

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  
DECEMBER 8, 2022

## 1200 Dwight Way

Use Permit #ZP2022-0028 to demolish a single-family dwelling and detached garage, and build two two-story single-family dwellings and two parking spaces.

### I. Background

#### A. Land Use Designations:

- General Plan: LMDR- Low Medium Density Residential
- Zoning: R-2-Restricted Two-Family Residential District

#### B. Zoning Permits Required:

- Use Permit, under Berkeley Municipal Code (BMC) Section 23.326.020(B) to demolish a dwelling unit
- Use Permit, under BMC Section 23.202.020(A) to add two new single-family dwellings
- Administrative Use Permit (AUP), under BMC Section 23.304.030(B)(2) to reduce the required rear setback
- Administrative Use Permit (AUP), under BMC Section 23.322.070(D) to add excess parking

**C. CEQA Recommendation:** It is staff's recommendation that the project is categorically exempt pursuant to Section 15303, of the CEQA Guidelines ("New Construction or Conversion of Small Structures"). The determination is made by ZAB.

#### D. Parties Involved:

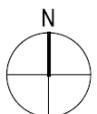
- Applicant                      John Newton
- Property Owner                Creek Capital, LLC

Figure 1: Vicinity Map



Legend

- R-2 Restricted Two-family Residential District
- R-1: Single-Family Residential District
- C-W West Berkeley Commercial Districts





**Table 1: Land Use Information**

| Location               |       | Existing Use           | Zoning District | General Plan Designation              |
|------------------------|-------|------------------------|-----------------|---------------------------------------|
| Subject Property       |       | Single-Family Dwelling | R-2             | Low Medium Density Residential (LMDR) |
| Surrounding Properties | North | Single-Family Dwelling | R-2             | Low Medium Density Residential (LMDR) |
|                        | South | Single-Family Dwelling | R-1             | Low Density Residential (LDR)         |
|                        | East  | Single-Family Dwelling | R-2             | Low Medium Density Residential (LMDR) |
|                        | West  | Multi-Family Dwelling  | R-2             | Low Medium Density Residential (LMDR) |

**Table 2: Special Characteristics**

| Characteristic   | Applies to Project ? | Explanation   |
|--|----------------------|---|
| Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.) | No                   | These fees apply to projects with net new 7,500 square feet of non-residential floor area. The project involves only new residential floor area, and thus this requirement does not apply.  |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)    | No                   |   |
| Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)                 | No                   | This fee applies to projects that propose 5 or more rental dwelling units. This project does not propose rental units.  |
| Creeks   | No                   | The project site is not within a creek buffer zone.   |
| Density Bonus  | No                   | The applicant has not applied for a State Density Bonus.  |
| Natural Gas Prohibition (Per BMC 12.80.020)  | Yes                  | The project is subject to the natural gas prohibition.  |
| Historic Resources   | No                   | The applicant submitted an HRE (Preservation Architecture, May 21, 2021) that concluded the property and building on-site do not have potential historical significance under the criteria of Berkeley's LPO.   |
| Housing Accountability Act (Gov't Code Section 65589.5(j))                                     | Yes                  | The proposed project is for two residential units only, and meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) <sup>1</sup> . Modifications to the rear setback and maximum parking have been requested, however, the criteria for approval is not objective, and therefore the project complies with the applicable objective general plan and zoning standards. Section (j) of the Housing Accountability Act applies. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act. |

<sup>1</sup> Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing.

|                                     |     |   |
|-------------------------------------|-----|---|
| Housing Crisis Act of 2019 (SB330)  | Yes | The proposed project is for two residential units only, and meets the definition of a “Housing Development Project” per Government Code Section 65589.5(h)(2) <sup>2</sup> . See Section V.A of this report for additional discussion on compliance with SB 330.  |
| Oak Trees                           | No  | There are no oak trees on the subject site  |
| Rent Controlled Units               | No  | There are no rent controlled units on the subject site.   |
| Residential Preferred Parking (RPP) | No  | The neighborhood surrounding the subject site is not located in an RPP Zone.  |
| Seismic Hazards (SHMA)              | Yes | The project site is located within an area susceptible to liquefaction as shown on the State Seismic Hazard Zones map. The applicant submitted a geotechnical investigation for the project (Summit Engineering, March 2022), which was peer reviewed by the City’s peer reviewer who recommended geotechnical approval of the subject land use permit application subject to specific geotechnical conditions of approval. |
| Soil/Groundwater Contamination      | No  | The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites), and not located within the City’s Environmental Management Area. Standard Toxics Conditions of Approval apply.  |
| Transit                             | No  | There is a bus stop near the project site on San Pablo Avenue that provides access to an AC Transit bus routes (7,51B,52,36,72, 72R, 72M, 88).  |

**Table 3: Project Chronology**

| Date              | Action                               |
|-------------------|--------------------------------------|
| February 24, 2022 | Application submitted                |
| July 13, 2022     | Application deemed complete          |
| November 22, 2022 | Public hearing notices mailed/posted |
| December 8, 2022  | ZAB hearing                          |

**Table 4: Development Standards**

| Standard                   |            | Existing | Addition/<br>(Reduction) | Proposed Total       | Permitted/<br>Required |
|----------------------------|------------|----------|--------------------------|----------------------|------------------------|
| BMC Sections 23.202.080    |            |          |                          |                      |                        |
| Lot Area (sq. ft.)         |            | 5,440    | -                        | 5,440                | 5000 min               |
| Gross Floor Area (sq. ft.) |            | 1,093    | -                        | Front Unit:<br>2,004 | -                      |
|                            |            |          |                          | Rear Unit:<br>1,940  |                        |
| Dwelling Units             | Total      | 1        | 1                        | 2                    | 2 max                  |
|                            | Affordable | 0        | 0                        | 0                    | -                      |

<sup>2</sup> See footnote 1

|                             |               |         |       |                       |          |
|-----------------------------|---------------|---------|-------|-----------------------|----------|
| Building Height             | Average (ft.) | 12'-11" | -     | Front Unit:<br>24'-2" | 35 max   |
|                             |               |         |       | Rear Unit:<br>24'-5"  |          |
|                             | Stories       | 1       | -     | 2                     | 3 max    |
| Building Setbacks (ft.)     | Front         | 12'-10" |       | Front Unit:<br>20'-0" | 20' min  |
|                             |               |         |       | Rear Unit:<br>81'-9"  |          |
|                             | Rear          | 66'-8"  |       | Front Unit:<br>67'-9" | 20' min  |
|                             |               |         |       | Rear Unit:<br>16'-0"  |          |
|                             | Left Side     | 8'-11"  |       | Front Unit:<br>8'-5"  | 4' min   |
|                             |               |         |       | Rear Unit:<br>4'-0"   |          |
|                             | Right Side    | 8'-8"   |       | Front Unit:<br>4'-0"  | 4' min   |
|                             |               |         |       | Rear Unit:<br>4'-0"   |          |
| Building Separation         |               | n/a     | n/a   | 19'-9"                | 12' min  |
| Lot Coverage (%)            |               | 32%     | +7.8% | 39.8%                 | 40 % max |
| Usable Open Space (sq. ft.) |               | 2,212   | -938  | 1,274                 | 800 min  |
| Parking                     | Automobile    | 2       | 0     | 2                     | 2 max    |
|                             | Bicycle       | 0       | 0     | 0                     | N/A      |

## II. Project Setting

**A. Neighborhood/Area Description:** The subject property is located in Southwest Berkeley at the western end of Dwight Way, east of San Pablo Avenue. The area is residential in nature and consists predominantly of two- and three-story single-family dwellings.

**B. Site Conditions:** The subject lot is 5,440 square feet in area with an existing two-story, 1,093 square feet single family dwelling in the front and a 652-square feet detached garage in the rear and is in the R-2 District.

## III. Project Description

The project would demolish the one-story single-family dwelling and detached garage and would construct two new detached two-story, single family dwellings on the subject lot. The project improves the front setback on this property by placing the front new dwelling at 20 feet from the property line as opposed to the existing dwelling's setback at 12 feet 10 inches. The front dwelling would be outside all required setbacks and would be located at about 8 feet from the abutting neighbor at 1140 Dwight Way to the west and over 17 feet to the abutting property at 1202 Dwight Way to the east. The front dwelling would be separated from the rear dwelling by about 20 feet. The rear dwelling would be outside the front and side setbacks and an AUP is requested on this application to reduce the required 20 feet rear setback to 16 feet. The rear dwelling is separated from the abutting property at 1136 Dwight Way to the west by about 7 feet, from the abutting property at 2504 Mathews to the east by about 15 feet and from the neighbor property in the rear by about 23 feet.

#### IV. Community Discussion

**A. Neighbor/Community Concerns:** A pre-application poster was erected by the applicant in June 2022. On November 22, 2022, the City mailed public hearing notices to property owners and occupants within a 300-foot radius, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. At the time of writing this report, staff has received one communication with concerns about the reduced side setback between the property at 1202 Dwight way and the proposed front dwelling. In response to this abutting's neighbor, the applicant revised the proposed design to shift the front dwelling to the west, and staff received one later communication from the same neighbor in support of this project. Staff has also received correspondence related to compliance with the Permit Streamlining Act (See Attachment 4)

**B. Committee Review:** This project was not subject to Design Review or Landmarks Preservation Commission review.

#### 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. Housing development is defined as a project that is: residential units only; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) 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 December 8, 2022 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

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

As discussed in Table 2, the historic resource evaluation prepared for the property in November of 2021 concluded that the property does not appear to be historically significant and therefore is not eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmark or Structure of Merit. The Landmarks Preservation Commission Secretary reviewed the report and concurred with the conclusion. Therefore, it was determined the site is not a historic resource. Further, standard conditions of approval have been included to halt work in case of any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(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 project was deemed complete on July 13, 2022. Should ZAB determine the application is categorically exempt from CEQA at the December 8, 2022 public hearing, the application must be approved or disapproved by February 6, 2023.

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

1. The development would have a specific adverse impact 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.

As described in Table 4 above, the project complies with the applicable general plan and zoning standards. While the project includes Administrative Use Permits (AUP) to reduce the rear setback and provide parking in excess of the maximum, there are no

objective criteria in the findings. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), referenced above. Staff is not aware of specific adverse impacts that could occur with the construction of the of the project.

**C. Demolition of a Dwelling Unit:** Pursuant to Government Code §66300(d)(1), a City “shall not approve a housing development application that will require the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished.” This project would replace the one dwelling proposed for demolition with two new dwelling units; therefore, the application complies. Section 66300(d)(2) does not apply because the existing unit is not considered a “protected” unit under SB 330. The findings to approve the demolition of the dwelling unit under BMC Section 23.326.020(B) are therefore satisfied due to compliance with Government Code §66300(d)(3).

## VI. Other Considerations

The following analyses of conformance with district purposes, use and administrative use permit findings in the zoning ordinance, and the 2002 General Plan goals and policies are provided for informational purposes only, to provide context. They are not required because the proposed project is HAA-compliant

**A. General Non-Detriment:** Pursuant to BMC Section 23.406.040 the Board may approve an application for a Use Permit if the proposed project meets the findings of non-detriment. A discussion of the project’s potential impact to sunlight, air or views follows:

Sunlight: The existing single-story single-family dwelling average height is about 13 feet. The proposed two-story front and rear dwellings will be each approximately 25 feet in average height. Shadow studies submitted by the applicant document the existing and proposed shadow angles summer and winter solstice. The incremental increase on the neighboring properties are as follows:

- During winter solstice, at two hours after sunrise, lower level bedroom and bathroom windows along the east elevation of the abutting neighbor building at 1140 Dwight Way will be fully shaded and upper level kitchen, dining and bath windows will be partially shaded due to the proposed project.
- During winter solstice, at two hours before sunset, entry, bedroom, bath windows along the west elevation of the abutting neighbor building at 1202 Dwight Way will be fully shaded due to the proposed project.
- During winter solstice, at two hours before sunset, dining room and part of the family room windows along the west elevation of the abutting neighbor building at 2504 Mathews Street will be shaded due to the proposed project.
- During summer solstice, at two hours after sunrise, entry and family room windows along the east elevation of the abutting neighbor building at 1136 Dwight Way be fully shaded due to the proposed project.
- During summer solstice, at two hours after sunrise, dining room, bathroom and kitchen and part of the bedroom windows along the east elevation of the

abutting neighbor building at 1140 Dwight Way be fully shaded due to the proposed project.

- During summer solstice, at two hours before sunset, bedroom and bathroom windows along the west elevation of the abutting neighbor building at 1202 Dwight way will be fully shaded due to the proposed project.
- During summer solstice, at two hours before sunset, family room and dining room windows along the west elevation of the abutting neighbor building at 2504 Mathews Street will be fully shaded due to the proposed project.

Because impacts to neighboring residences due to construction of two single-family dwellings would be limited to certain time of a year and during certain hours of a day, staff believes these shading impacts would not be detrimental. (Shadow studies are provided on Sheet A3.0, A3.1 and A3.2 of the plan set.)

Air: Staff believes the proposal would be consistent with the existing development and building-to-building separation pattern – or air – in this R-2 neighborhood because the buildings would meet the setback requirements on front and sides and the project maintains adequate separation to abutting neighbor building in the rear, where the required setback is reduced. The lot coverage is below the maximum allowable 40 percent and the project exceed useable open space requirements.

