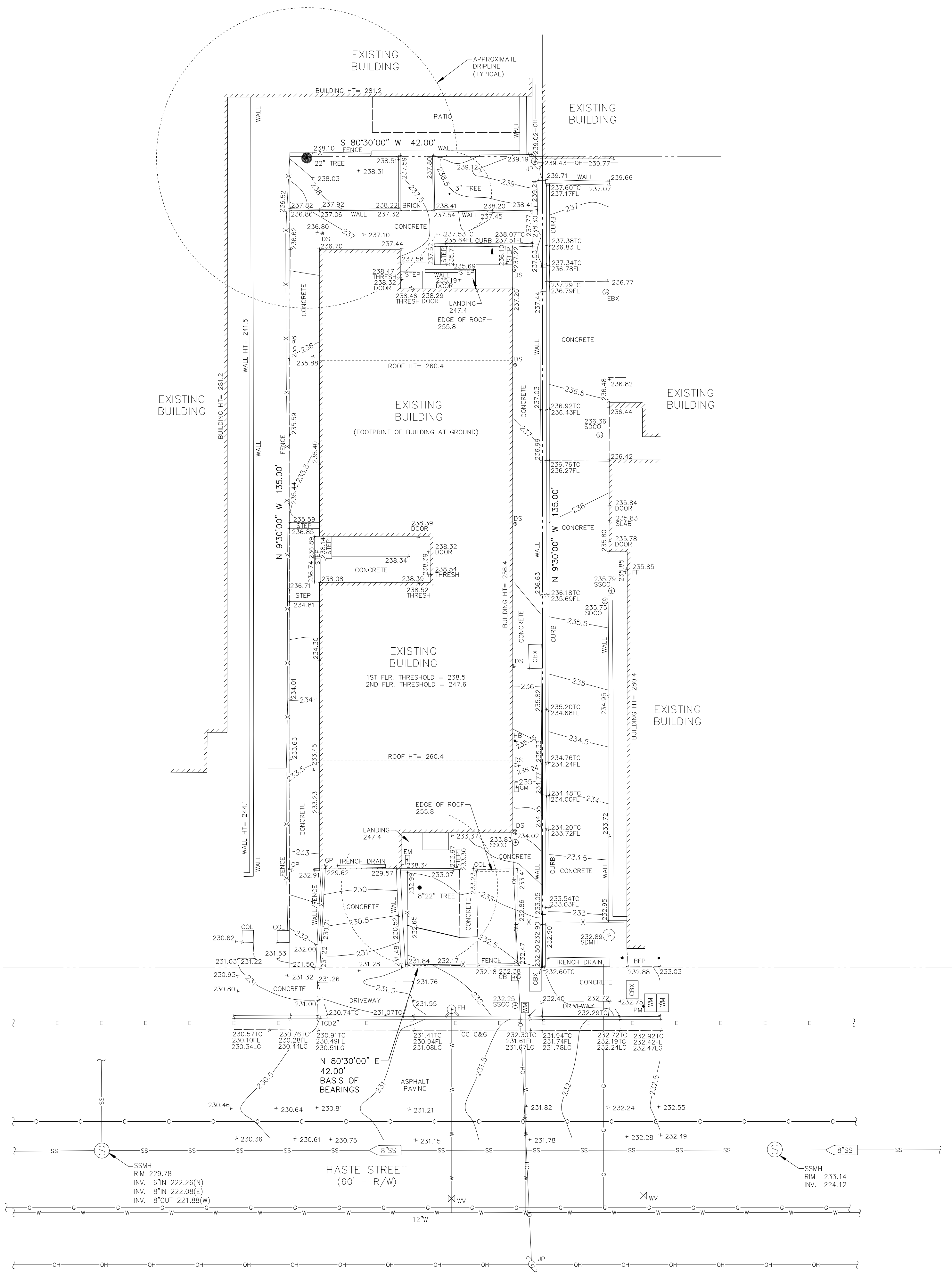
2

3

4

5

6



LEGEND

- PROPERTY LINE
- BFP BACKFLOW PREVENTER
- CB CATCH BASIN
- CBX COMMUNICATION BOX
- CC C&G CONCRETE CURB & GUTTER
- COL COLUMN
- DS DOWN SPOUT
- EBX ELECTRIC BOX
- EM ELECTRIC METER
- FF FINISH FLOOR
- FH FIRE HYDRANT
- FL FLOWLINE
- GM GAS METER
- GP GATE POST
- HB HOSE BIB
- INV INVERT
- JP JOINT UTILITY POLE
- LG LIP OF GUTTER
- PM PARKING METER
- SDCO STORM DRAIN CLEANOUT
- SDMH STORM DRAIN MANHOLE
- SSCO SANITARY SEWER CLEANOUT
- SSMH SANITARY SEWER MANHOLE
- TC TOP OF CURB
- TCD THRU CURB DRAIN
- TG TOP OF GRATE
- THRESH THRESHOLD
- WM WATER METER
- WV WATER VALVE
- 12" TREE
- X-X FENCE
- C COMMUNICATION LINE
- G GAS LINE
- OH- OVERHEAD LINE
- SS- SANITARY SEWER LINE
- W- WATER LINE

UTILITY NOTE:

THE UTILITIES EXISTING ON THE SURFACE AND SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. ALL UNDERGROUND UTILITIES SHOWN ON THIS DRAWING ARE FROM RECORDS OF THE VARIOUS UTILITY COMPANIES AND THE SURVEYOR/ENGINEER DOES NOT ASSUME RESPONSIBILITY FOR THEIR COMPLETENESS, INDICATED LOCATION, OR SIZE. RECORD UTILITY LOCATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY.

FLOOD ZONE NOTE:

THE SUBJECT PROPERTY LIES ENTIRELY WITHIN FLOOD ZONE 'X', BASED ON FLOOD INSURANCE RATE MAP 06001C0057G, DATED AUGUST 3, 2009.

BASIS OF BEARINGS:

THE BEARING OF NORTH 187° 30' 00" EAST, TAKEN ON THE NORTH-EAST BENCH-MARK OF HASTE STREET, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED DECEMBER 31, 1990 IN BOOK 15 OF LAND SURVEYOR'S MAPS AT PAGE 37. OFFICIAL RECORDS OF ALAMEDA COUNTY WAS USED AS THE BASIS OF BEARINGS FOR THIS SURVEY.

BENCHMARK:

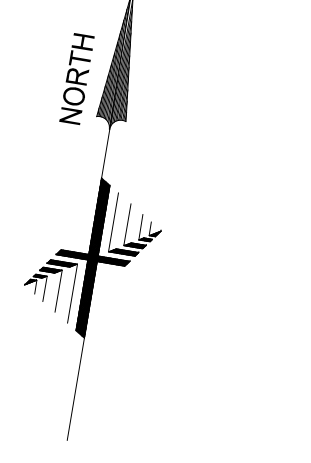
THE BENCHMARK USED FOR THIS SURVEY IS CITY OF BERKELEY BENCHMARK "BC370NE240", DESCRIBED AS, "BRASS CAP AT BACK OF SIDEWALK AT THE NORTHEAST CORNER OF HASTE STREET AND DANA STREET", TAKEN AS 223.67 (CITY OF BERKELEY DATUM).

EASEMENT NOTE:

EASEMENTS, IF ANY, ARE NOT INDICATED HEREON.

LOT AREA:

- = 5650SQ FT. ±
- = 0.130ACRES ±



NO.	DATE	REVISIONS

HOBBACH-LEWIN, INC.
STRUCTURAL & CIVIL ENGINEERS
2000 Alameda Ave., Suite 150
P.O. Box 94706, Alameda, CA 94706
(510) 617-5930, Fax (510) 617-5932



TOPOGRAPHIC SURVEY PLAN
2435 HASTE STREET
BERKELEY, CA 94704

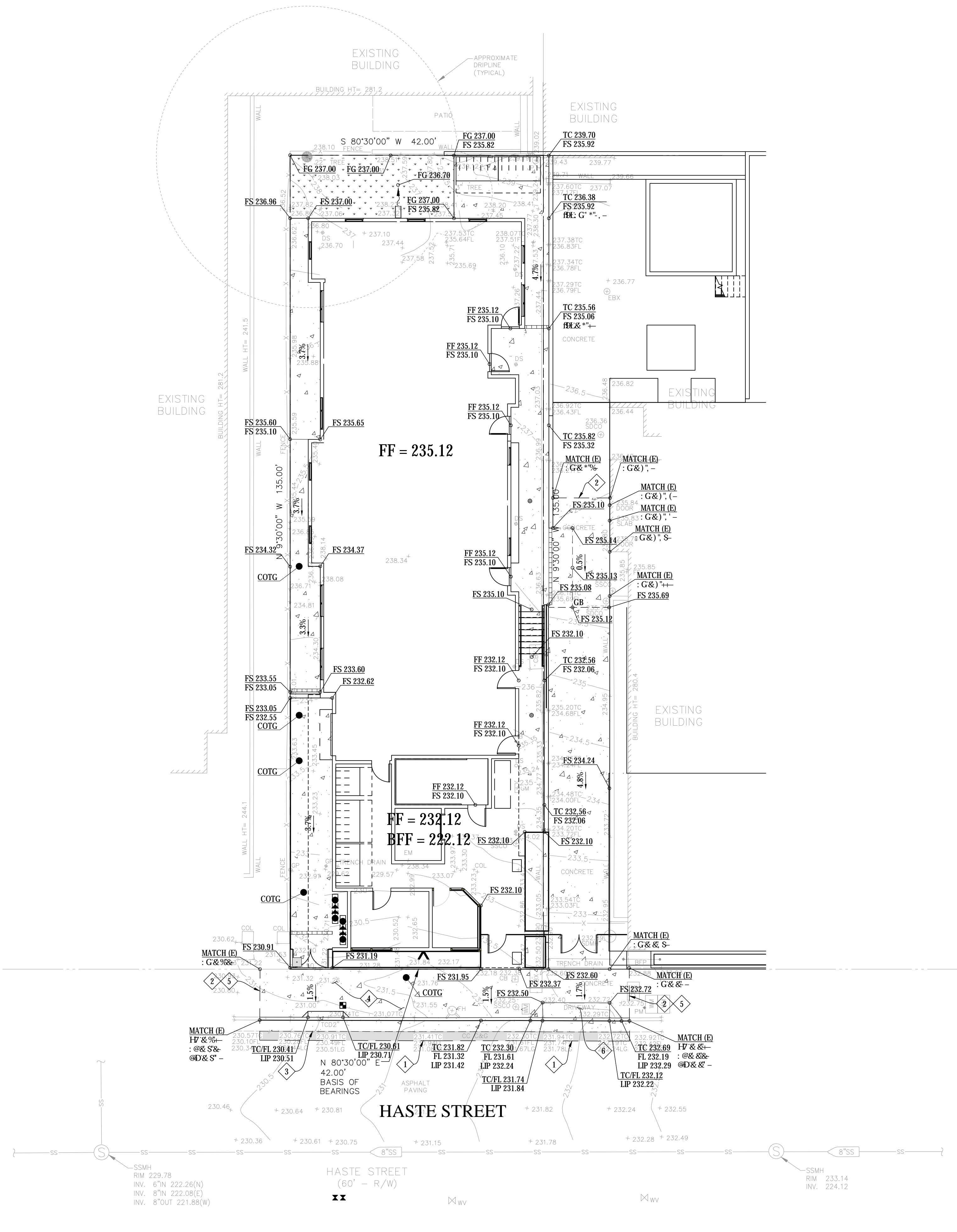
Date	8/18/2021
Scale	AS SHOWN
Drawn	RJD
Checked	BJH
Job	15579.31
Sheet	

TP1



DATE SIGNED: 11/17/2021

ENTITLEMENT



EARTHWORK QUANTITIES*

TOTALS	CUT (CY)	FILL (CY)
	1,204 CY	1 CY

* QUANTITIES ABOVE ARE BANK VOLUMES

C.3 DATA AND DETERMINATION

NEW/REPLACED IMPERVIOUS AREA: 5,265 SF ("SMALL PROJECT")

"SITE DESIGN MEASURES" IMPLEMENTED:

- 1. DIRECT RUNOFF FROM SIDEWALKS, WALKWAYS, AND/OR PATIOS ONTO VEGETATED AREAS*
- 2. DIRECT ROOF RUNOFF ONTO VEGETATED AREAS

* AS OUTLINED IN ALAMEDA COUNTY CLEAN WATER PROGRAM "C.3 STORMWATER TECHNICAL GUIDANCE MANUAL", 3RD REVISION, 2/8/21; AND PER PROVISION C.3.1 OF THE MUNICIPAL REGIONAL STORMWATER NPDES PERMIT (MRP).