Views: The proposed project would not result in additional obstruction of significant views in the neighborhood because there are limited significant views as defined in BMC Section 23.502.020 (Defined Terms) available to residences in the area. The area is generally flat, developed with one- to two-story buildings, and includes some mature vegetation which provides visual screening.

**B. New Dwelling Units in the R-2 District and Neighborhood Compatibility:** Pursuant to BMC Section 23.202.080(A), the proposed project is consistent with the purposes of the R-2 District because it would strengthen the residential concentration in this neighborhood. The project would protect neighboring residents from unreasonably detrimental effects of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare because the proposal would add residences (not industrial uses) to the existing cluster of residential buildings at this block. Given the existing residential concentration and as the residential use would be maintained on the subject property, the project would not contribute to a cumulative change of use in buildings away from residential uses that surround this area. Moreover, the proposed use and its proposed design elements including responds to local residential buildings and would thereby contribute to a neighborhood with the type of development with a pattern of housing types ranging from single-family to duplexes and small apartment structures and make available housing for persons who desire a range of housing choice.

The proposed project complies with applicable R-2 District development standards (see Table 4) except for rear setback and excess parking. AUPs are requested for the reduced setback and the additional off-street parking space on this application.

Staff believes the proposal is consistent with the overall scale and development pattern of the one-, and two-story residences in the neighborhood, including the nearby developments by the same applicant.

**C. Administrative Use Permit to Reduce the Required Rear Yard:** Pursuant BMC Section 23.304.030(B)(2), if there are two or more main buildings which contain dwelling units, the rear setback may be reduced with approval of an AUP. In the R-2 District the required rear setback is 20 feet. The proposed rear dwelling would provide a 16-foot rear setback, however it would be located over 23 feet from the neighbor's building to the south (from the rear building at 2512 Mathews Street). The existing garage on the subject lot only provides a 4-foot rear setback. Therefore, the proposed dwelling in the rear would improve the building separation between the proposed project and the neighbor properties to the south and would provide adequate useable open space in the rear of the lot.

**D. Findings to Modify the Excess Off-Street Parking Requirements:** The proposed project is subject to a parking maximum of 0.50 spaces per unit because it is located within a quarter mile of a major transit stop, or along a transit corridor with service at 15-minute headways during the morning and afternoon peak periods (BMC 23.322.070(B)).

Pursuant to BMC 23.322.070(D), off-street residential parking in excess of the maximum number may be approved with an AUP if the review authority finds one or both of the following:

- a) Trips to the use or uses to be served, and the apparent demand for additional parking, cannot be satisfied by the amount of parking permitted by this section, by transit service which exists or is likely to be provided in the foreseeable future, or by more efficient use of existing on-street and off-street parking available in the area; or
- (b) The anticipated residents of the proposed project have special needs or require reasonable accommodation that relate to disability, health or safety that require the provision of additional off-street residential parking.

Two parking spaces are proposed – one for each dwelling; one in an attached garage and the other a surface space located over 60 feet from the front property line. The project contains two single-family dwelling units that are designed and arranged to accommodate a single household. In the supporting materials, the applicant stated the type and design of the units would likely support an inter-generational family, and require closer proximity to parking. In particular, the rear unit is over 80 feet from the front property line and reliance on available street parking within a reasonable distance is challenging, particularly for a wide range of ages that could be part of the household, including families with young children and older individuals.

The applicant also referenced the need for an electric vehicle (EV) charging station. Under the provisions of the Berkeley Green Building Code, BMC 19.37.040, new one-

and two-family dwellings and townhouses that provide parking must install a listed raceway and associated conductors to accommodate a dedicated 208/240-volt branch circuit for a future EV charger (see Standard Condition of Approval # 18). Both parking spaces would be required to be “EV-ready,” ensuring that the infrastructure is installed and available when needed.

**E. General Plan Consistency:** The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood 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 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.
4. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The proposed project is an infill development that would add a net gain of one new dwelling unit in a primarily residential neighborhood. The massing, proportions, design, and use of the buildings would be compatible with the surrounding neighborhood. As noted above, the project complies with all development standards in the R-2 district.

5. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The project would add one additional dwelling unit to the City’s housing stock.

6. 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.)
7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The project would be constructed to comply with current green building standards that are required by the Building Code.

## 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:

- A. APPROVE Use Permit ZP2022-0028 pursuant to Section 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, October 10, 2022
3. Notice of Public Hearing
4. Correspondence Received

**Staff Planner:** Nilu Karimzadegan, [nkarimzadegan@cityofberkeley.info](mailto:nkarimzadegan@cityofberkeley.info), (510) 981-7430



# ATTACHMENT (1)

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## FINDINGS AND CONDITIONS

DECEMBER 8, 2022

### 1200 Dwight Way

**Use Permit #ZP2022-0028 to demolish a single-family dwelling and detached garage, and build two two-story single-family dwellings and two parking spaces.**

#### PERMITS REQUIRED

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- Use Permit, under BMC Section 23.326.020(B) to demolish a dwelling unit
- Use Permit, under Berkeley Municipal Code (BMC) Section 23.202.020(A) to add two new single-family dwellings
- Administrative Use Permit (AUP), under BMC Section 23.304.030(B)(2) to reduce the required rear setback
- Administrative Use Permit (AUP), under BMC Section 23.322.070(D) to add excess parking

#### I. CEQA FINDINGS

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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 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).
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. FINDINGS FOR APPROVAL

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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<sup>1</sup>; and
  - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

The project includes construction of two dwelling units on a lot that allows two dwelling units and meets all objective zoning standards. No significant, quantifiable, direct and unavoidable

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<sup>1</sup> As used in the Act, a “specific, adverse impact” means a “significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, polices, or conditions as they existed on the date the application was complete.

impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff, the findings above could not be made.

2. Pursuant to Government Code §66300(d)(1), a City “shall not approve a housing development application that will require the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished.” This project proposes replacing the one dwelling proposed for demolition with two new dwelling units; therefore, the application complies. Section 66300(d)(2) (regarding lower income units) does not apply because the existing unit is not considered a “protected” unit. The findings to approve the demolition of the dwelling unit under BMC Section 23.326.020(B) are therefore satisfied due to compliance with Government Code §66300(d)(3).
3. As required by Section 23.406.040(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will develop two two-story single-family dwelling units;
  - B. The project is consistent with all R-1A objective development standards;
  - C. Because impacts to neighboring residences due to construction of two single-family dwellings will be limited to certain time of a year and during certain hours of a day, shading impacts will not be detrimental;
  - D. The proposal will be consistent with the existing development and building-to-building separation pattern;
  - E. The proposed project will not result in additional obstruction of significant views (BMC Section 23.502.020 (Defined Terms)) in the neighborhood because there are limited significant views available to residences in the area; and
  - F. 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.
4. Pursuant to BMC Section 23.322.070(D), off-street parking space at a higher rate than 0.5 per dwelling unit (two proposed for the proposed project) will be allowable because the apparent demand for additional parking, cannot be satisfied by the amount of parking permitted by this section or by the available transit service.

The project contains two single-family dwelling units that are designed and arranged to accommodate a single household. In the supporting materials, the applicant stated the type and design of the units would likely support an inter-generational family, and require closer proximity to parking. In particular, the rear unit is over 80 feet from the front property line and reliance on available street parking within a reasonable distance is challenging, particularly for a wide range of ages that could be part of the household, including families with young children and older individuals. The off-street parking provided will accommodate electric vehicle charging.

### **III. 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. 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.

#### **IV. 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:**

10. 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 #

11. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

##### **Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)**

12. Fee Deferrals. All zoning project application fees that were deferred at the time of application submittal shall be paid in full.
13. 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.
14. 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.
15. 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](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**

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16. **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.
17. **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.
18. **Electric Vehicle (EV) Charging.** Each dwelling unit shall install a listed raceway, wiring, and power to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation as specified by the Berkeley Green Code (BMC Section 19.37.040). Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
19. **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<sub>o</sub>) for Berkeley is 41.8.
20. **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).
21. **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).
22. **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.
23. **Geotechnical Plan Review.** The applicant's geotechnical consultant should review and approve all geotechnical aspects of the final project building and grading plans (i.e., site preparation and grading including removal and replacement/treatment of expansive soils, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations, etc.) to ensure that their recommendations have been properly incorporated. The Project Geotechnical Consultant should consider the potential performance benefits of additional foundation embedment and/or non-expansive subgrade thickness given the identified potential for expansive soils. The results of the plan review should be summarized by the Geotechnical

Consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

- 24. Geotechnical Construction Inspections.** The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete. The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.

**During Construction:**

- 25. 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.
- 26. 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.
- 27. 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.

- 28.** 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.
- 29.** 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.

- 30.** 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.

- 31. 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.
- 32. 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.
- 33. 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.

- 34. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).**
- A. *Qualified Paleontologist.* The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
  - B. *Paleontological Worker Environmental Awareness Program (WEAP).* Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.
  - C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
  - D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
    - 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find

until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.

- 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.

- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

**35. 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.

**36. 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.
- 37. 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.
- 38. 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.

39. 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.
40. 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.
41. 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.
42. 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:**

43. 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.
44. 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 18, 2022, except as modified by conditions of approval.

**At All Times:**

45. 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.
46. 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.
47. 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.
48. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
49. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

- 50. 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.
-





John Newton  
Design & Development  
5666 Telegraph Ave, Ste A  
Oakland, CA 94609  
(510) 847-4108

**NEW RESIDENCES**

PROJECT ADDRESS:  
1200 Dwight Way  
Berkeley, CA 94702  
APN: 054-1781-029

OWNER:  
Creek Capital LLC  
4300 Black Avenue #5521  
Pleasanton, CA 94566

**EXISTING SITE PLAN & LOT COVERAGE, LANDSCAPED & USEABLE OPEN SPACE DIAGRAM**

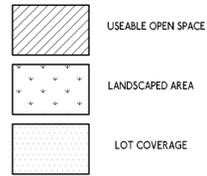
**REVISION**

| No. | Description | Date   |
|-----|-------------|--------|
| 1   | DESIGN REV  | 6/6/22 |

PROJECT No. :  
DRAWN BY: SMM  
CHECKED BY: JMN  
DATE: 4/29/22

**A1.1**

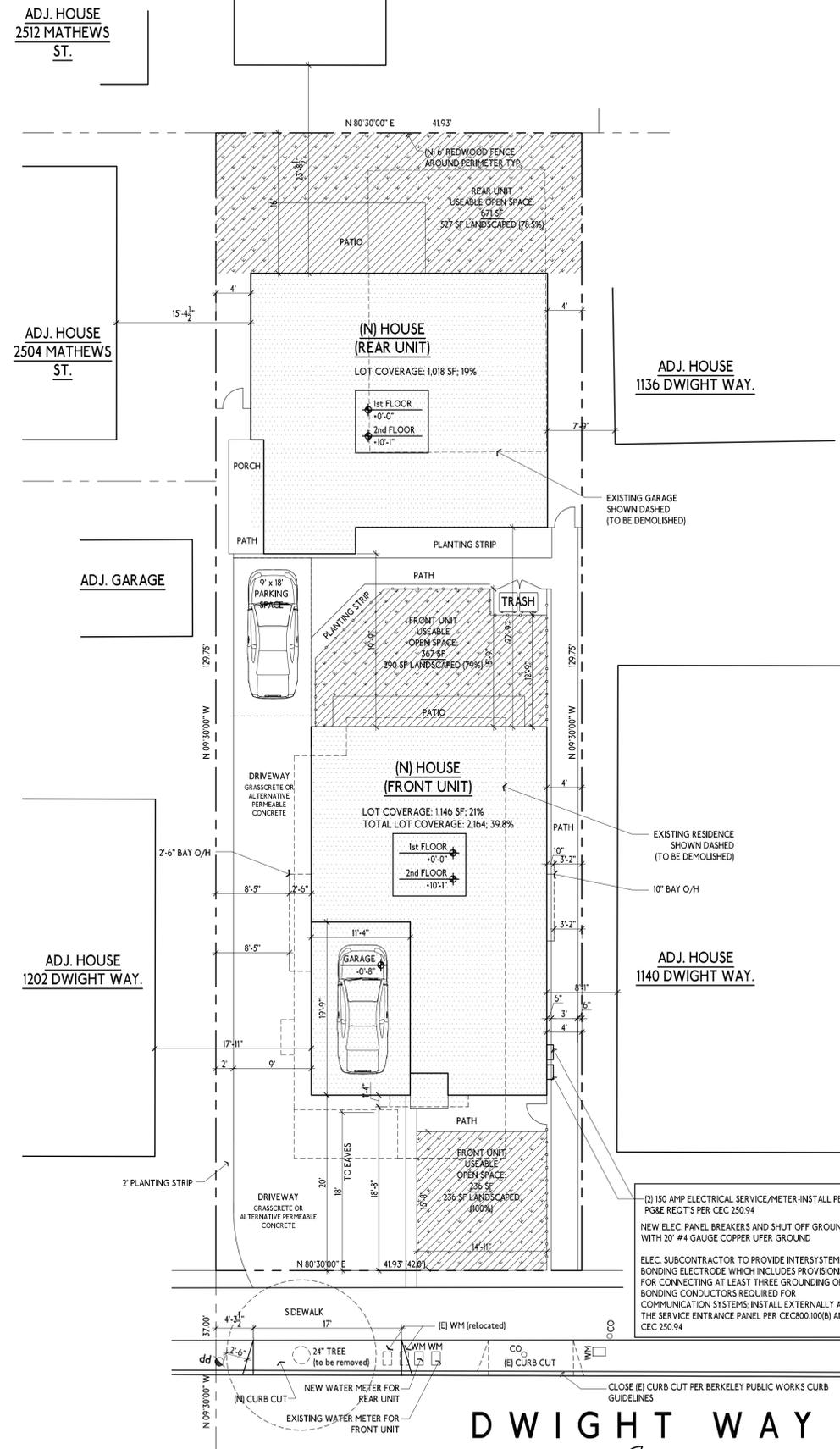
**LEGEND**



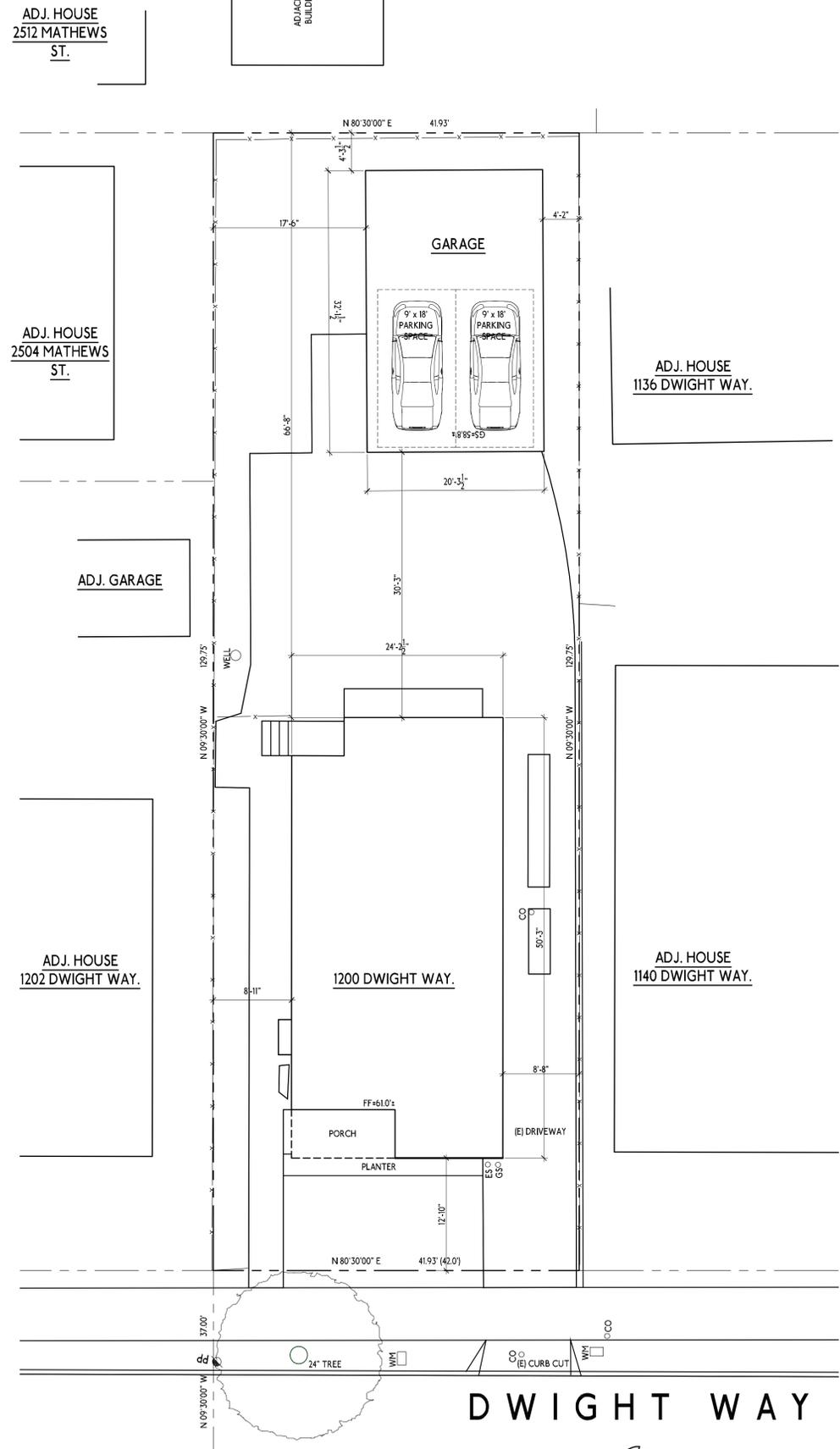
**FRONT UNIT TOTAL:**  
USEABLE OPEN SPACE:  
603 SF (11.1%)  
LANDSCAPED AREA:  
526 SF (9.7%)  
LOT COVERAGE  
FOOTPRINT 1146 SF;  
LOT COVERAGE: 21%

**REAR UNIT:**  
USEABLE OPEN SPACE:  
671 SF (12.3%)  
LANDSCAPED AREA:  
527 SF (9.7%)  
LOT COVERAGE  
FOOTPRINT 1018 SF;  
LOT COVERAGE: 19%

**TOTAL PROPOSED:**  
USEABLE OPEN SPACE:  
1274 SF (23.4%)  
LANDSCAPED AREA:  
1053 SF (19.4%)  
TOTAL LOT COVERAGE  
FOOTPRINT 2164 SF;  
LOT COVERAGE: 39.8%



**2 PROPOSED SITE PLAN**  
A1.1 1/8"=1'-0"  
0 1 2 4 8 TRUE NORTH



**1 EXISTING SITE PLAN**  
A1.1 1/8"=1'-0"  
0 1 2 4 8 TRUE NORTH

(2) 150 AMP ELECTRICAL SERVICE/METER-INSTALL PER PG&E REG'S PER CEC 250.94  
NEW ELEC. PANEL BREAKERS AND SHUT OFF GROUNDED WITH 20' #4 GAUGE COPPER UFER GROUND  
ELEC. SUBCONTRACTOR TO PROVIDE INTER-SYSTEM BONDING ELECTRODE WHICH INCLUDES PROVISIONS FOR CONNECTING AT LEAST THREE GROUNDING OR BONDING CONDUCTORS REQUIRED FOR COMMUNICATION SYSTEMS. INSTALL EXTERNALLY AT THE SERVICE ENTRANCE PANEL PER CEC300.100(B) AND CEC 250.94

*John Newton*  
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 Oakland, CA 94609  
 (510) 847-4108

**NEW  
 RESIDENCES**

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 Berkeley, CA 94702  
 APN: 054-1781-029

**OWNER:**  
 Creek Capital LLC  
 4300 Black Avenue #5521  
 Pleasanton, CA 94566

**STREETSCAPE**

**REVISION**

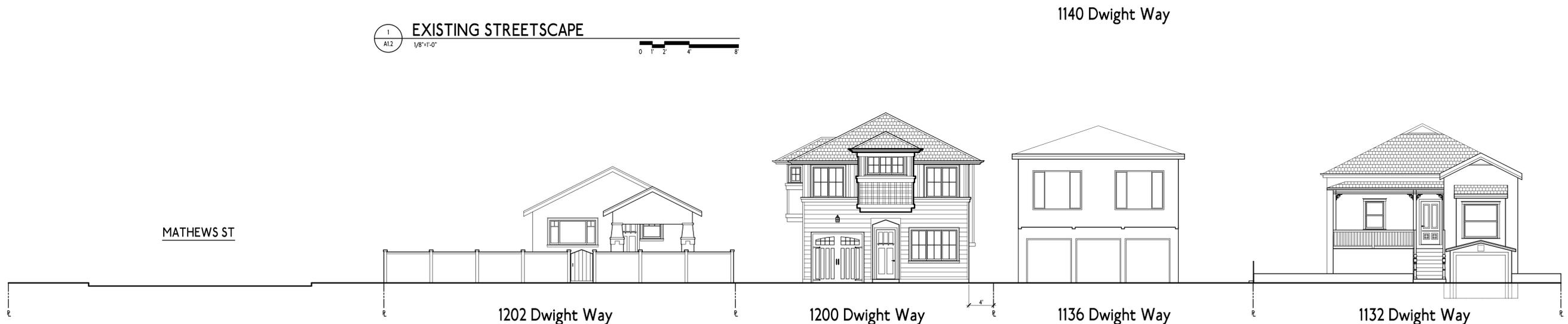
| No. | Description | Date   |
|-----|-------------|--------|
| 1   | DESIGN REV  | 6/6/22 |

PROJECT No. :  
 DRAWN BY: SMM  
 CHECKED BY: JMN  
 DATE: 4/29/22

**A1.2**



1  
 A1.2  
 1/8"=1'-0"  
 0 1 2 4 8



2  
 A1.2  
 1/8"=1'-0"  
 0 1 2 4 8

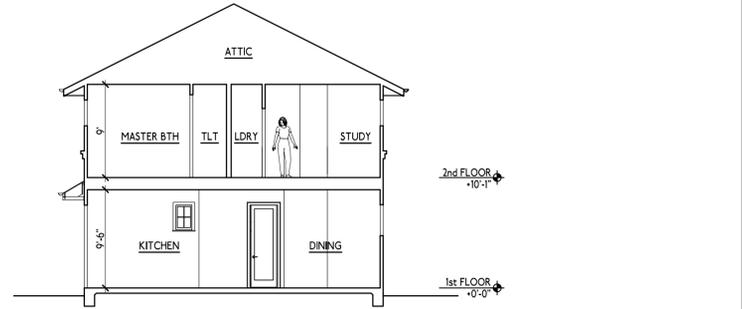
**TYPICAL MATERIALS:**

ROOF: CLASS "A" ASPHALT COMP SHINGLE ROOF

SIDING: BOARD & BATTEN SIDING (WOOD BATTENS OVER SMOOTH HARDIE BOARD), LAP SIDING.

WINDOWS: DUAL-PANE VINYL

DOORS: DUAL PANE VINYL SLIDING DOORS; SOLID WOOD/GLASS DOOR AT ENTRY; ALUMINUM/GLASS AT GARAGE DOOR



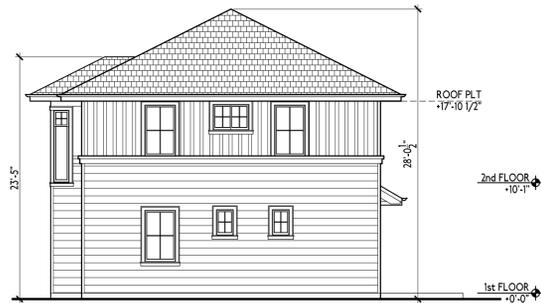
SECTION  
16 A2.0 1/8"=1'-0"



REAR UNIT  
REAR (SOUTH) ELEVATION  
15 A2.0 1/8"=1'-0"



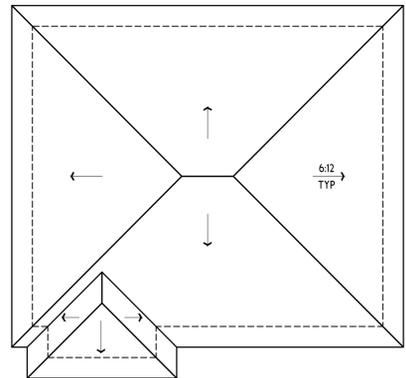
REAR UNIT  
LEFT (EAST) ELEVATION  
14 A2.0 1/8"=1'-0"



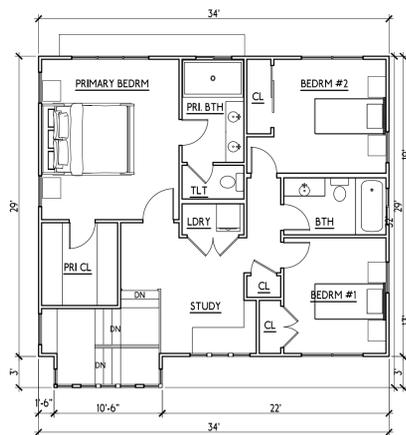
REAR UNIT  
RIGHT (WEST) ELEVATION  
13 A2.0 1/8"=1'-0"



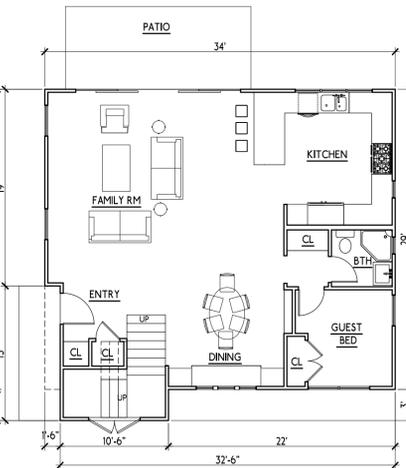
REAR UNIT  
FRONT (NORTH) ELEVATION  
12 A2.0 1/8"=1'-0"



REAR UNIT  
ROOF PLAN  
11 A2.0 1/8"=1'-0"



REAR UNIT  
2nd FLOOR PLAN  
10 A2.0 1/8"=1'-0"  
938 SF  
TOTAL: 1,940 SF



REAR UNIT  
1st FLOOR PLAN  
9 A2.0 1/8"=1'-0"  
1,002 SF  
TOTAL: 1,940 SF

**TYPICAL MATERIALS:**

ROOF: CLASS "A" ASPHALT COMP SHINGLE ROOF

SIDING: BOARD & BATTEN SIDING (WOOD BATTENS OVER SMOOTH HARDIE BOARD), LAP SIDING.