BASIS OF BEARINGS:

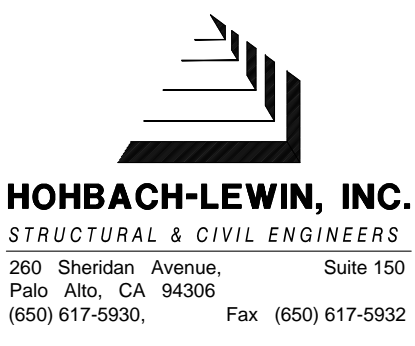
H-9095F-R, C, BCFH, S, SSS 95C1-01579B CBH-9 BCFH-9 FOMF+ <HC: UKSM09C: <5C1D STREET, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED DECEMBER 31, 1990 IN BOOK 15 OF LAND SURVEYOR'S MAPS AT PAGE 37. OFFICIAL RECORDS OF ALAMEDA COUNTY WAS USED AS THE BASIS OF BEARINGS FOR THIS SURVEY.

BENCHMARK:

THE BENCHMARK USED FOR THIS SURVEY IS CITY OF BERKELEY BENCHMARK "BC370NE240", DESCRIBED AS "BRASS CAP AT BACK OF SIDEWALK AT THE NORTHEAST CORNER OF HASTE STREET AND DANA STREET", TAKEN AS 223.67 (CITY OF BERKELEY DATUM).

DISCLAIMER:

HOHBACH-LEWIN DOES NOT PROVIDE SURVEY CONTROL INFORMATION OTHER THAN WHAT IS SHOWN ON THE PLANS. IT IS THE CONTRACTOR'S RESPONSIBILITY TO ESTABLISH THEIR OWN CONTROL BASED ON THE BASIS OF BEARING AND BENCHMARK USED FOR THE TOPOGRAPHIC SURVEY. HOHBACH-LEWIN WILL NOT BE PROVIDING ANY CONTROL POINTS FOR STAKING.



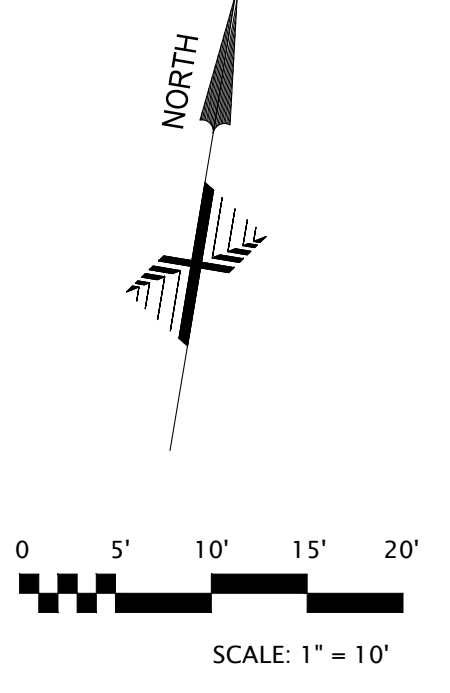
PROJECT ISSUE RECORD:

NO.	DATE	DESCRIPTION

PROJECT #: ENT01
ISSUE DATE: 07/22/21

PRELIMINARY GRADING AND DRAINAGE PLAN

C3.0



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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA



DATE SIGNED: 11/17/2021

ENTITLEMENT

UTILITY LEGEND

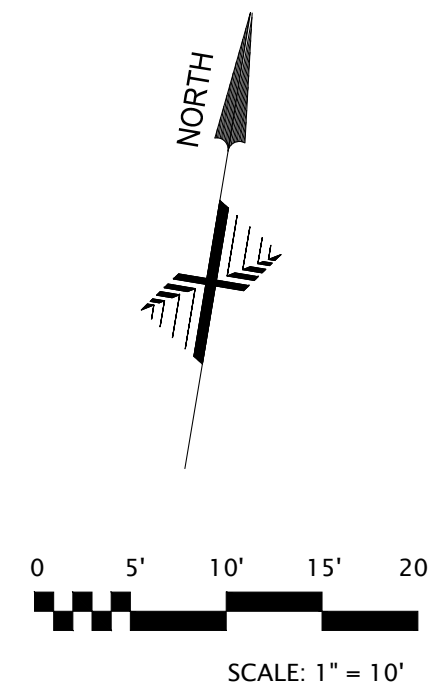
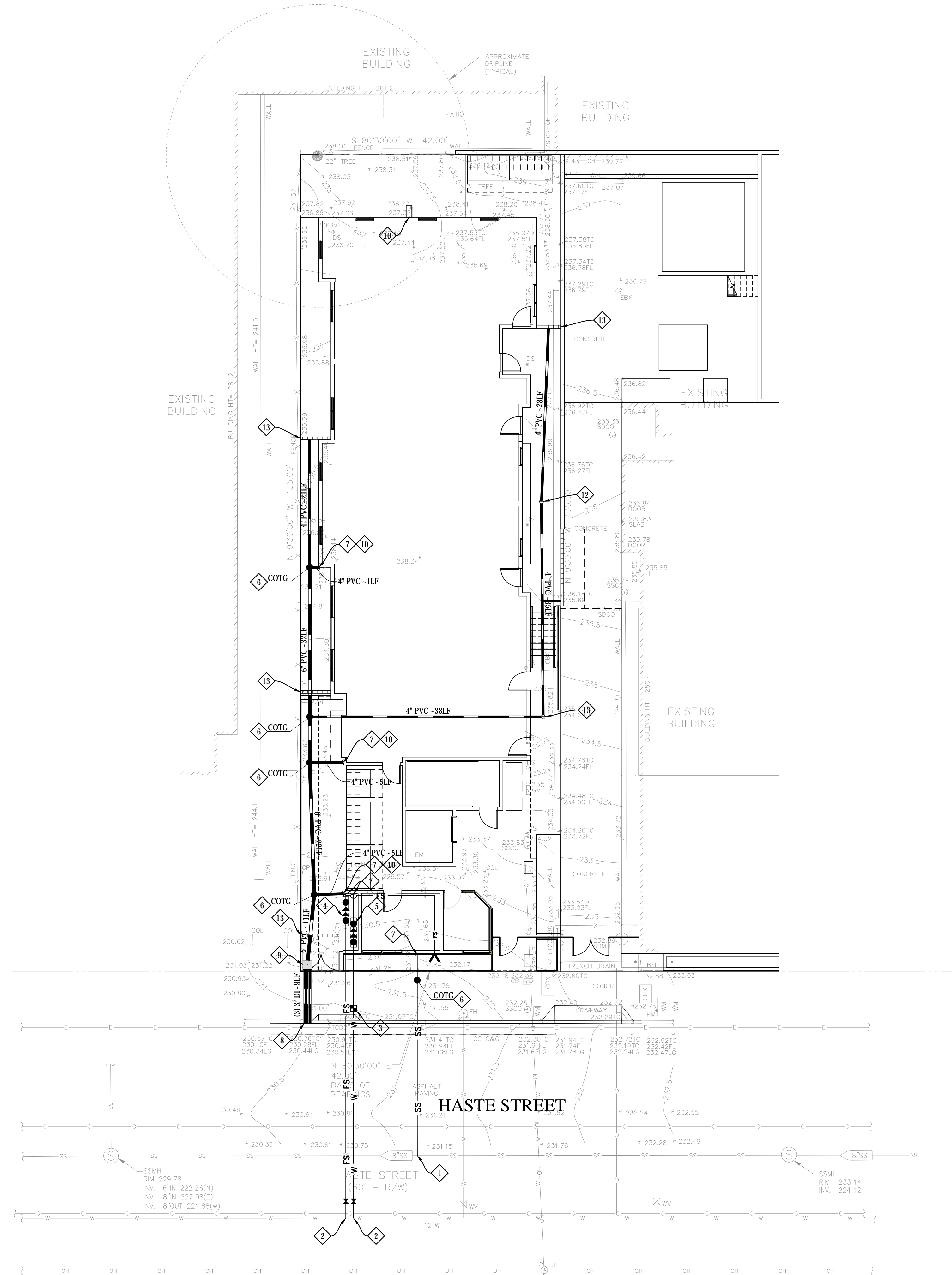
FS	FS	FIRE SERVICE
SS	SS	STORM DRAIN
W	W	SANITARY SEWER
		WATER
		WATER VALVE
		WATER METER
		BACKFLOW PREVENTER
		AREA DRAIN
		CLEANOUT TO GRADE
		FIRE DEPARTMENT CONNECTION
		TRENCH DRAIN

UTILITY KEYNOTES

- 1 CONNECT TO EXISTING SEWER MAIN PER CITY OF BERKELEY STANDARDS.
- 2 CONNECT TO EXISTING WATER MAIN PER EBMUD STANDARDS.
- 3 WATER METER PER EBMUD STANDARDS.
- 4 DOUBLE DETECTOR CHECK ASSEMBLY WITH INTEGRATED FIRE DEPARTMENT CONNECTION PER EBMUD AND CITY OF BERKELEY FIRE STANDARDS.
- 5 BACKFLOW PREVENTER FOR DOMESTIC WATER PER EBMUD STANDARDS.
- 6 CLEANOUT TO GRADE.
- 7 SEE FUTURE PLUMBING DRAWINGS FOR CONTINUATION.
- 8 THROUGH CURB DRAIN PER CITY OF BERKELEY STANDARDS/REQUIREMENTS.
- 9 JUNCTION BOX.
- 10 CONNECT TO RAINWATER LEADER.
- 11 RAINWATER LEADER TO SPLASH BLOCK
- 12 AREA DRAIN
- 13 TRENCH DRAIN

UTILITY NOTES

1. CONTRACTOR SHALL VERIFY (POTHOLE IF NECESSARY) SIZE, MATERIAL, LOCATION AND DEPTH OF ALL SYSTEMS THAT ARE TO BE CONNECTED TO OR CROSSED PRIOR TO THE TRENCHING OR INSTALLATION OF PROPOSED UTILITIES, AND INFORM ENGINEER OF ANY CONFLICTS BEFORE PROCEEDING WITH WORK.
2. CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES, INVERTS AND LOCATIONS PRIOR TO BEGINNING ANY WORK ON THIS SITE.



PROJECT ISSUE RECORD:	
NO.	DESCRIPTION

PROJECT #: ENT01
ISSUE DATE: 07/22/21

PRELIMINARY UTILITY PLAN

C4.0

2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION

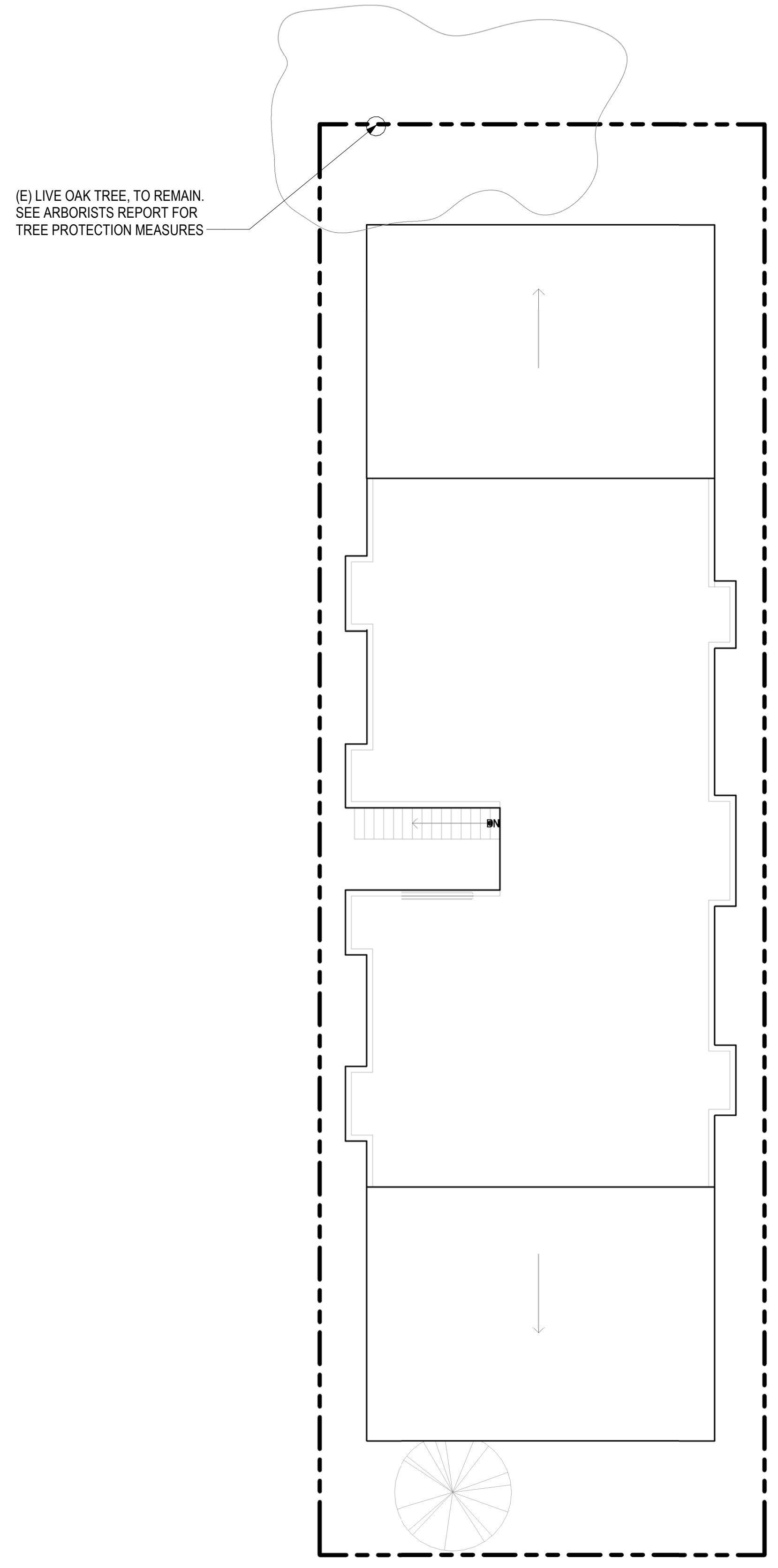
PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01