WINDOWS: DUAL-PANE VINYL

DOORS: DUAL PANE VINYL SLIDING DOORS; SOLID WOOD/GLASS DOOR AT ENTRY; ALUMINUM/GLASS AT GARAGE DOOR



SECTION  
8 A2.0 1/8"=1'-0"



FRONT UNIT  
REAR (SOUTH) ELEVATION  
7 A2.0 1/8"=1'-0"



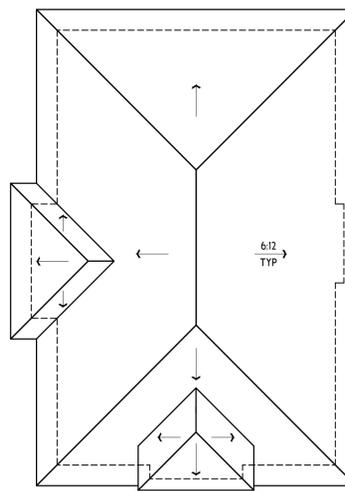
FRONT UNIT  
LEFT (EAST) ELEVATION  
6 A2.0 1/8"=1'-0"



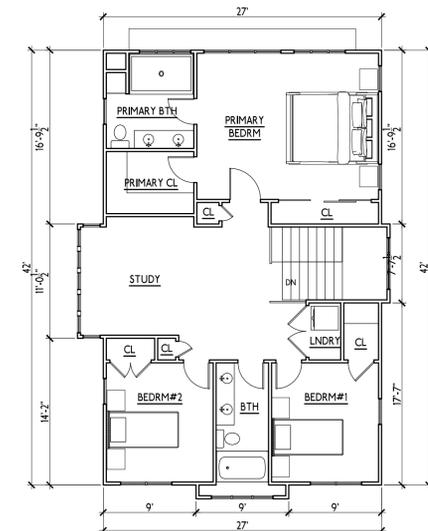
FRONT UNIT  
RIGHT (WEST) ELEVATION  
5 A2.0 1/8"=1'-0"



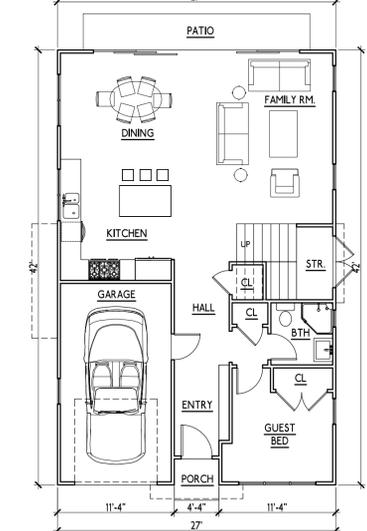
FRONT UNIT  
FRONT (NORTH) ELEVATION  
4 A2.0 1/8"=1'-0"



FRONT UNIT  
ROOF PLAN  
3 A2.0 1/8"=1'-0"



FRONT UNIT  
2nd FLOOR PLAN  
2 A2.0 1/8"=1'-0"  
1,105 SF  
TOTAL: 2,004 SF



FRONT UNIT  
1st FLOOR PLAN  
1 A2.0 1/8"=1'-0"  
899 SF  
GARAGE: 224 SF  
TOTAL: 2,004 SF

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(510) 847-4108

NEW  
RESIDENCES

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Berkeley, CA 94702  
APN: 054-1781-029

OWNER:  
Creek Capital LLC  
4300 Black Avenue #5521  
Pleasanton, CA 94566

FLOOR PLANS,  
ROOF PLANS,  
ELEVATIONS  
& SECTIONS

REVISION

| No. | Description | Date   |
|-----|-------------|--------|
| 1   | DESIGN REV  | 6/6/22 |

PROJECT No.:  
DRAWN BY: SMM  
CHECKED BY: JMN  
DATE: 4/29/22

**A2.0**

# NEW RESIDENCES

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Oakland, CA 94609  
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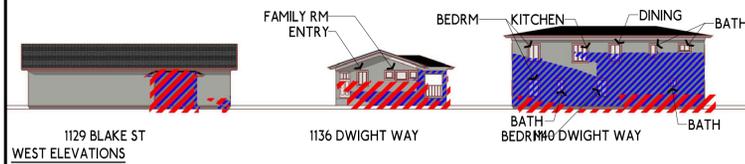
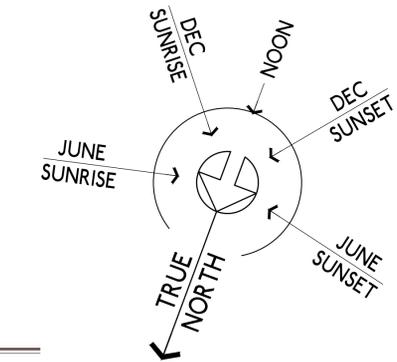
## SHADOW STUDY PART I

### REVISION

| No. | Description | Date   |
|-----|-------------|--------|
| 1   | DESIGN REV  | 6/6/22 |

PROJECT No.:  
DRAWN BY: SMM  
CHECKED BY: JMN  
DATE: 4/29/22

# A3.0

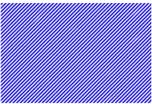


6  
A3.0  
DECEMBER 6- 9:11 AM

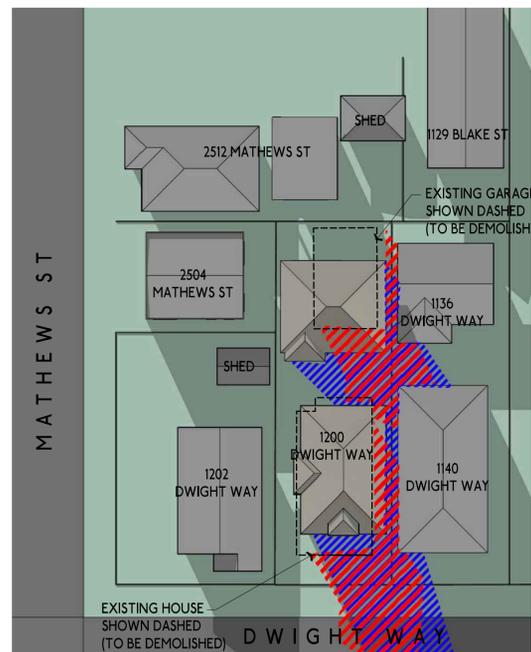


4  
A3.0  
DECEMBER 6- 2:50 PM

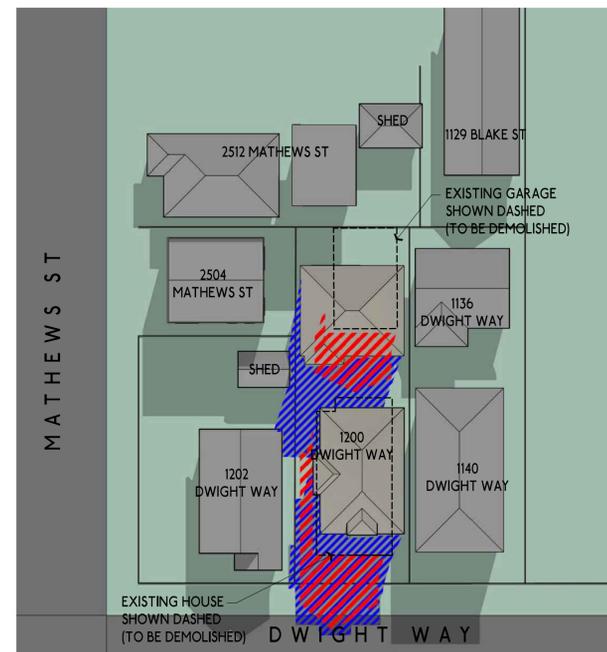
## LEGEND

-  NEIGHBORING BUILDINGS EXISTING SHADOW
-  NEW SHADOW
-  1200 DWIGHT WAY EXISTING SHADOW (EXISTING RESIDENCE & GARAGE)

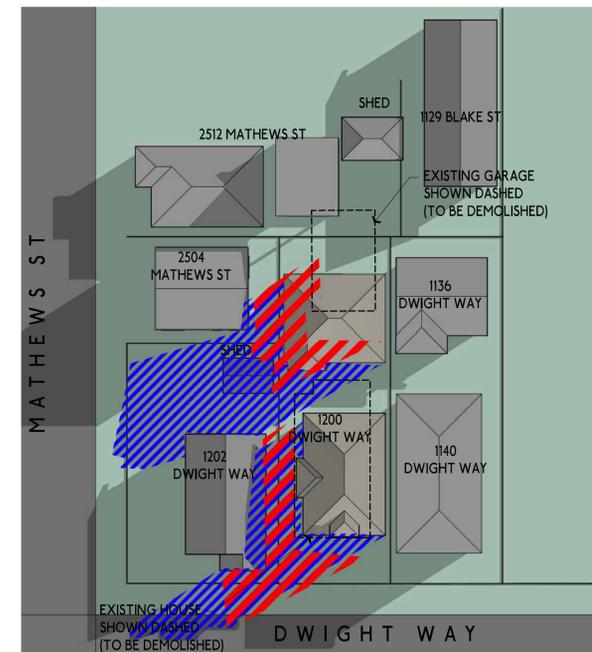
NOTE:  
SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 1200 DWIGHT WAY. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.



3  
A3.0  
DECEMBER 6- 9:11 AM



2  
A3.0  
DECEMBER 6- NOON



1  
A3.0  
DECEMBER 6- 2:50 PM



# NEW RESIDENCES

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## NEW RESIDENCES

PROJECT ADDRESS:  
1200 Dwight Way  
Berkeley, CA 94702  
APN: 054-1781-029

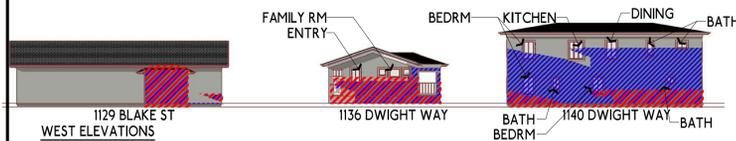
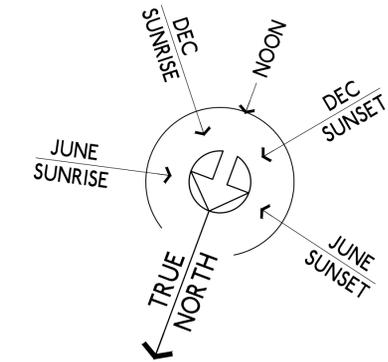
OWNER:  
Creek Capital LLC  
4300 Black Avenue #5521  
Pleasanton, CA 94566

## SHADOW STUDY PART 2

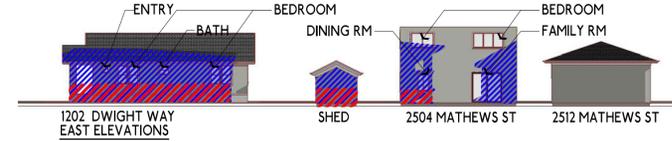
### REVISION

| No.             | Description | Date   |
|-----------------|-------------|--------|
| 1               | DESIGN REV  | 6/6/22 |
| PROJECT No.:    |             |        |
| DRAWN BY: SMM   |             |        |
| CHECKED BY: JMN |             |        |
| DATE: 4/29/22   |             |        |

# A3.1



6 DECEMBER 21- 9:21 AM

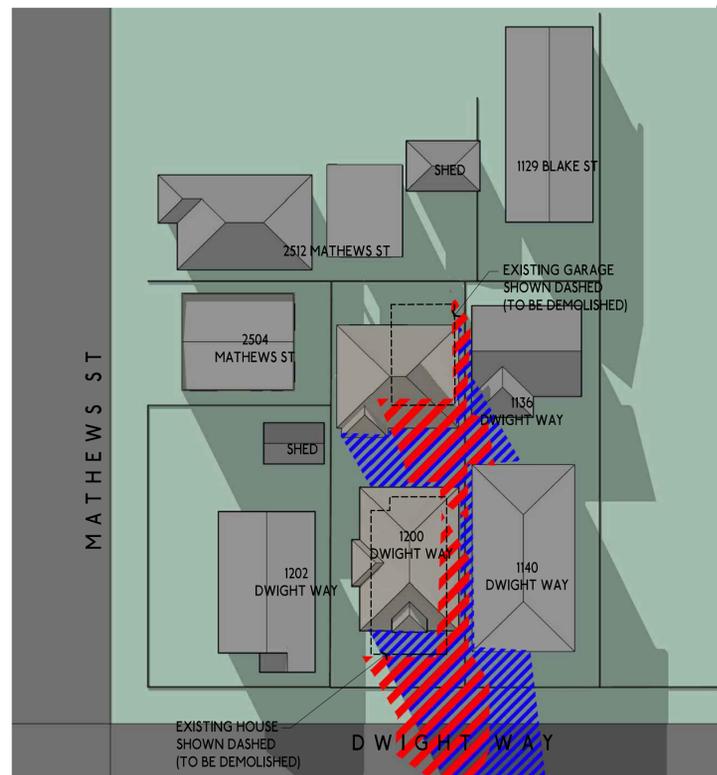


4 DECEMBER 21- 2:53 PM

## LEGEND

- NEIGHBORING BUILDINGS EXISTING SHADOW
- NEW SHADOW
- 1200 DWIGHT WAY EXISTING SHADOW (EXISTING RESIDENCE & GARAGE)