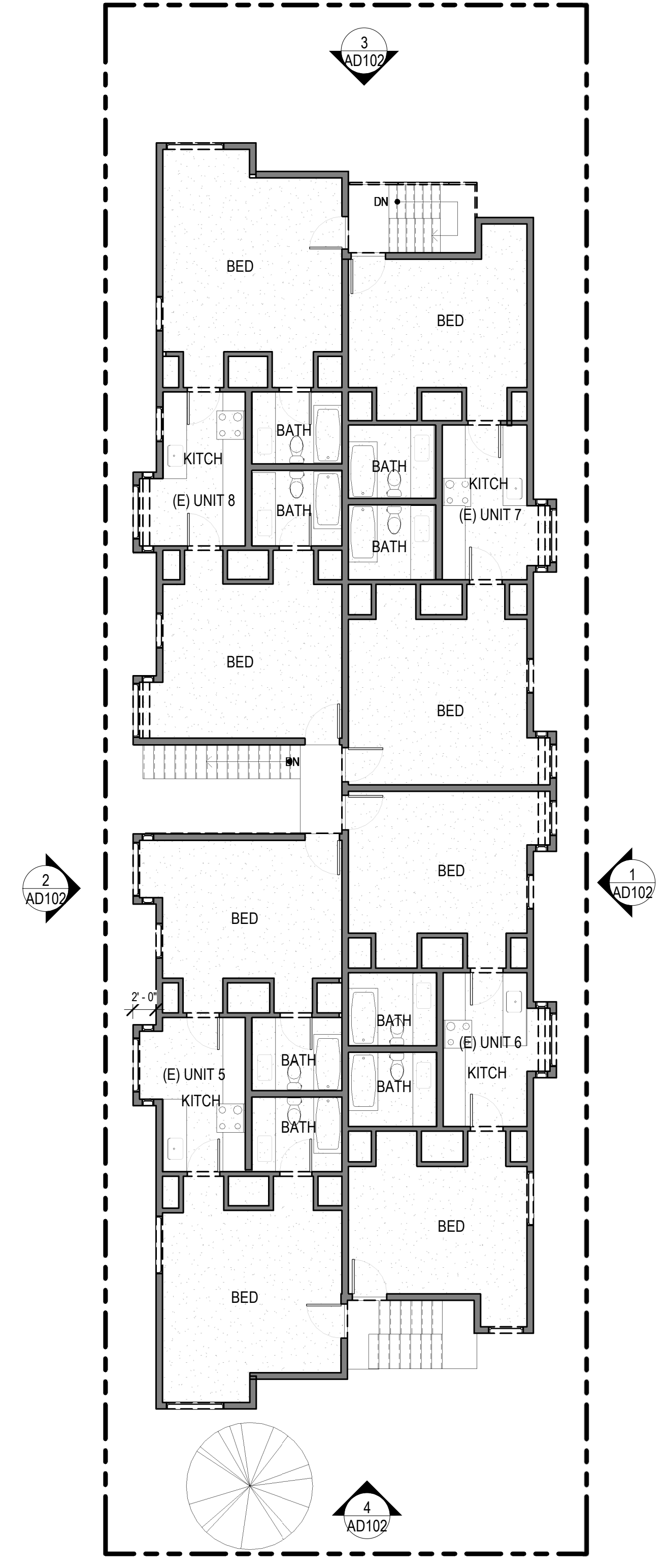
ISSUE DATE: 10/15/21

EXISTING FLOOR PLAN

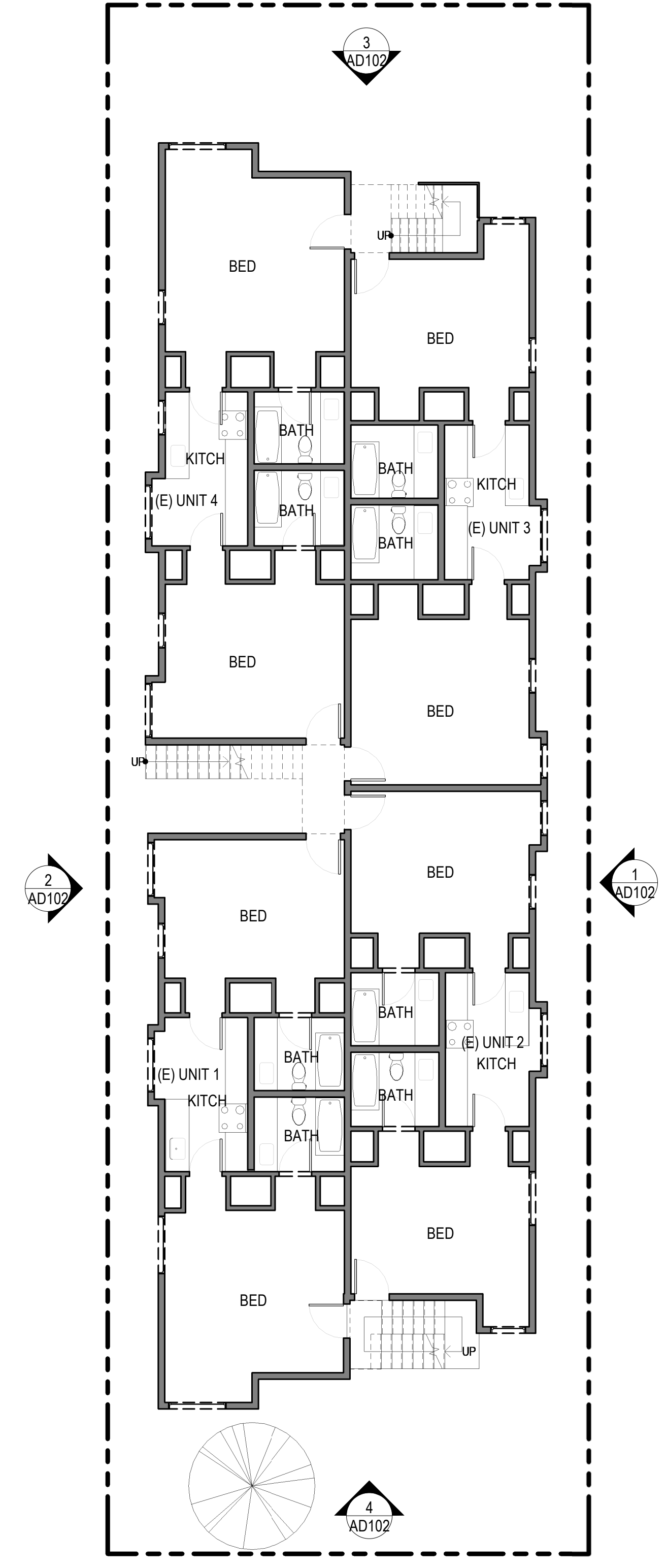
AD101



3 ROOF DEMOLITION PLAN
AD101 1/8" = 1'-0"



2 SECOND FLOOR DEMOLITION PLAN
AD101 1/8" = 1'-0"



1 GROUND FLOOR DEMOLITION PLAN
AD101 1/8" = 1'-0"

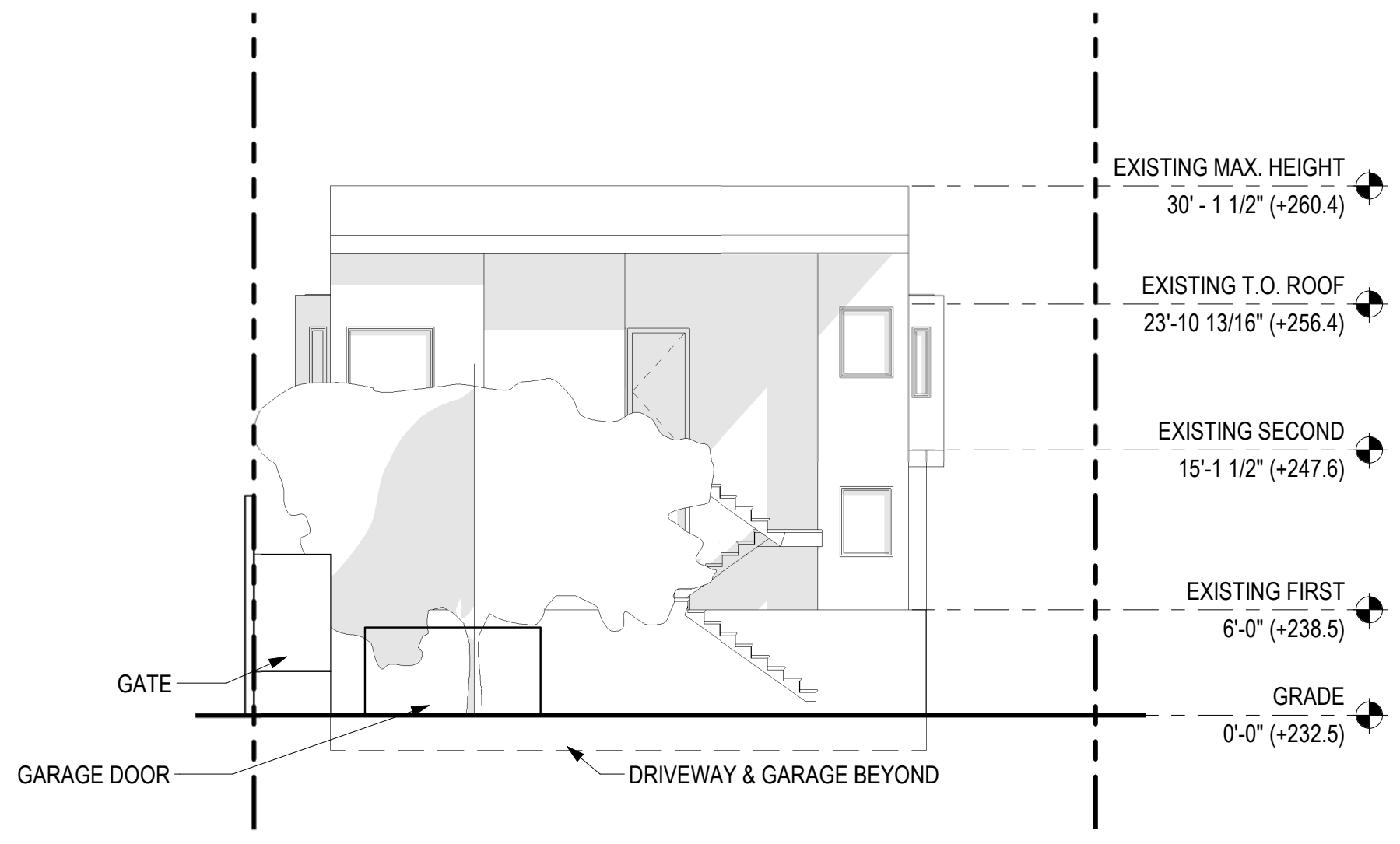


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**2435 HASTE
 APARTMENTS**

2435 HASTE STREET
 BERKELEY, CA

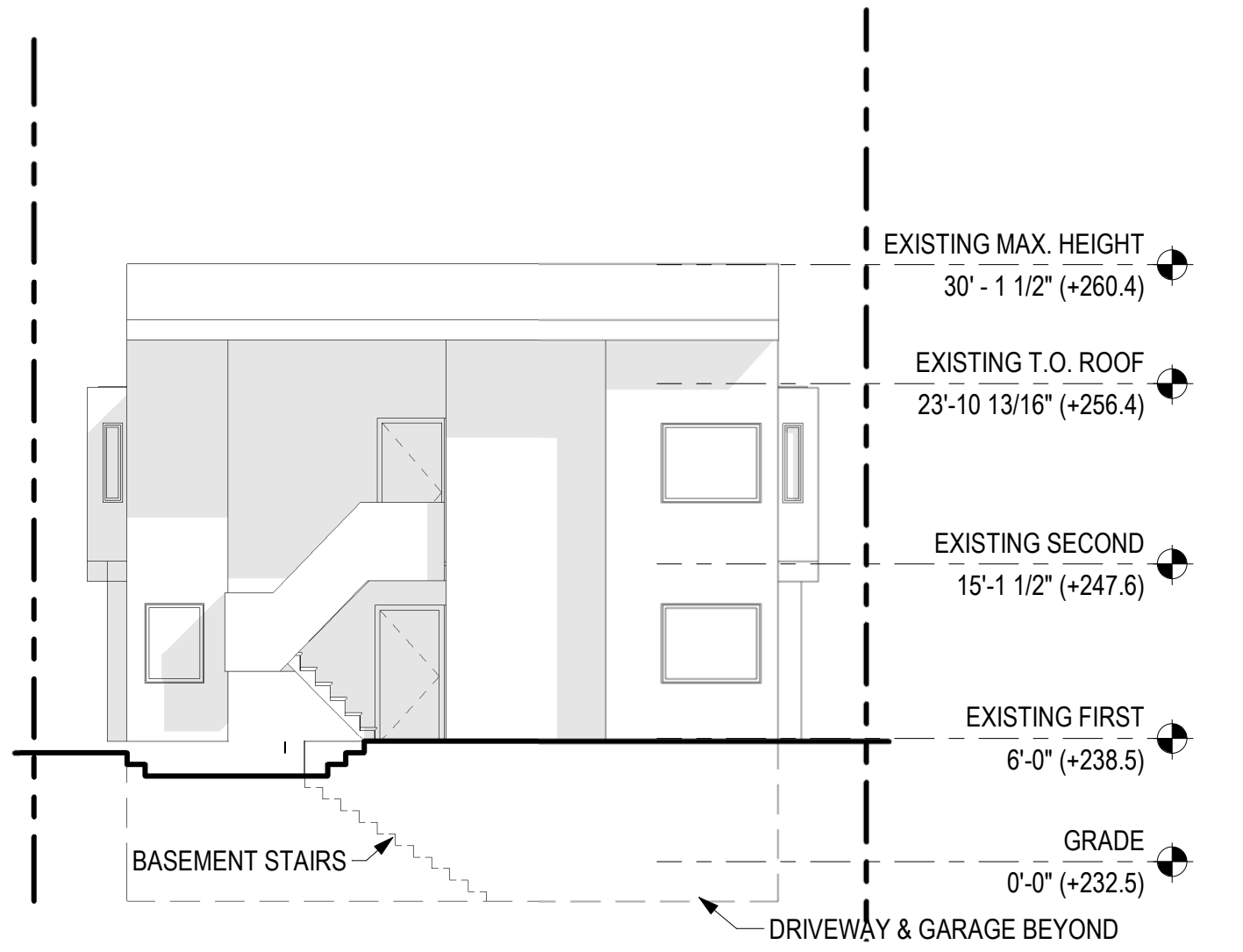
**ZONING
 PROJECT
 APPLICATION**



4 EXISTING SOUTH ELEVATION
 AD102 1/8" = 1'-0"



2 EXISTING WEST ELEVATION
 AD102 1/8" = 1'-0"



3 EXISTING NORTH ELEVATION
 AD102 1/8" = 1'-0"



1 EXISTING EAST ELEVATION
 AD102 1/8" = 1'-0"

PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
 ISSUE DATE: 10/15/21
 EXISTING BUILDING ELEVATIONS

AD102

2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION

PROJECT ISSUE RECORD:

DATE	ISSUE	STATUS
11/30/21	ZONING APPLICATION	

PROJECT #: ENT01

ISSUE DATE: 11/30/21

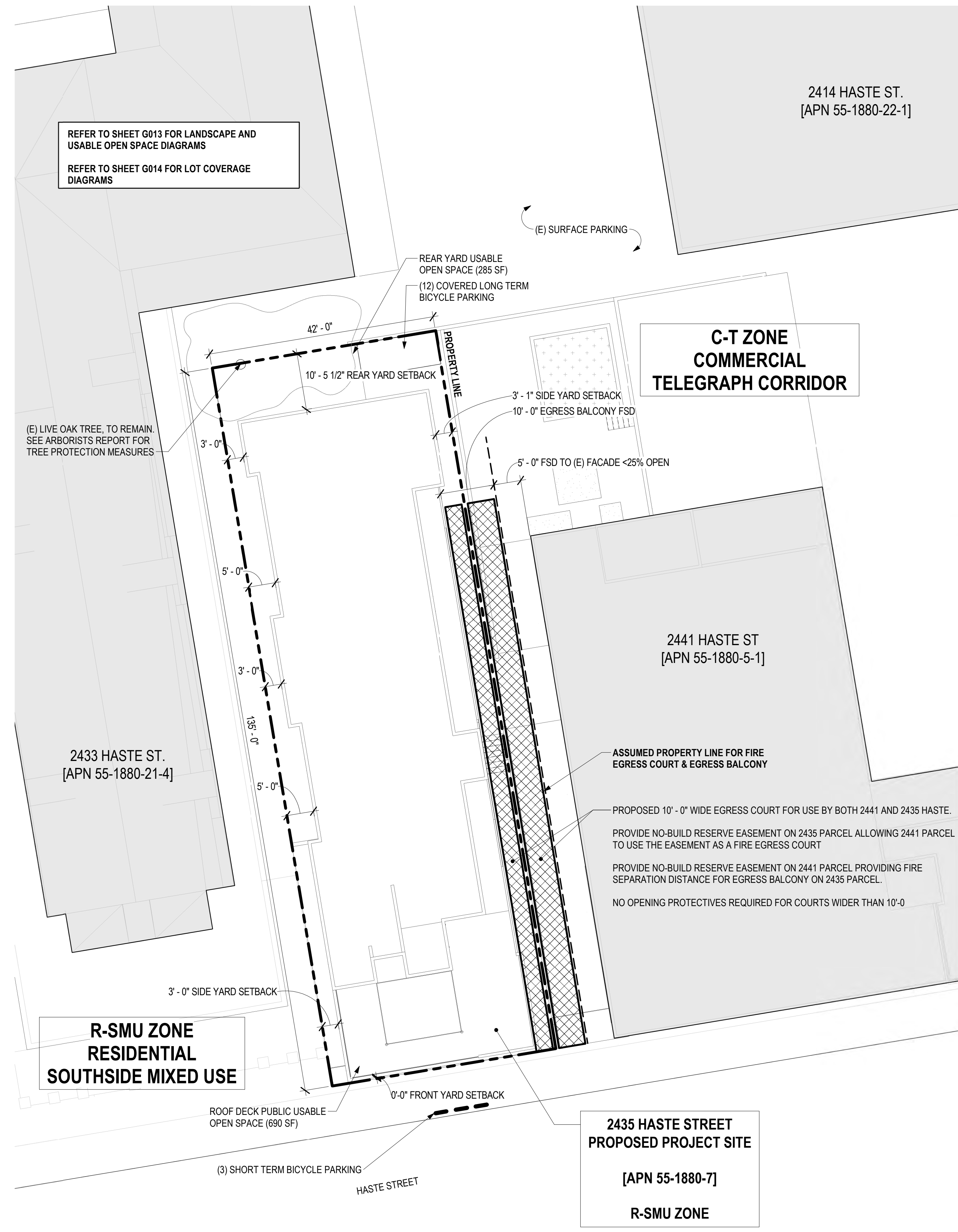
PROPOSED SITE PLAN FOR SIG

A100.1



3 ABUTTING AND CONFRONTING PARCELS
A100.1 1" = 50'-0"

I HAVE REVIEWED THE PLANS FOR THE PROPOSED CONSTRUCTION OF A NEW 8-STORY, 37 UNIT, 32,475 SF RESIDENTIAL BUILDING							
NAME (PLEASE PRINT)	SIGNATURE	ADDRESS	RENTER OR OWNER	DATE	NO OBJECTIONS (X)	NO COMMENT (X)	COMMENTS OR OBJECTIONS (PLEASE STATE BRIEFLY)
Chris Stuppeler	<i>[Signature]</i>	2435 Haste St.	owner	10/11/21	X		
Manuel	<i>[Signature]</i>	2435 Haste St	renter	10/11/21			
Khush Nguyen	<i>[Signature]</i>	2441 Haste St	renter	10/11/21	X		
JULIE SIU	<i>[Signature]</i>	2441 Haste St	renter	10/12/21	X		
Arhara Ortega	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Jessica Leonard	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Jake Espinal	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Bonnie Zhao	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Jairo Chavez	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X	N/A	
Ahmad Alwanza	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Yan Ma	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Sasha Nassan	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21		N/A	
Diana Chernyck	<i>[Signature]</i>	2441 Haste St	Renter	10/11/21	X		
Jilian Cizac	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X	N/A	
Erica Biele	<i>[Signature]</i>	2441 Haste St	Renter	10/11/21	X		
Jessica Kim	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X	N/A	
Samuel	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X	X	
Doreen	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X	N/A	
Melanie	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		redefine hallway
Laura Rio	<i>[Signature]</i>	2441 Haste St	Rent	10/12/21	X		
Milind Goyal	<i>[Signature]</i>	2441 Haste St	Renter	10/12/21	X		
Custom Cotton	<i>[Signature]</i>	2441 Haste St	Renter	10/11/21	X		
Kimberly	<i>[Signature]</i>	2441 Haste St	Renter	10/11/21	X		