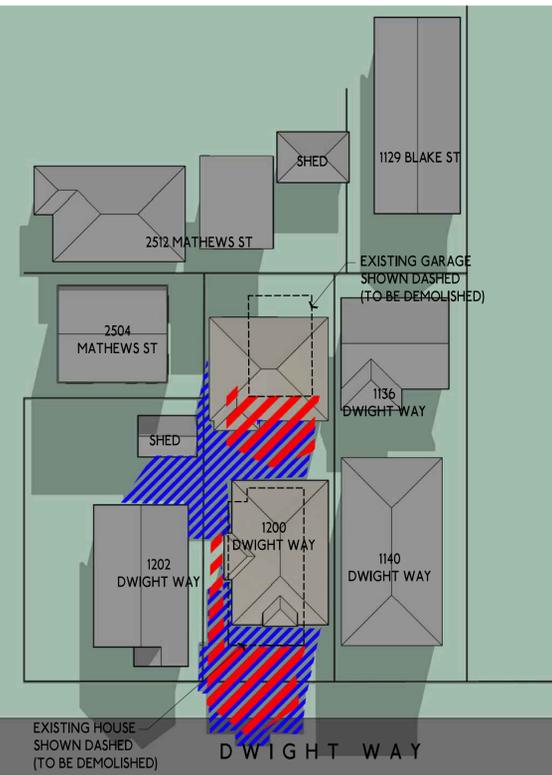
NOTE:  
SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 1200 DWIGHT WAY. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.



3 DECEMBER 21- 9:21 AM



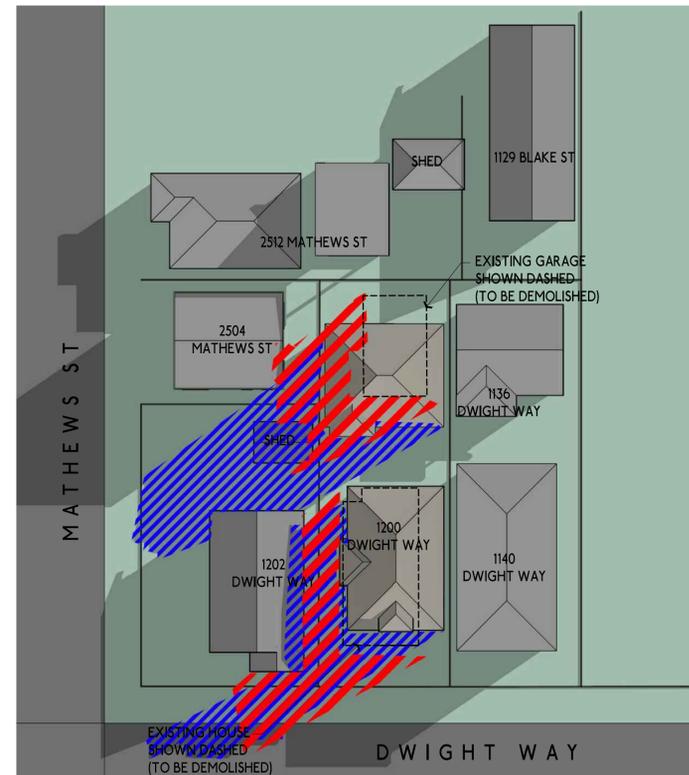
TRUE NORTH



2 DECEMBER 21- NOON



TRUE NORTH



1 DECEMBER 21- 2:53 PM



TRUE NORTH

# NEW RESIDENCES

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APN: 054-1781-029

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## NEW RESIDENCES

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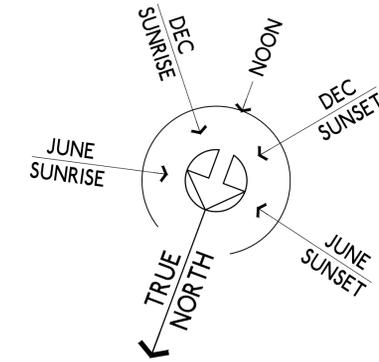
## SHADOW STUDY PART 3

### REVISION

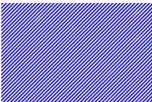
| No. | Description | Date   |
|-----|-------------|--------|
| 1   | DESIGN REV  | 6/6/22 |

PROJECT No. :  
DRAWN BY: SMM  
CHECKED BY: JMN  
DATE: 4/29/22

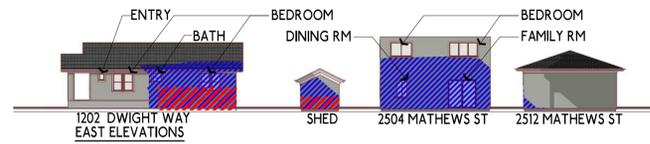
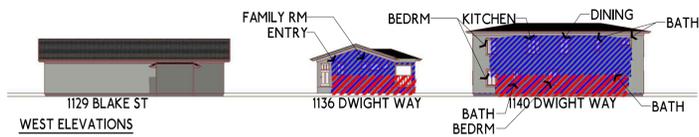
# A3.2



## LEGEND

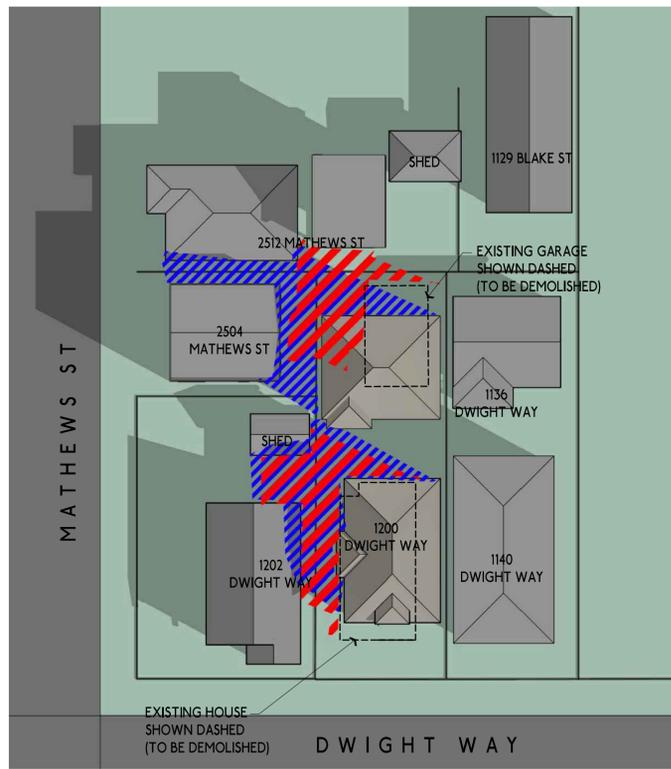
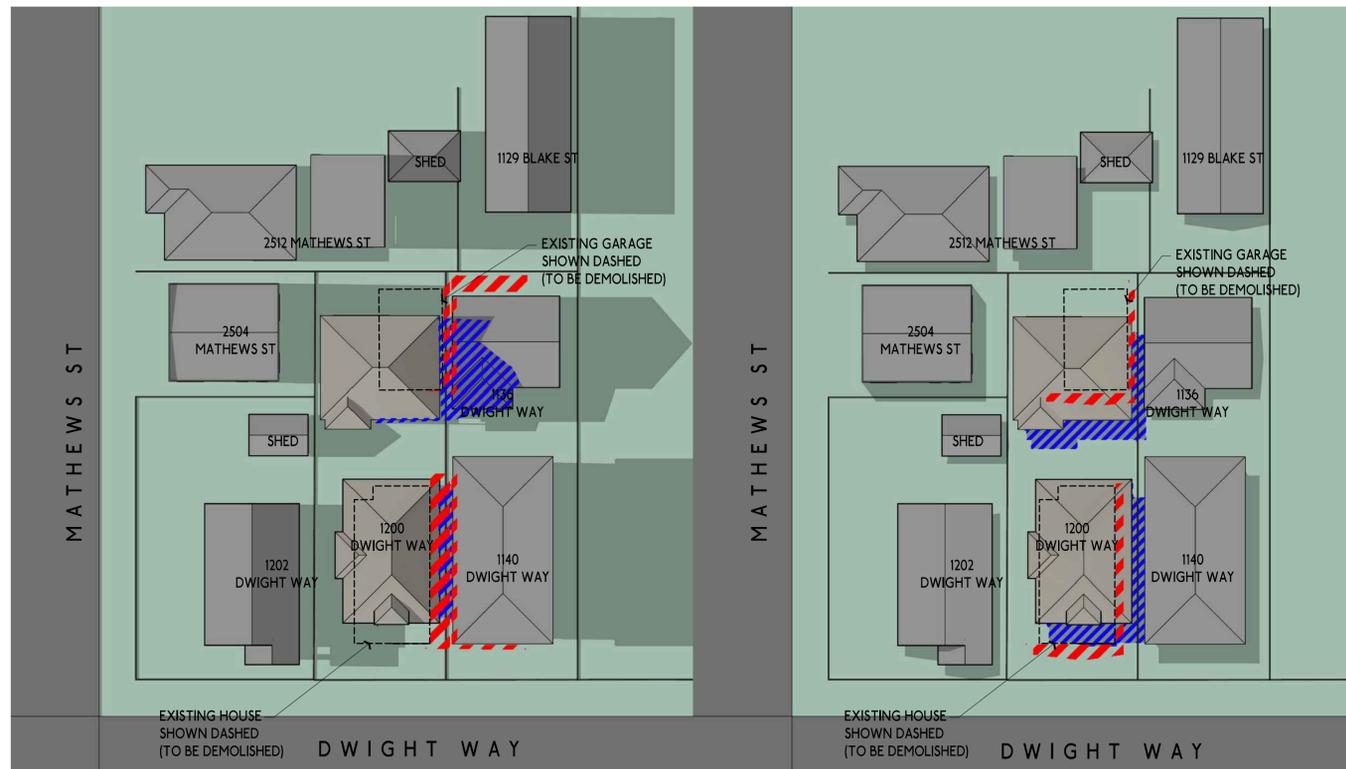
-  NEIGHBORING BUILDINGS EXISTING SHADOW
-  NEW SHADOW
-  1200 DWIGHT WAY EXISTING SHADOW (EXISTING RESIDENCE & GARAGE)

NOTE:  
SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 1200 DWIGHT WAY. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.



6  
A3.2  
JUNE 21- 7:47 AM

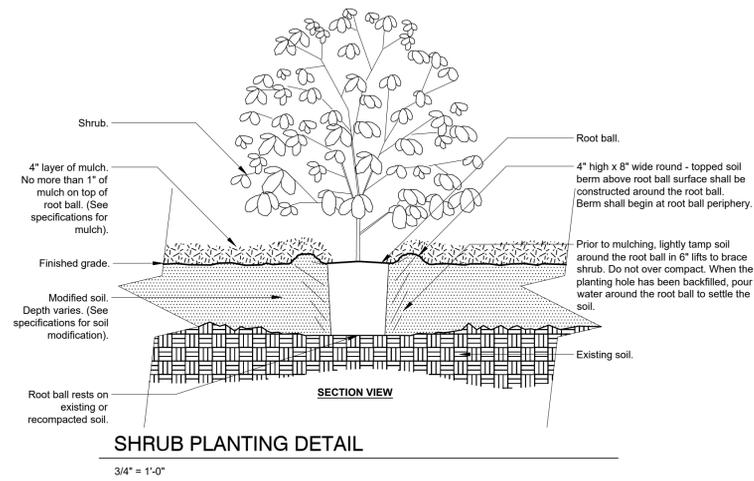
4  
A3.2  
JUNE 21- 6:35 PM



3  
A3.2  
JUNE 21- 7:47 AM  
TRUE NORTH

2  
A3.2  
JUNE 21- NOON  
TRUE NORTH

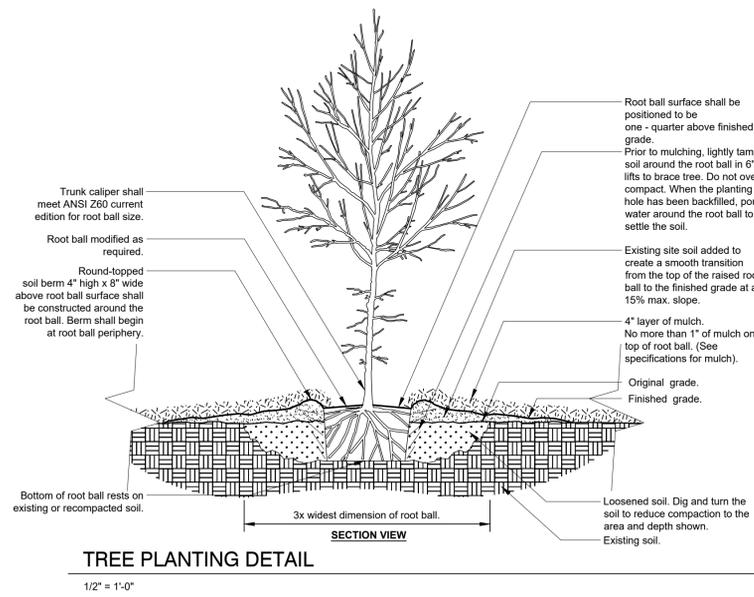
1  
A3.2  
JUNE 21- 6:35 PM  
TRUE NORTH



Soil and Planting Notes:

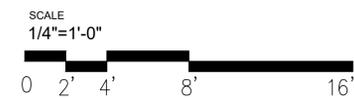
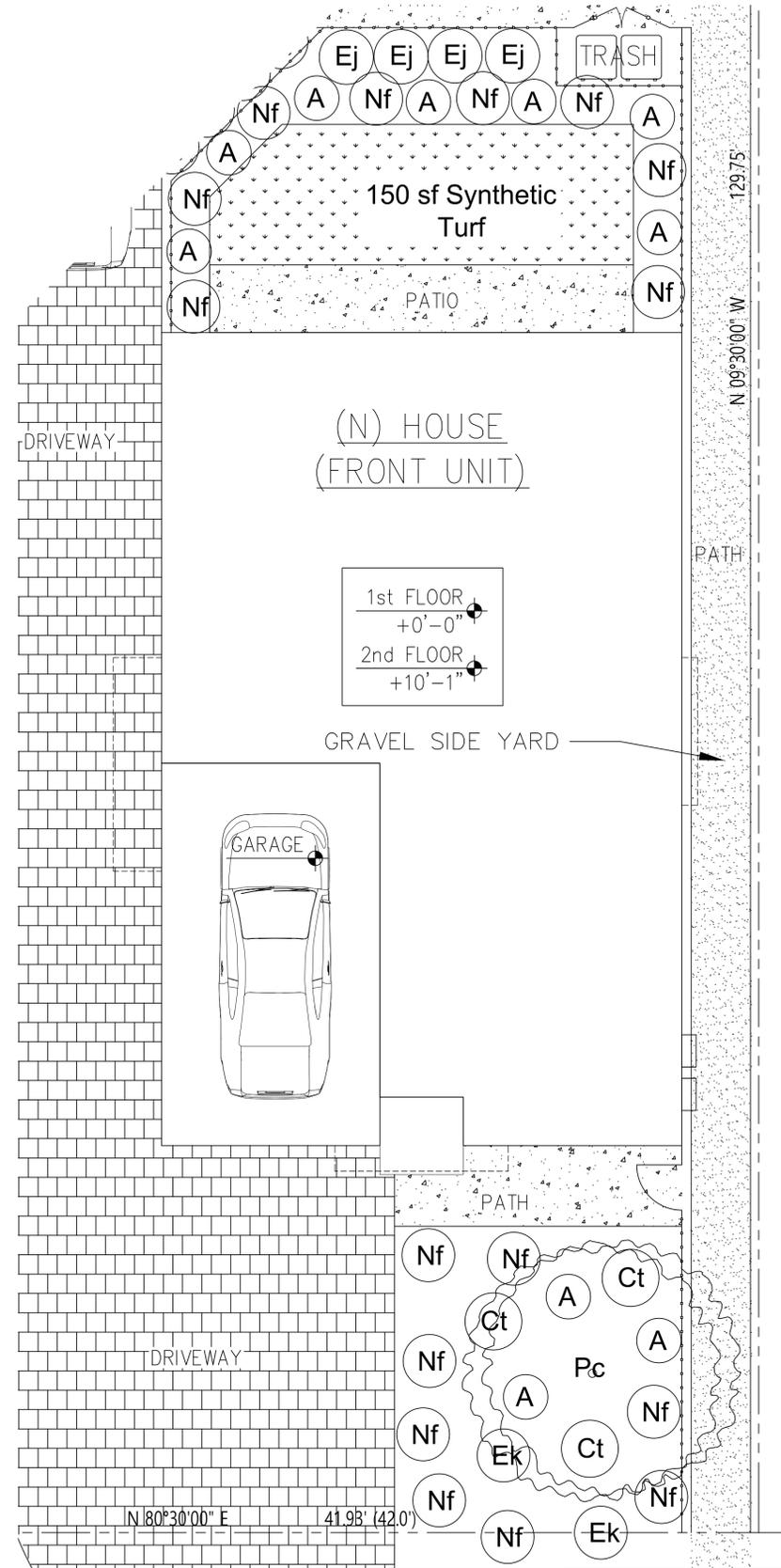
1. A minimum of 8" of non-mechanically compacted soil shall be available for water absorption and root growth in planting areas.
2. Incorporate compost or natural fertilizer into the soil to a minimum depth of 8" at a minimum rate of 6 cubic yards per 1000 square feet or per specific amendment recommendations from a soils laboratory report.
3. A minimum 3" layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers or direct seeding applications.

"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the planting design"



PLANTING LEGEND

| SYMBOLS      | BOTANTICAL NAME                    | COMMON NAME              | SIZE   | QUANTITY | WELO |
|--------------|------------------------------------|--------------------------|--------|----------|------|
| A            | Anigozanthus flavidus 'Bush Ranger | Bush Ranger Kangaroo Paw | 1 gal  | 10       | L    |
| Ct           | Chondropetalum tectorum            | Dwarf Cape Rush          | 5 gal  | 3        | L    |
| Ek           | Erigeron karvinskianus             | Mexican Daisy            | 1 gal  | 2        |      |
| Ej           | Euonymus japonicus                 | Evergreen Euonymus       | 5 gal  | 4        | L    |
| Nf           | Nepeta faassennii 'Walker's Low    | Catmint                  | 1 gal  | 16       | L    |
| <b>TREES</b> |                                    |                          |        |          |      |
| Pc           | Pistachia chinensis                | Chinese Pistache         | 15 gal | 1        | L    |



David Fowler Designs

2476 BRUSH CREEK ROAD  
SANTA ROSA, CA 95404  
707.331.5199  
RLA# 6126  
www.davidfowledesigns.com  
dfowledesigns@gmail.com

landscape architecture | arboriculture | sculpture



FRONT HOUSE (NEW CONSTRUCTION)

1200 DWIGHT WAY  
BERKELEY, CA 94702

PLANTING PLAN

REVISIONS:  
DATE BY DESCRIPTION

SCALE  
1/4"=1'-0"

DATE  
061022

L1

| Maximum Applied Water Allowance Calculations for New and Rehabilitated Residential Landscapes |                |   |
|---|----------------|---|
| Enter value in Pale Blue Cells  |                |   |
| Tan Cells Show Results  |                |   |
| Messages and Warnings   |                |   |
| Click on the blue cell on right to Pick City Name   | <b>Oakland</b> | Name of City                                    |
| ET <sub>o</sub> of City from Appendix A   | 41.80          | ET <sub>o</sub> (inches/year)                   |
|   | 0              | Overhead Landscape Area (ft <sup>2</sup> )      |
|   | 425            | Drip Landscape Area (ft <sup>2</sup> )          |
|   | 0              | SLA (ft <sup>2</sup> )                          |
| <b>Results:</b>   | <b>425.00</b>  | Total Landscape Area                            |
| (ET <sub>o</sub> ) x (0.62) x [(0.55 x LA) + (1.0 - 0.55) X SLA]                              | -              | Gallons   |
|   | -              | Cubic Feet                                      |
|   | -              | HCF   |
|   | -              | Acre-feet                                       |
|   | -              | Millions of Gallons                             |
| <b>MAWA calculation incorporating Effective Precipitation (Optional)</b>                      |                |   |
| ET <sub>o</sub> of City from Appendix A   | 41.80          | ET <sub>o</sub> (inches/year)                   |
| Total Landscape Area  | 425.00         | LA (ft <sup>2</sup> )                           |
| Special Landscape Area  | 0.00           | SLA (ft <sup>2</sup> )                          |
|   | 24             | Total annual precipitation (inches/year)        |
| Enter Effective Precipitation   | 6.00           | Eppt (in/yr)(25% of total annual precipitation) |
| <b>Results:</b>   |                |   |
| MAWA = [(ET <sub>o</sub> - Eppt) x (0.62)] x [(0.55 x LA) + ((1.0 - 0.55) x SLA)]             | 5,189.25       | Gallons   |
|   | 693.70         | Cubic Feet                                      |
|   | 6.94           | HCF   |
|   | 0.02           | Acre-feet                                       |
|   | 0.01           | Millions of Gallons                             |

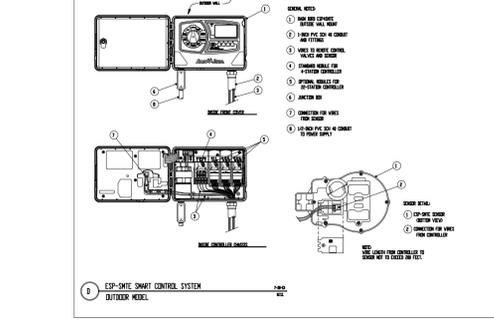
| Estimated Total Water Use   |  |  |
|---|--|--|
| Equation: ETWU = ET <sub>o</sub> x 0.62 x [(PF x HA)/IE] + SLA; Considering precipitation ETWA = (ET <sub>o</sub> - Eppt) x 0.62 x [(PF x HA)/IE] + SLA |  |  |
| Enter values in Pale Blue Cells   |  |  |
| Tan Cells Show Results  |  |  |
| Messages and Warnings   |  |  |

| Irrigation Efficiency Default Value for overhead 0.75 and drip 0.81. |              |
|--|--------------|
| Plant Water Use Type   | Plant Factor |
| Very Low   | 0 - 0.1      |
| Low  | 0.2 - 0.3    |
| Medium   | 0.4 - 0.6    |
| High   | 0.7 - 1.0    |
| SLA  | 1            |

| Hydrozone | Select System From the Dropdown List click on cell below | Plant Water Use Type (s) (low, medium, high) | Plant Factor (PF) | Hydrozone Area (HA) (ft <sup>2</sup> ) Without SLA | Irrigation Efficiency (IE) | (PF x HA (ft <sup>2</sup> ))/IE |
|-----------|--|--|-------------------|--|----------------------------|---------------------------------|
| Zone 1    | Drip   | Low  | 0.20              | 250  | 0.81                       | 62                              |
| Zone 2    | Drip   | Low  | 0.20              | 25   | 0.81                       | 6                               |
| Zone 3    | Drip   | Low  | 0.20              | 150  | 0.81                       | 37                              |
|           |  |  |                   |  |                            | 105                             |
|           |  | SLA  |                   | 0  |                            | 0                               |
|           |  | Sum  |                   | 425  |                            |                                 |

| Results |       |                       |
|---------|-------|-----------------------|
| MAWA =  | 5,189 | ETWU = 2,330 Gallons  |
|         |       | 311 Cubic Feet        |
|         |       | 3 HCF                 |
|         |       | 0 Acre-feet           |
|         |       | 0 Millions of Gallons |

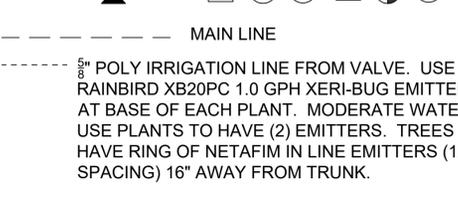
| ZONE # | FLOW RATE (GPM) | PLANT DESCRIPTION   | HYDROZONE TYPE | IRRIGATION METHOD | AREA (SQ FT) |
|--------|-----------------|---------------------|----------------|-------------------|--------------|
| 1      | 0.26            | SHRUBS/GROUND COVER | LOW            | POINT SOURCE DRIP | 250          |
| 2      | 0.16            | TREES               | LOW            | DRIP RING         | 25           |
| 3      | 0.31            | SHRUBS/GROUND COVER | LOW            | POINT SOURCE DRIP | 150          |
|        |                 |                     |                | <b>TOTAL SF</b>   | <b>425</b>   |



**Irrigation Legend**

- C** RAINBIRD SMART IRRIGATION CONTROLLER- SEE SPECS ON THIS SHEET
- P** PRESSURE REGULATOR
- S** RECOMMENDED RAIN SENSOR LOCATION
- +** NEW VALVE LOCATION. ALL IRRIGATION VALVES FOR DRIP AND INLINE EMITTERS TO HAVE 30 PSI PRESSURE REDUCER
- F** FLUSH VALVE LOCATION
- POC** POINT OF CONNECTION
- SM** PRIVATE IRRIGATION SUBMETER (ONLY AS REQUIRED FOR LANDSCAPES OVER 5000 SF)
- MV** MASTER VALVE
- FS** PRESSURE REGULATOR: WATTS LFN45B PRESSURE REDUCING VALVE MODEL #LFN45BM1-U 3/4" OR EQUIVALENT
- X** BACKFLOW PREVENTION DEVICE AND MANUAL SHUTOFF LOCATION: WATTS 800M4 BRONZE FNPT PRESSURE VACUUM BREAKER. Model #800M4-QT OR EQUIVALENT