1 PROPOSED SITE PLAN
A100.1 3/32" = 1'-0"

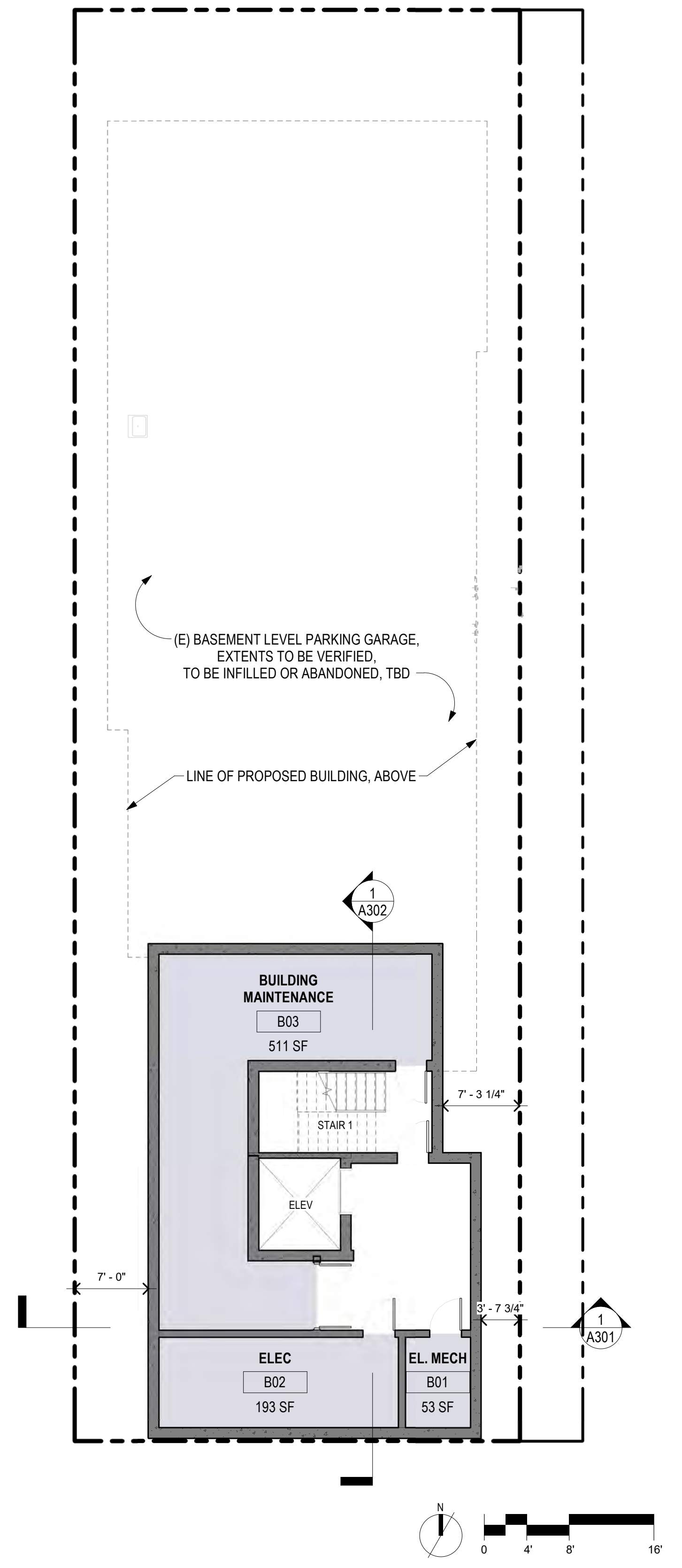


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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION



PROJECT ISSUE RECORD:

#	DATE	DESCRIPTION	STATUS
1	04/27/22	Response to comments #3	
	11/30/21	ZONING APPLICATION	

PROJECT #: ENT01
ISSUE DATE: 11/30/21

PROPOSED BASEMENT & GROUND FLOORS

A101

9/27/2021 1:35:58 PM



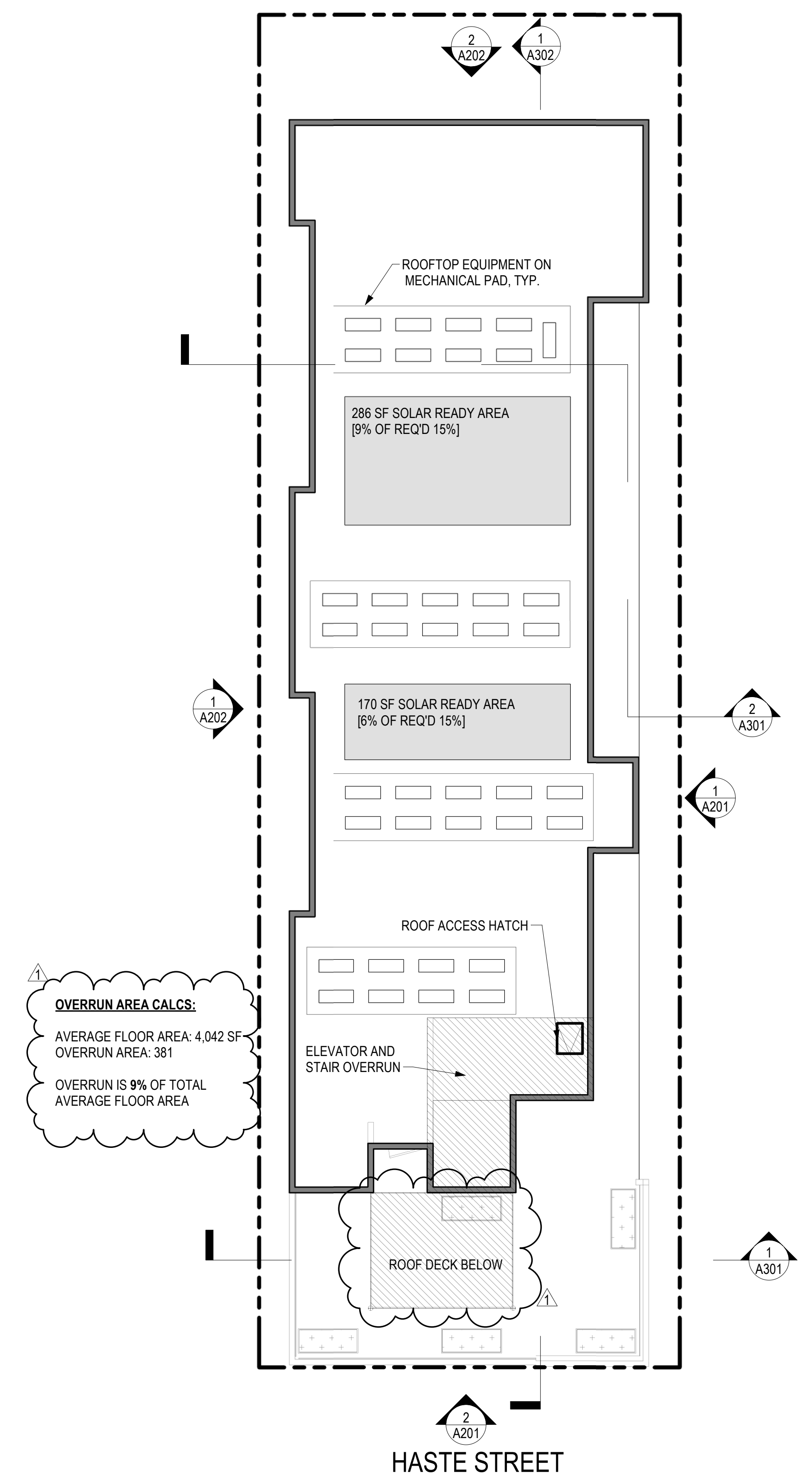
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2435 HASTE APARTMENTS

2435 HASTE STREET
BERKELEY, CA

ZONING PROJECT APPLICATION

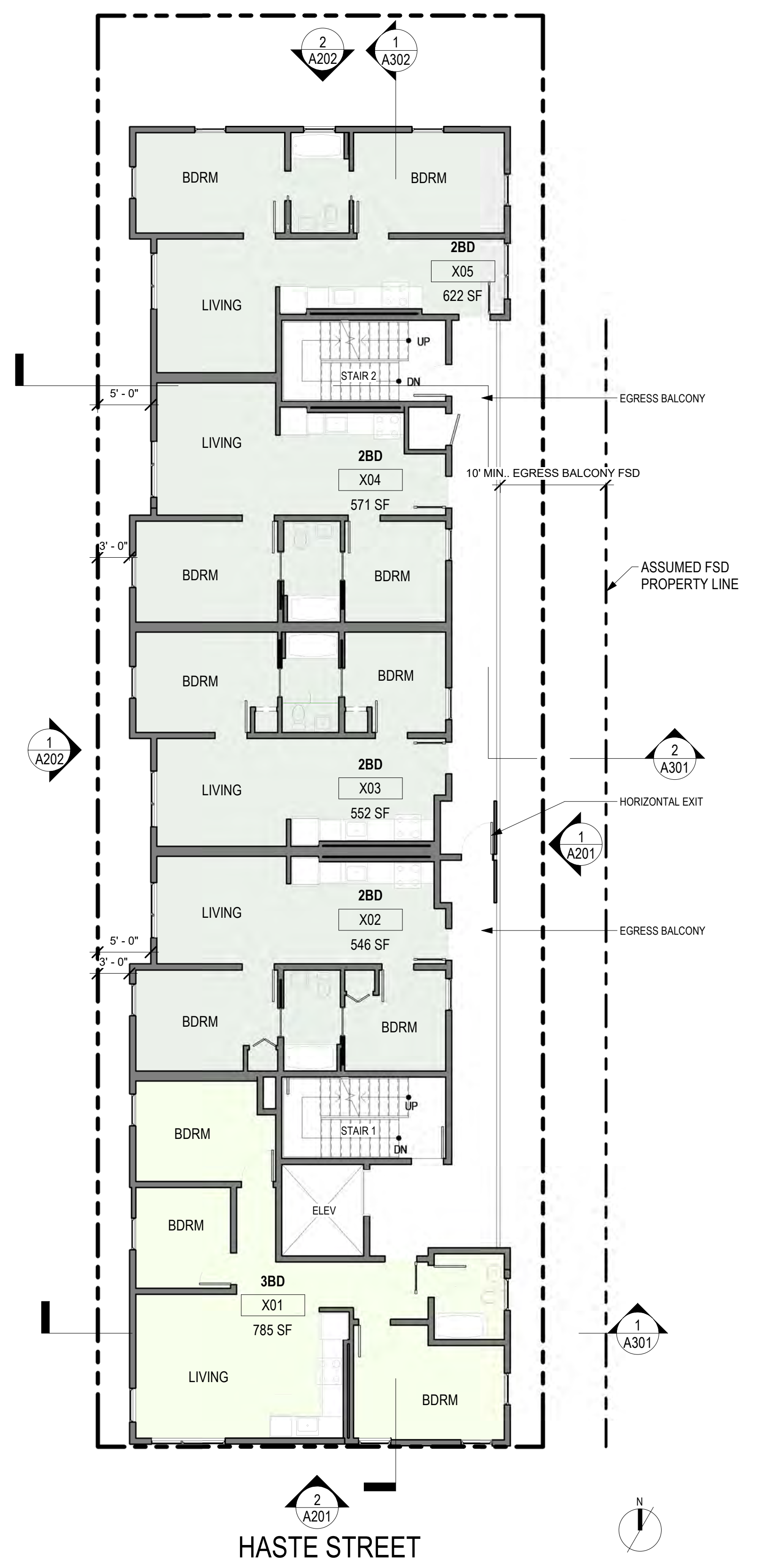
- 2 BEDROOM
 - 3 BEDROOM
 - BACK OF HOUSE
 - COMMON AREA
- LEGEND



3 PROPOSED ROOF PLAN
A102 1/8" = 1'-0"



2 PROPOSED 8TH FLOOR
A102 1/8" = 1'-0"



1 TYPICAL (5) UNIT FLOOR (FLOORS 2-7)
A102 1/8" = 1'-0"

PROJECT ISSUE RECORD:

#	DATE	DESCRIPTION	STATUS
1	04/27/22	Response to comments #3	
	11/30/21	ZONING APPLICATION	

PROJECT #: ENT01
ISSUE DATE: 11/30/21

PROPOSED TYPICAL RESIDENTIAL FLOOR, 8TH FLOOR, & ROOF PLAN

A102



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**2435 HASTE
APARTMENTS**

2435 HASTE STREET
BERKELEY, CA

**ZONING
PROJECT
APPLICATION**



PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
ISSUE DATE: 10/15/21
BUILDING ELEVATIONS

A201



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**2435 HASTE
APARTMENTS**

2435 HASTE STREET
BERKELEY, CA

**ZONING
PROJECT
APPLICATION**



PROJECT ISSUE RECORD:	
10/15/21	SB330 APPLICATION
11/30/21	ZONING APPLICATION

PROJECT #: ENT01
 ISSUE DATE: 10/15/21
 BUILDING ELEVATIONS

A202



Rent Stabilization Board

March 25, 2022

To: Sharon Gong, Principal Planner, Planning & Development Department

From: Matt Brown, General Counsel

By: Lief Bursell, Senior Planner
Be Tran, Associate Planner

Subject: **2435 Haste Street**

On January 5, 2022, Nick Armour wrote to Mr. Bursell informing him of a new application to demolish an existing two-story residential building at 2435 Haste Street to construct a new 8-story residential building with 37 units. He requested that we provide you with information related to the property's rental history and status under the Rent Stabilization and Eviction for Good Cause Ordinance ("Ordinance").

Property History

Alameda County records show that Kenneth and Gregory Ent owned the property as of October 28, 1993. City of Berkeley records indicate that the building was constructed in 1969 as an apartment building with eight units, each with two-bedrooms. In 1992, the City issued a Notice and Order to property owner who was in violation of Zoning Ordinance by converting structure into 16 units without a Use Permit/Variance (for parking).

Rent Stabilization Board records and microfiche records indicate that 2435 Haste currently contains 16 units. Microfiche records contain a 1992 letter from the owner requesting eight additional addresses for the building. The owner included a sketch of the floor plans which shows two units share one kitchen and 16 entry doors.

Rental History and Rent Control Status

Rent Stabilization Board records reflect 16 units at 2435 Haste Street, all of which are claimed as "rented or available for rent." All 16 units are currently rented, under rent control, and fully subject to the Ordinance. Eight units have been registered with the Rent Stabilization Board since 1981 and another eight units have been registered since 1999. At least four households have resided in their units for 19 years or more.

Ellis Act

The building at 2435 Haste has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

Harassment or Illegal Eviction

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 2435 Haste.

BMC 23.326 and SB 330

Both Berkeley Municipal Code (BMC) Chapter 23.326 (formerly BMC 23C.08) and Housing Crisis Act of 2019 Senate Bill (SB) 330 apply to this project. Both regulations require certain tenant protections, such as the right of first refusal and relocation assistance. However, SB 330 does not supersede local ordinances with greater restrictions on the demolition of residential dwelling units or local ordinances that require greater relocation assistance to displaced households (Cal. Gov. Code 66300(d)(3)). For instance, tenant relocation protections in BMC 23.326 are greater than those provided by SB 330, but they only apply to sitting tenants at the time the application for demolition is submitted to the City. Tenants who move in after the application is submitted would qualify for the less protective relocation requirements in SB 330.

Under Berkeley's Demolition Ordinance, returning tenants have the right to rent the new replacement unit at the rent level that would have applied if they remained in their former unit. Landlords may petition the Board for a rent adjustment on the new unit pursuant to the rules associated with the addition of space/services.

Additional Information Requested

In order to complete our review of the proposed demolition, our office would like the following information:

- A floorplan of the property with the configuration of each 16 units.
- For each of the 16 households, provide each tenant's names, contact information, and income. If a unit is not currently rented, explain its current use and give date the last tenant vacated.
- A Relocation Plan explaining how each household will be supported during and after construction, how prospective tenants will be notified of the demolition application (and sample of the letter if applicable), and the process for implementing the tenants' rights of first refusal.
- An explanation on how the owner plans to handle the relocation of two independently rented rooms in a two-bedroom apartment; for instance, if only one tenant wants to move back, will that tenant be able to move into one room in the new two-bedroom unit?

After our office has received the above requested information, our staff are available to work with the Planning Department to draft Use Permit conditions related to tenant protections and relocation assistance for this project.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

Sincerely,



Matt Brown
General Counsel



Rent Stabilization Board

March 25, 2022

To: Sharon Gong, Principal Planner, Planning & Development Department

From: Matt Brown, General Counsel

By: Lief Bursell, Senior Planner

Be Tran, Associate Planner

Subject: **2435 Haste Street**

On January 5, 2022, Nick Armour wrote to Mr. Bursell informing him of a new application to demolish an existing two-story residential building at 2435 Haste Street to construct a new 8-story residential building with 37 units. He requested that we provide you with information related to the property's rental history and status under the Rent Stabilization and Eviction for Good Cause Ordinance ("Ordinance").

Property History

Alameda County records show that Kenneth and Gregory Ent owned the property as of October 28, 1993. City of Berkeley records indicate that the building was constructed in 1969 as an apartment building with eight units, each with two-bedrooms. In 1992, the City issued a Notice and Order to property owner who was in violation of Zoning Ordinance by converting structure into 16 units without a Use Permit/Variance (for parking).

Rent Stabilization Board records and microfiche records indicate that 2435 Haste currently contains 16 units. Microfiche records contain a 1992 letter from the owner requesting eight additional addresses for the building. The owner included a sketch of the floor plans which shows two units share one kitchen and 16 entry doors.

Rental History and Rent Control Status

Rent Stabilization Board records reflect 16 units at 2435 Haste Street, all of which are claimed as "rented or available for rent." All 16 units are currently rented, under rent control, and fully subject to the Ordinance. Eight units have been registered with the Rent Stabilization Board since 1981 and another eight units have been registered since 1999. At least four households have resided in their units for 19 years or more.

Ellis Act

The building at 2435 Haste has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

Harassment or Illegal Eviction

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 2435 Haste.

BMC 23.326 and SB 330

Both Berkeley Municipal Code (BMC) Chapter 23.326 (formerly BMC 23C.08) and Housing Crisis Act of 2019 Senate Bill (SB) 330 apply to this project. Both regulations require certain tenant protections, such as the right of first refusal and relocation assistance. However, SB 330 does not supersede local ordinances with greater restrictions on the demolition of residential dwelling units or local ordinances that require greater relocation assistance to displaced households (Cal. Gov. Code 66300(d)(3)). For instance, tenant relocation protections in BMC 23.326 are greater than those provided by SB 330, but they only apply to sitting tenants at the time the application for demolition is submitted to the City. Tenants who move in after the application is submitted would qualify for the less protective relocation requirements in SB 330.

Under Berkeley's Demolition Ordinance, returning tenants have the right to rent the new replacement unit at the rent level that would have applied if they remained in their former unit. Landlords may petition the Board for a rent adjustment on the new unit pursuant to the rules associated with the addition of space/services.

Additional Information Requested

In order to complete our review of the proposed demolition, our office would like the following information:

- A floorplan of the property with the configuration of each 16 units.
[See updated sheet AD101 in the set for the configurations of each unit.](#)
- For each of the 16 households, provide each tenant's names, contact information, and income. If a unit is not currently rented, explain its current use and give date the last tenant vacated.
[See response in attached document titled "Applicants Response Re: Zoning Application, Letter of Incomplete – RSB Comment Response"](#)
- A Relocation Plan explaining how each household will be supported during and after construction, how prospective tenants will be notified of the demolition application (and sample of the letter if applicable), and the process for implementing the tenants' rights of first refusal.
[See response in attached document titled "Applicants Response Re: Zoning Application, Letter of Incomplete – RSB Comment Response"](#)
- An explanation on how the owner plans to handle the relocation of two independently rented rooms in a two-bedroom apartment; for instance, if only one tenant wants to move back, will that tenant be able to move into one room in the new two-bedroom unit?
[See response in attached document titled "Applicants Response Re: Zoning Application, Letter of Incomplete – RSB Comment Response"](#)

After our office has received the above requested information, our staff are available to work with the Planning Department to draft Use Permit conditions related to tenant protections and relocation assistance for this project.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Matt Brown". The signature is written in a cursive style with a horizontal line underneath.

Matt Brown
General Counsel

Applicant Response

Re: Zoning Application, Letter of Incompletion - RSB Comment Response

Re: 2435 Haste Street, Berkeley, CA

This memo will serve as the response for RSB comments mentioned in Ms. Gong's Letter of Incompletion dated April 22nd, 2022 for the proposed project at 2435 Haste Street.

RSB Comment/Question: For each of the 16 households, provide each tenant's names, contact information, and income. If a unit is not currently rented, explain its current use and give date the last tenant vacated.

Applicant Response:

See below for the requested tenant information. Please note incomes of previous and current tenants are unknown. See applicant response dated Feb 16th, 2022 to Mr. Armour's "Letter of Incomplete" dated Jan 6th, 2022 for more information regarding tenants incomes.