**IRRIGATION POINT OF CONNECTION DIAGRAM**

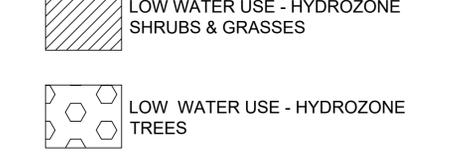


- 4** VALVE/ZONE NUMBER
- 25** FLOW RATE (GALLONS PER MINUTE)
- 185** ZONE AREA IN SQUARE FEET
- 3/4"** VALVE SIZE

**Irrigation Notes**

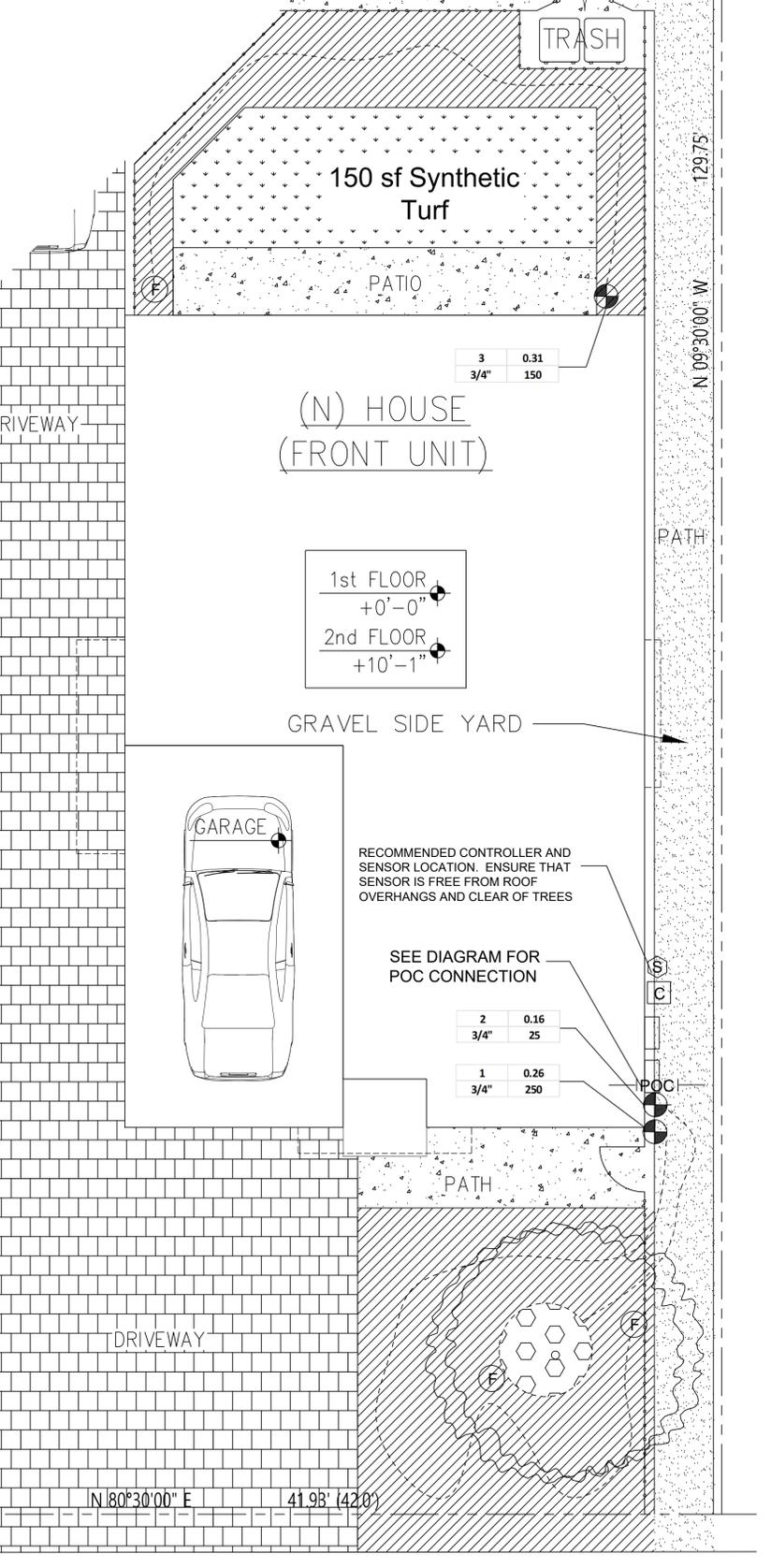
- USE BELOW GROUND VALVES AND LOCATE IN AREAS HIDDEN FROM VIEW IF POSSIBLE.
- USE RAINBIRD SMART CONTROLLER WITH RAINSENSOR AND SEASONAL ADJUSTMENT
- ALL PLANTINGS TO USE DRIP IRRIGATION UNLESS OTHERWISE NOTED
- LAWN TO USE SUBSURFACE DRIP IRRIGATION SUCH AS NETAFIM TECHLINE
- BERM AROUND ALL TREES. PLACE MULTIPLE EMITTERS AT LEAST 6-12" AWAY FROM TRUNK OF TREE. TREES TO BE ON SEPARATE VALVE FROM LANDSCAPE PLANTS
- SEE PLANTING PLAN FOR EXACT NUMBER OF EMITTERS NECESSARY
- NO SPRINKLERS OR OVERHEAD SPRAY DEVICES ARE TO BE USED ON THIS PROJECT

**Hydrozone Legend**



**Project Notes:**

- Total landscaped area: 425 sf
- 100% of landscaped area on drip irrigation (no spray heads)
- Low and moderate water use plants on separate valves
- Trees on separate valves
- Dedicated irrigation meter not required because landscaped area is less than 5000 sf
- Certificate of completion: applicant shall submit a landscape audit report verifying installation and irrigation efficiency per design on a form provided by the East Bay Municipal Utility District



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dffowlersdesigns@gmail.com



FRONT HOUSE (NEW CONSTRUCTION)  
1200 DWIGHT WAY  
BERKELEY, CA 94702

**IRRIGATION PLAN**

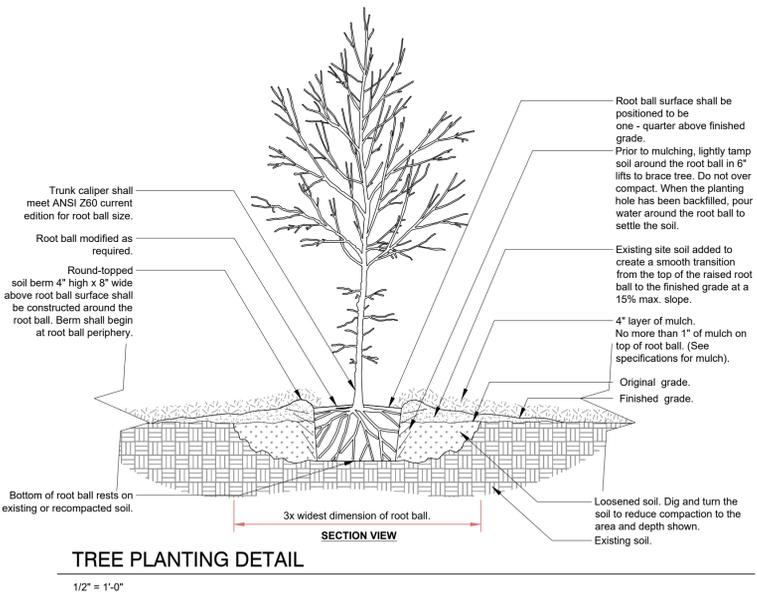
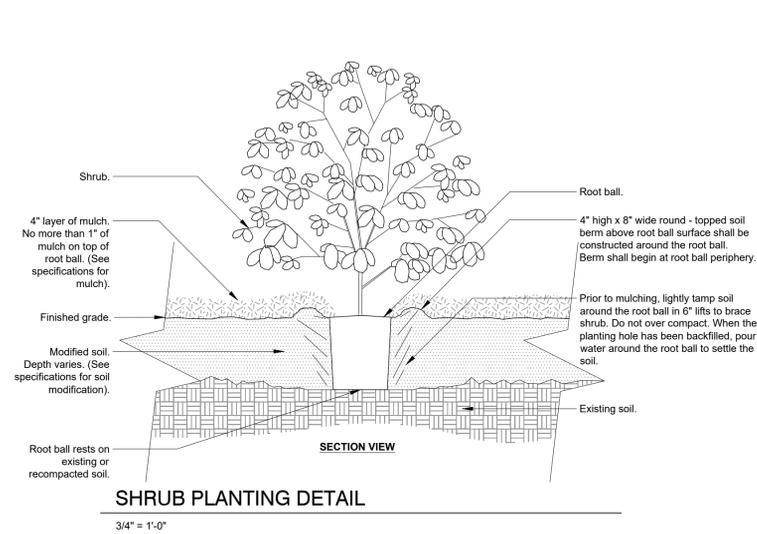
| REVISIONS: | DATE | BY | DESCRIPTION |
|------------|------|----|-------------|
|            |      |    |             |

SCALE  
1/4"=1'-0"

DATE  
06/10/22

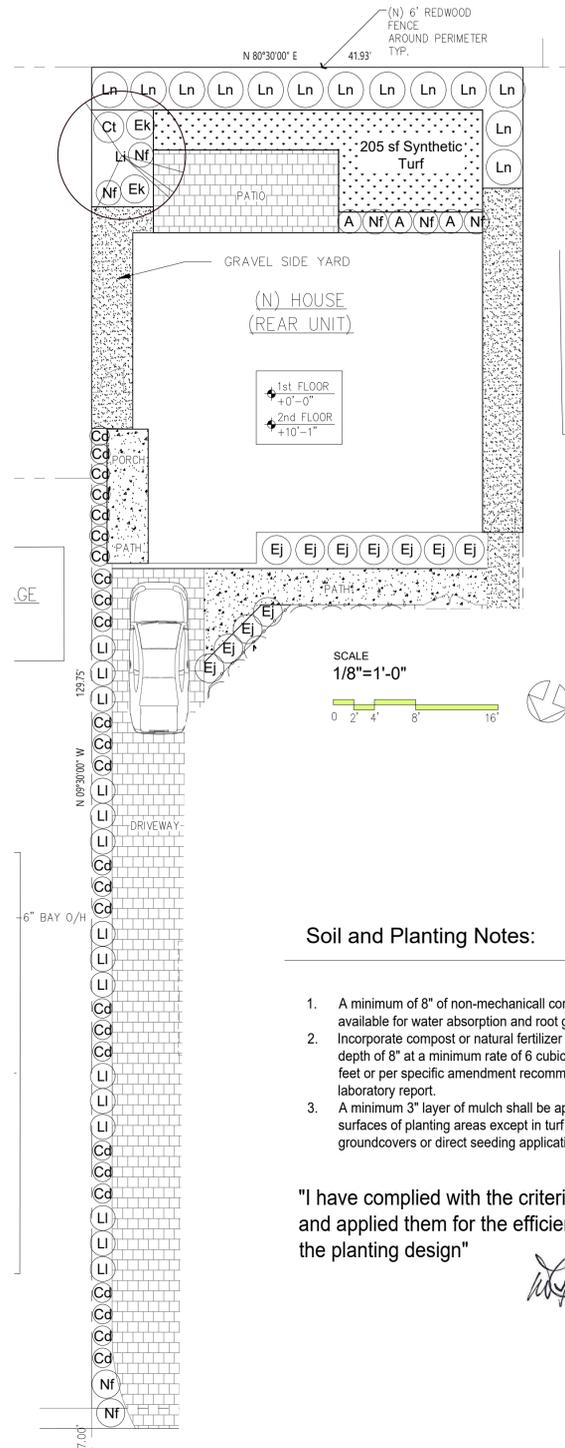
"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the irrigation design"

**L2**



PLANTING LEGEND

| SYMBOLS      | BOTANICAL NAME                        | COMMON NAME              | SIZE   | QUANTITY | WELO |
|--------------|---------------------------------------|--------------------------|--------|----------|------|
| A            | Anigozanthus flavidus 'Bush Ranger'   | Bush Ranger Kangaroo Paw | 1 gal  | 3        | L    |
| Cd           | Carex divulsa                         | European gray sedge      | 1 gal  | 25       | L    |
| Ct           | Chondropetalum tectorum               | Dwarf Cape Rush          | 5 gal  | 1        | L    |
| Ek           | Erigeron karvinskianus                | Mexican Daisy            | 1 gal  | 2        | L    |
| Ej           | Euonymus japonicus                    | Evergreen Euonymus       | 5 gal  | 11       | L    |
| Ln           | Laurus nobilis                        | Bay laurel               | 15 gal | 13       | L    |
| Li           | Lomandra longifolia 'breeze'          | Dwarf Mat Rush           | 1 gal  | 15       | L    |
| Nf           | Nepeta faassennii 'Walker's Low'      | Catmint                  | 1 gal  | 7        | L    |
| <b>TREES</b> |                                       |                          |        |          |      |
| Li           | Lagerstroemia indicia 'Natchez' (Std) | Natchez Crape Myrtle     | 15 gal | 1        | L    |



Soil and Planting Notes:

1. A minimum of 8" of non-mechanically compacted soil shall be available for water absorption and root growth in planting areas.
2. Incorporate compost or natural fertilizer into the soil to a minimum depth of 8" at a minimum rate of 6 cubic yards per 1000 square feet or per specific amendment recommendations from a soils laboratory report.
3. A minimum 3" layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers or direct seeding applications.