Unit 1

- *Current Tenant Name:* Allen Rogalski
- *Contact Info:* 2435 Haste St., Unit 1 Berkeley, CA 94704
- *Income:* Unknown (Please see applicant response dated Feb 16th, 2022 to Plannings "Letter of Incomplete" dated Jan 6th, 2022 for more information)

Unit 1A

- *Current Tenant Name:* Christopher Doi
- *Contact Info:* 2435 Haste St., Unit 1A Berkeley, CA 94704
- *Income:* Unknown (Please see applicant response dated Feb 16th, 2022 to Plannings "Letter of Incomplete" dated Jan 6th, 2022 for more information)

Unit 5

- *Current Tenant Name:* Lauro Lopez
- *Contact Info:* 2435 Haste St., Unit 5 Berkeley, CA 94704
- *Income:* Unknown (Please see applicant response dated Feb 16th, 2022 to Plannings "Letter of Incomplete" dated Jan 6th, 2022 for more information)

Unit 5A

- *Current Tenant Name:* Manuel Buendia
- *Contact Info:* 2435 Haste St., Unit 5A Berkeley, CA 94704
- *Income:* Unknown (Please see applicant response dated Feb 16th, 2022 to Plannings "Letter of Incomplete" dated Jan 6th, 2022 for more information)

Units 2, 2A, 3, 3A, 4, 4A, 6, 6A, 7, 7A, 8, 8A

The units listed above are currently not rented and sit vacant. All units listed above were vacated before the zoning application was submitted on November 30th, 2021. Incomes of previous tenants are unknown.

RSB Comment/Question: A Relocation Plan explaining how each household will be supported during and after construction, how prospective tenants will be notified of the demolition application (and sample of the letter if applicable), and the process for implementing the tenants' rights of first refusal.

Applicant Response:

All sitting tenants will be supported in accordance with CA. Gov. Code SB-330, BMC Chapter 23C.08 "Demolition and Dwelling Unit Controls", and any other applicable law that existed at the time the zoning application was submitted. This support includes but is not limited to reimbursement for certain documented moving expenses, a one-time dislocation allowance, and funding to subsidize the rent differential for a comparable replacement unit during construction until new units are ready for occupancy. Please note, all sitting tenants will have the option to enter into a buyout agreement with the owner if they choose. Buyout agreements have not yet been negotiated.

The owner has provided all sitting tenants multiple notices of the application to demolish the building and the project's scope of work before the zoning application was submitted, in accordance with BMC Chapter 23C.08.020.C, including notice of their rights under Chapter 13.76. Documentation including notification dates, notification explanations, and samples of the notifications are provided in the upcoming pages of this response. Additionally, please see this project's zoning application submitted November 30th, 2021 for more information including certified mail receipts as well as neighborhood meeting signatures and comments from sitting tenants.

The owner will comply with all applicable laws in regards to sitting tenants rights of first refusal to rent new BMR units in the new building. The sitting tenants have already been notified of their rights of first refusal. The owner will again notify the tenant/s when the new BMR units will be made available to rent. Any tenant choosing to move back into the new building must not have previously entered into a buyout agreement with the owner.

First Tenant Notification: Sitting tenants were first notified September 24th, 2021 of the demolition. A letter was posted on each sitting tenant's front door. The contents of this letter are attached below and labeled "First Tenant Notification".

Dear Resident,

This letter is to formally notify you that there will be an application submitted in the upcoming weeks to demolish the building at 2435 Haste St. Berkeley, CA 94704.

Please see attached document titled "Notice of Application to Demolish Rental Units And Notice of Tenants' Rights" to understand your rights as a tenant at 2435 Haste St. during this process.

There will be a neighborhood meeting in the upcoming weeks for you to learn more about the proposed development project on 2435 Haste St. We strongly urge you to attend to get specific questions answered about the proposed development project. We will notify you once a specific date and time is chosen for the meeting.

Furthermore, the landlord of the property is willing to answer any questions you may have about your options as well as offer a one time payment with an amount above the required "one-time dislocation allowance" mentioned in the attached document. If you would like to take advantage of this offer, please contact Greg Ent at gregoryent@gmail.com with any questions you may have.

We are committed to making this process as easy as possible for you.

Sincerely,

Gregory Ent

Date: 09/24/2021

First Tenant Notification Contents - "Cover Letter"



Rent Stabilization Board
Public Information Unit

Notice of Application to Demolish Rental Units and Notice of Tenants' Rights

The Berkeley Rent Stabilization and Eviction for Good Cause Ordinance (Chapter 13.76) provides that a tenant may be evicted where a landlord, *having obtained all necessary permits from the city*, seeks to demolish the rental unit. If you are receiving this notice, your landlord *has not* yet obtained a permit to demolish your rental unit; this is merely a notice that the landlord will file the attached application to demolish the building.

If the permit is approved your landlord is required to temporarily relocate you until the new units are constructed. Under the City's Demolition Ordinance, the owner of the property is required to provide you with assistance for moving expenses¹ as follows:

1. A one-time dislocation allowance to help defray incidental Relocation expenses.
2. Reimbursement for actual documented moving and storage expenses² or a fixed payment for each.

The landlord is also required to subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. The landlord is required to guarantee this funding as a condition of approval of the demolition.

Tenants who are displaced as a result of demolition shall be provided the right of refusal to move into the new building; and tenants of units that are demolished shall have the right of first refusal to rent new below market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues. Income restrictions shall not apply to displaced tenants.³

NOTE: *The rights detailed in this notice do not apply to tenants who moved in after the application for demolition is submitted to the City provided that the owner informed each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.*

¹ If the landlord proposes to construct a 100% affordable housing project, the relocation benefits are set by state law. See California Government Code sections 7260 et seq.

² If a fixed payment is chosen, no documentation is necessary. If you choose to be reimbursed for actual documented expenses, the moving expenses may not exceed the Federal Fixed Residential Moving Cost Schedule

³ If the landlord constructs a 100% affordable housing project, displaced tenants have a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements.

2125 Milvia Street, Berkeley, California 94704
TEL: 510.981.7368 □ TDD: 510.981.6903 □ FAX: 510.981.4910
E-MAIL: rent@ci.berkeley.ca.us □ INTERNET: www.ci.berkeley.ca.us/rent/

First Tenant Notification Contents - "Tenants Rights, Page 1"

Excerpt of Berkeley Municipal Code Chapter 23C.08.020

C. If the units in a building to be demolished under subdivision (A) are occupied, the following requirements shall apply.

1. Except as set forth in paragraph (2) below:

- a. The applicant shall provide all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City, including notice of their rights under Chapter 13.76.
- b. The applicant shall provide assistance with moving expenses equivalent to those set forth in Chapter 13.84 (Relocation Ordinance).
- c. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City.

2. An applicant under this Chapter who proposes to construct a 100% affordable housing project shall provide relocation benefits that conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and the California Relocation Act (Government Code sections 7260 et seq.).

3. Except as set forth in paragraph (4) below, sitting tenants who are displaced as a result of demolition shall be provided the right of refusal to move into the new building; and tenants of units that are demolished shall have the right of first refusal to rent new below market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues. Income restrictions shall not apply to displaced tenants.

4. In cases where an applicant under this Chapter has constructed a 100% affordable housing project, sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed building will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements when the new units are ready for occupancy.

5. The provisions of this section shall not apply to tenants who move in after the application for demolition is submitted to the City provided that the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.

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First Tenant Notification Contents - "Tenants Rights, Page 2"

Second Tenant Notification: Sitting tenants were notified of the required neighborhood meeting via certified mail postmarked September 28th, 2021. 3 out of 4 total sitting tenants attended the meeting, please see the zoning application submitted November 30th, 2021 for tenant comments and more information. The contents of this mailer are attached below and labeled “Second Tenant Notification”.

Neighborhood Meeting

Proposed Project at 2435 Haste Street.

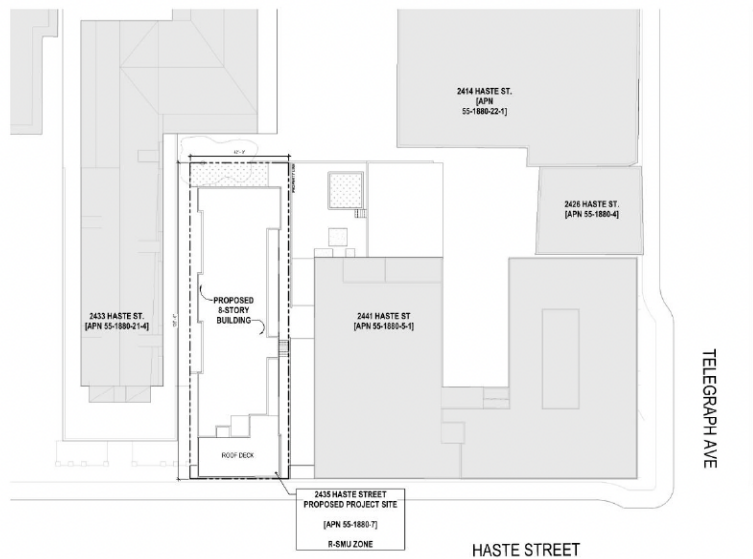
Monday, October 11, 2021, from 8 AM to 9:30 AM

Meet at Project Site, 2435 Haste Street

You are invited to a meeting to learn about the proposed project at 2435 Haste Street. This project proposes to construct a new 8-story, 37 unit residential building.

We look forward to meeting you to discuss the proposed project and answering any questions.

Proposed Site Plan:



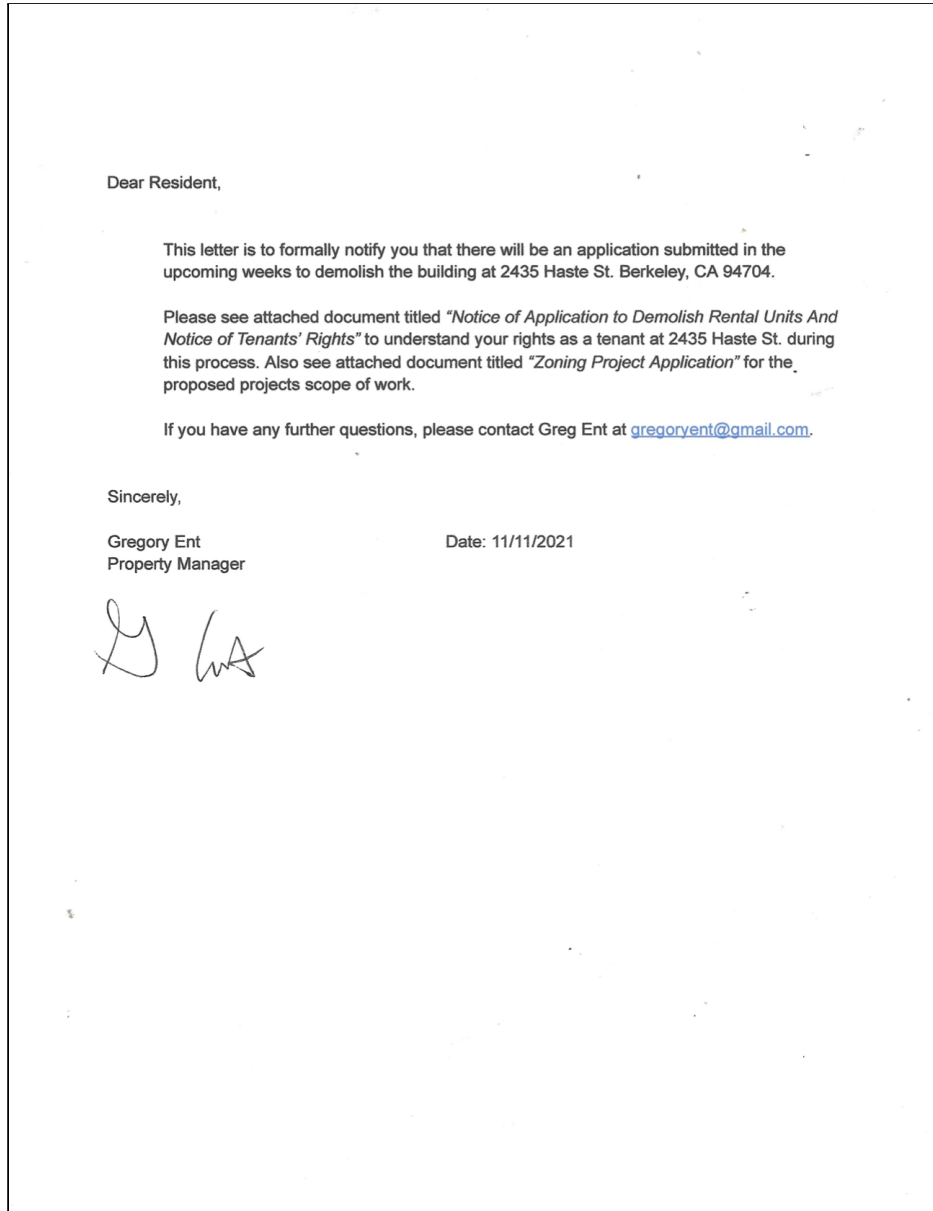
If you have any questions about the project prior to the meeting, please contact Ian Theriault-Shay, Studio KDA at (510) 841-3555.

Thank you.

studioKDA

Second Tenant Notification Contents - "Neighborhood Meeting"

Third Tenant Notification: Sitting tenants were notified again of the demolition, their rights, and the project's scope of work via certified mail postmarked November 11th, 2021. The contents of this mailer are attached below and labeled "Third Tenant Notification".



Third Tenant Notification Contents - "Cover Letter"



Rent Stabilization Board
Public Information Unit

Notice of Application to Demolish Rental Units and Notice of Tenants' Rights

The Berkeley Rent Stabilization and Eviction for Good Cause Ordinance (Chapter 13.76) provides that a tenant may be evicted where a landlord, *having obtained all necessary permits from the city*, seeks to demolish the rental unit. If you are receiving this notice, your landlord *has not* yet obtained a permit to demolish your rental unit; this is merely a notice that the landlord will file the attached application to demolish the building.

If the permit is approved your landlord is required to temporarily relocate you until the new units are constructed. Under the City's Demolition Ordinance, the owner of the property is required to provide you with assistance for moving expenses¹ as follows:

1. A one-time dislocation allowance to help defray incidental Relocation expenses.
2. Reimbursement for actual documented moving and storage expenses² or a fixed payment for each.

The landlord is also required to subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. The landlord is required to guarantee this funding as a condition of approval of the demolition.

Tenants who are displaced as a result of demolition shall be provided the right of refusal to move into the new building; and tenants of units that are demolished shall have the right of first refusal to rent new below market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues. Income restrictions shall not apply to displaced tenants.³

NOTE: *The rights detailed in this notice do not apply to tenants who moved in after the application for demolition is submitted to the City provided that the owner informed each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.*

¹ If the landlord proposes to construct a 100% affordable housing project, the relocation benefits are set by state law. See California Government Code sections 7260 et seq.

² If a fixed payment is chosen, no documentation is necessary. If you choose to be reimbursed for actual documented expenses, the moving expenses may not exceed the Federal Fixed Residential Moving Cost Schedule

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Third Tenant Notification Contents - "Tenants Rights, Page 1"

Excerpt of Berkeley Municipal Code Chapter 23C.08.020

C. If the units in a building to be demolished under subdivision (A) are occupied, the following requirements shall apply.

1. Except as set forth in paragraph (2) below:

- a. The applicant shall provide all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City, including notice of their rights under Chapter 13.76.
- b. The applicant shall provide assistance with moving expenses equivalent to those set forth in Chapter 13.84 (Relocation Ordinance).
- c. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City.

2. An applicant under this Chapter who proposes to construct a 100% affordable housing project shall provide relocation benefits that conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and the California Relocation Act (Government Code sections 7260 et seq.).

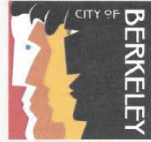
3. Except as set forth in paragraph (4) below, sitting tenants who are displaced as a result of demolition shall be provided the right of refusal to move into the new building; and tenants of units that are demolished shall have the right of first refusal to rent new below market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues. Income restrictions shall not apply to displaced tenants.

4. In cases where an applicant under this Chapter has constructed a 100% affordable housing project, sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed building will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements when the new units are ready for occupancy.

5. The provisions of this section shall not apply to tenants who move in after the application for demolition is submitted to the City provided that the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.

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Third Tenant Notification Contents - "Tenants Rights, Page 2"



Land Use / Zoning

Planning and
 Development

All new uses, structures, and modifications to structures in the City of Berkeley are required to be in conformance with the Zoning Ordinance.

Information on different types of permits can be found at the links below.

Overview of the Permitting Process
https://www.cityofberkeley.info/Planning_and_Development/Permit_Service_Center/Permitting_Process.aspx

Types of Permits
https://www.cityofberkeley.info/Planning_and_Development/Home/Types_of_Land_Use_Permits.aspx

Zoning Project Submittal Requirements
<https://hivvutl.com/rahe8ld>

Land Use / Zoning
 1947 Center Street
 2nd Floor
 Berkeley, CA 94704
 Phone: 510-981-7410
 TDD: 510-981-7450
planning@cityofberkeley.info

Zoning Project Application

<i>(This box for staff use only.)</i>	DATE STAMP HERE
ZP20 _____ <input type="checkbox"/> Administrative Use Permit <input type="checkbox"/> Variance <input type="checkbox"/> Use Permit <input type="checkbox"/> Modification of any of the Above	
Zoning District(s): _____	
Intake Planner: _____	

Project Information:

Project Address: 2435 Haste St. Unit/Suite #: _____

Assessor Parcel Number: 55-1880-7

Project Description: 1. DEMOLISH AN EXISTING 2-STORY APARTMENT

BUILDING COMPRISING (8) PROTECTED 2-BEDROOM RENTAL UNITS.

2. REQUEST DENSITY BONUS TO CONSTRUCT NEW 8-STORY (37) UNIT

APARTMENT BUILDING COMPRISING (29) 2-BEDROOM AND (8)

3-BEDROOM UNITS. ALL DEMOLISHED PROTECTED UNITS ARE REPLACED.

Expedited Services Requested? Yes / No

Property Owner's Name: KENNETH ENT

Owner's Mailing Address: 2441 HASTE STREET, BERKELEY, CA 94704

Phone #: _____

Email: _____

Applicant's Name (or enter "same"): IAN THERIAULT-SHAY / STUDIO KDA

Applicant's Mailing Address: 1810 6TH STREET, BERKELEY, CA 94710

Phone #: (510) 841-3555

Email: IAN@STUDIOKDA.COM

Under penalty of perjury, I certify that:
 (1) the application materials are true and complete to the best of my knowledge;
 (2) the attached paper and electronic copies of this application are the same; and
 (3) I agree to pay all expenses associated with this application.
 (*Owner's signature, or signed letter authorizing applicant to apply on owner's behalf, is required for all applications)

Applicant Signature:  Printed Name: <u>IAN THERIAULT-SHAY</u> Date: <u>10/7/21</u>	Owner Signature:  Printed Name: <u>Kenneth Ent</u> Date: <u>10/13/21</u>
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Third Tenant Notification Contents - "Zoning Application, Project Scope of Work"

RSB Comment/Question: An explanation on how the owner plans to handle the relocation of two independently rented rooms in a two-bedroom apartment; for instance, if only one tenant wants to move back, will that tenant be able to move into one room in the new two-bedroom unit?

Applicant Response:

The owner would like to give each tenant two options to move back into the new building if they choose to exercise their rights of first refusal. Please see both options below.

Option 1:

Scenario 1: If both of the original sitting tenants in each original two-bedroom unit decide to exercise their rights of first refusal and move back into the new building, each tenant will be allowed to move into one room of a new two-bedroom BMR unit with their current housemate at both their current rental rates with rent ceilings set by the City of Berkeley Rent Ordinance. Both tenants' rent ceilings will have the ability to be adjusted each year in accordance with the City of Berkeley Rent Stabilization Board's (RSB) Annual General Adjustment (AGA) as long as they occupy the unit. If one of the two original tenants decide to vacate their individually rented room, the tenant that chooses to stay will be responsible to cover the rent of the previous tenant. That tenant will have the option to sublet the vacant room at the same rental rate that applied to the previous tenant if they choose. If the last sitting tenant (and their potential subletter) decide to vacate, the unit will be made available to the public at the affordability level that originally applied to the BMR unit.

Scenario 2: If only one of the original two sitting tenants in each original two-bedroom (individually leased room) unit decides to exercise their rights of first refusal and move into a room of a new two-bedroom BMR unit in the new building, the rent of the unit will be set at the combined rent of both original sitting tenants with the rent ceiling set by the City of Berkeley Rent Ordinance. The tenants rent ceiling will have the ability to be adjusted each year in accordance with the City of Berkeley Rent Stabilization Board's (RSB) Annual General Adjustment (AGA) as long as they occupy the unit. That tenant will have the option to sublet the vacant bedroom at the same rental rate that applied to the previous original sitting tenant if they choose. If the last sitting tenant (and their potential subletter) decide to vacate, the unit will be made available to the public at the affordability level that originally applied to the BMR unit.

Option 2:

Give each sitting tenant the option to individually rent one of the six new BMR two-bedroom units in the new building. The affordability level that was originally set by the City of Berkeley Below Market Rate Program and the State Density Bonus Law will apply to these units, including income qualifications and rent limits. Each tenant will be offered a unit that most closely matches their current income. If any of the tenants income is higher than the highest income limit of all six BMR units, that tenant will be offered a BMR unit with the highest rent limit. If more sitting tenants qualify for BMR units than available at their specific income categories, the tenant with the lowest income will qualify for the more affordable unit.



Z O N I N G
A D J U S T M E N T S
B O A R D
NOTICE OF PUBLIC HEARING

2435 Haste Street

Use Permit #ZP2021-0210 to demolish an existing multi-family dwelling (eight units) and construct an eight-story, residential building with 37 units (including affordable replacement units) and 935 square feet of usable open space.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on October 13, 2022, **conducted via Zoom, see the Agenda for details at:** https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-10_13_ZAB_Agenda.pdf. The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

A. Land Use Designations:

- General Plan: RMU – Residential Mixed-Use
- Zoning: R-SMU – Residential Southside Mixed-Use District

B. Zoning Permits Required:

- Use Permit under BMC Section 23.326.020 to demolish dwelling units
- Use Permit under BMC Section 23.326.030 to demolish dwelling units constructed before June 1980
- Use Permit under BMC Section 23.202.020 to construct a multi-family residential building
- Use Permit under BMC Section 23.202.140(E)(2) to allow a height of up to five stories and 75 feet
- Administrative Use Permit under BMC Section 23.304.030(B)(2) to reduce setbacks to zero in a main building containing dwelling units
- Administrative Use Permit under BMC Section 23.202.140(E)(5) to increase lot coverage maximum up to 100 percent for parcel with a main building containing dwelling units
- Administrative under BMC Section 23.304.050(A) to allow architectural elements to exceed the district height limit

C. Waivers Pursuant to State Density Bonus Law:

- Waiver of BMC Section 23.202.140(E) to exceed the height and story limits (after Use Permit)
- Waiver of BMC Section 23.202.140(E) to reduce minimum required usable open space

D. CEQA Recommendation: Categorically exempt pursuant to §15332 (“In-Fill Development Projects”) of the CEQA Guidelines.

E. Parties Involved:

- Applicant Buddy Williams, Studio KDA, 1810 Sixth Street, Berkeley, CA 94710
- Property Owner Kenneth Ent, 2441 Haste Street, Berkeley, CA 94704

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, Sharon Gong, at (510) 981-7429 or sgong@cityofberkeley.info.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@cityofberkeley.info.

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.

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@cityofberkeley.info. 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 virtual 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, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.



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@cityofberkeley.info) 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 fourteen (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 ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, 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.