"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the planting design"

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landscape architecture | arboriculture | sculpture



REAR HOUSE (NEW CONSTRUCTION)

1200 DWIGHT WAY  
BERKELEY, CA 94702

PLANTING PLAN

| REVISIONS: | DATE | BY | DESCRIPTION |
|------------|------|----|-------------|
|            |      |    |             |

SCALE  
1/8"=1'-0"

DATE  
061022

L1

| Maximum Applied Water Allowance Calculations for New and Rehabilitated Residential Landscapes |                |  |
|---|----------------|--|
| Enter value in Pale Blue Cells  |                |  |
| Tan Cells Show Results  |                |  |
| Messages and Warnings   |                |  |
| Click on the blue cell on right to Pick City Name   | <b>Oakland</b> | Name of City                                     |
| ET <sub>o</sub> of City from Appendix A   | 41.80          | ET <sub>o</sub> (inches/year)                    |
|   | 0              | Overhead Landscape Area (ft <sup>2</sup> )       |
|   | 525            | Drip Landscape Area (ft <sup>2</sup> )           |
|   | 0              | SLA (ft <sup>2</sup> )                           |
| Total Landscape Area  | 525.00         |  |
| <b>Results:</b>   |                |  |
| (ET <sub>o</sub> ) x (0.62) x [(0.55 x LA) + (1.0 - 0.55) X SLA]                              | -              | Gallons  |
|   | -              | Cubic Feet                                       |
|   | -              | HCF  |
|   | -              | Acre-feet  |
|   | -              | Millions of Gallons                              |
| <b>MAWA calculation incorporating Effective Precipitation (Optional)</b>                      |                |  |
| <b>Precipitation (Optional)</b>   |                |  |
| ET <sub>o</sub> of City from Appendix A   | 41.80          | ET <sub>o</sub> (inches/year)                    |
| Total Landscape Area  | 525.00         | LA (ft <sup>2</sup> )                            |
| Special Landscape Area  | 0.00           | SLA (ft <sup>2</sup> )                           |
|   | 24             | Total annual precipitation (inches/year)         |
| Enter Effective Precipitation   | 6.00           | Eppt (in/yr) (25% of total annual precipitation) |
| <b>Results:</b>   |                |  |
| MAWA = [(ET <sub>o</sub> - Eppt) x (0.62)] x [(0.55 x LA) + ((1.0 - 0.55) x SLA)]             | 6,410.25       | Gallons  |
|   | 856.93         | Cubic Feet                                       |
|   | 8.57           | HCF  |
|   | 0.02           | Acre-feet  |
|   | 0.01           | Millions of Gallons                              |

| Estimated Total Water Use   |  |  |
|---|--|--|
| Equation: ETWU = ET <sub>o</sub> x 0.62 x [(PF x HA)/IE] + SLA; Considering precipitation ETWA = (ET <sub>o</sub> - Eppt) x 0.62 x [(PF x HA)/IE] + SLA |  |  |
| Enter values in Pale Blue Cells   |  |  |
| Tan Cells Show Results  |  |  |
| Messages and Warnings   |  |  |

| Irrigation Efficiency Default Value for overhead 0.75 and drip 0.81. |              |  |
|--|--------------|--|
| Plant Water Use Type   | Plant Factor |  |
| Very Low   | 0 - 0.1      |  |
| Low  | 0.2 - 0.3    |  |
| Medium   | 0.4 - 0.6    |  |
| High   | 0.7 - 1.0    |  |
| SLA  | 1            |  |

| Hydrozone | Select System From the Dropdown List click on cell below | Plant Water Use Type (s) (low, medium, high) | Plant Factor (PF) | Hydrozone Area (HA) (ft <sup>2</sup> ) Without SLA | Irrigation Efficiency (IE) | (PF x HA (ft <sup>2</sup> ))/IE |
|-----------|--|--|-------------------|--|----------------------------|---------------------------------|
| Zone 1    | Drip   | Low  | 0.20              | 240  | 0.81                       | 59                              |
| Zone 2    | Drip   | Low  | 0.20              | 260  | 0.81                       | 64                              |
| Zone 3    | Drip   | Low  | 0.20              | 25   | 0.81                       | 6                               |
|           |  |  |                   |  |                            | 130                             |
|           |  |  |                   | 0  |                            | 0                               |
|           |  |  | Sum               | 525  |                            |                                 |

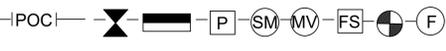
| Results |       |                       |
|---------|-------|-----------------------|
| MAWA =  | 6,410 | ETWU= 2,878 Gallons   |
|         |       | 385 Cubic Feet        |
|         |       | 4 HCF                 |
|         |       | 0 Acre-feet           |
|         |       | 0 Millions of Gallons |

| ZONE # | FLOW RATE (GPM) | PLANT DESCRIPTION   | HYDROZONE TYPE | IRRIGATION METHOD | AREA (SQ.FT) |
|--------|-----------------|---------------------|----------------|-------------------|--------------|
| 1      | 0.83            | SHRUBS/GROUND COVER | LOW            | POINT SOURCE DRIP | 240          |
| 2      | 0.4             | SHRUBS/GROUND COVER | LOW            | POINT SOURCE DRIP | 260          |
| 3      | 0.16            | TREES               | LOW            | DRIP RING         | 25           |
|        |                 |                     |                | <b>TOTAL SF</b>   | 525          |

### Irrigation Legend

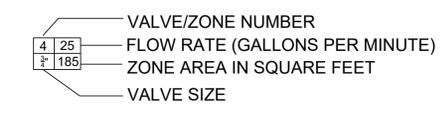
- C** RAINBIRD SMART IRRIGATION CONTROLLER- SEE SPECS ON THIS SHEET
- P** PRESSURE REGULATOR
- S** RECOMMENDED RAIN SENSOR LOCATION
- N** NEW VALVE LOCATION. ALL IRRIGATION VALVES FOR DRIP AND INLINE EMITTERS TO HAVE 30 PSI PRESSURE REDUCER
- F** FLUSH VALVE LOCATION
- POC** POINT OF CONNECTION
- SM** PRIVATE IRRIGATION SUBMETER (ONLY AS REQUIRED FOR LANDSCAPES OVER 5000 SF)
- MV** MASTER VALVE
- FS** PRESSURE REGULATOR: WATTS LFN45B PRESSURE REDUCING VALVE MODEL #LFN45BM1-U 3/4" OR EQUIVALENT
- X** BACKFLOW PREVENTION DEVICE AND MANUAL SHUTOFF LOCATION: WATTS 800M4 BRONZE FNPT PRESSURE VACUUM BREAKER Model #800M4-QT OR EQUIVALENT

### IRRIGATION POINT OF CONNECTION DIAGRAM



----- MAIN LINE

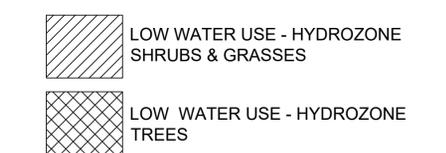
----- 5" POLY IRRIGATION LINE FROM VALVE. USE (1) RAINBIRD XB20PC 1.0 GPH XERI-BUG EMITTER AT BASE OF EACH PLANT. MODERATE WATER USE PLANTS TO HAVE (2) EMITTERS. TREES TO HAVE RING OF NETAFIM IN LINE EMITTERS (12" SPACING) 16" AWAY FROM TRUNK.



### Irrigation Notes

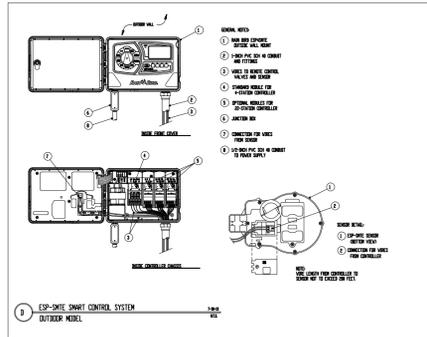
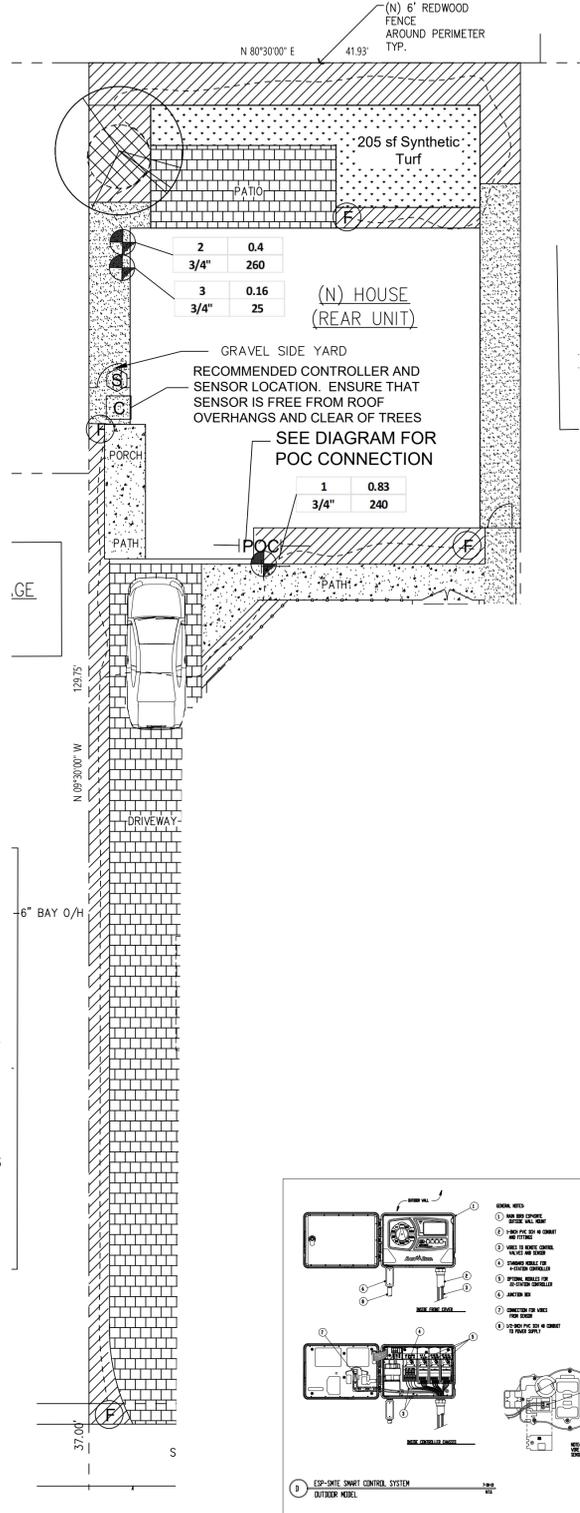
- USE BELOW GROUND VALVES AND LOCATE IN AREAS HIDDEN FROM VIEW IF POSSIBLE.
- USE RAINBIRD SMART CONTROLLER WITH RAINSENSOR AND SEASONAL ADJUSTMENT
- ALL PLANTINGS TO USE DRIP IRRIGATION UNLESS OTHERWISE NOTED
- LAWN TO USE SUBSURFACE DRIP IRRIGATION SUCH AS NETAFIM TECHLINE
- BERM AROUND ALL TREES. PLACE MULTIPLE EMITTERS AT LEAST 6-12" AWAY FROM TRUNK OF TREE. TREES TO BE ON SEPARATE VALVE FROM LANDSCAPE PLANTS
- SEE PLANTING PLAN FOR EXACT NUMBER OF EMITTERS NECESSARY
- NO SPRINKLERS OR OVERHEAD SPRAY DEVICES ARE TO BE USED ON THIS PROJECT

### Hydrozone Legend



### Project Notes:

- Total landscaped area: 525 sf
- 100% of landscaped area on drip irrigation (no spray heads)
- Low and moderate water use plants on separate valves
- Trees on separate valves
- Dedicated irrigation meter not required because landscaped area is less than 5000 sf
- Certificate of completion: applicant shall submit a landscape audit report verifying installation and irrigation efficiency per design on a form provided by the East Bay Municipal Utility District



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landscape architecture | arboriculture | sculpture



REAR HOUSE (RELOCATED)  
1200 DWIGHT WAY  
BERKELEY, CA 94702

### IRRIGATION PLAN

REVISIONS:  
DATE BY DESCRIPTION

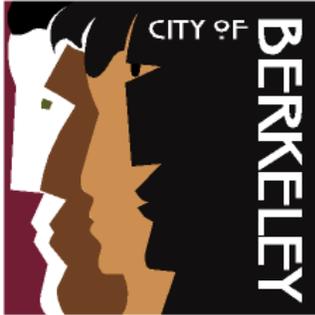
SCALE  
1/8"=1'-0"

DATE  
06/10/22

"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the irrigation design"

L2





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

## 1200 Dwight Way

**Use Permit #ZP2022-0028 to demolish a single-family dwelling and detached garage, and build two two-story single-family dwellings and two parking spaces.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on December 8, 2022, **conducted remotely via Zoom. See the Agenda for details at:** [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-12-08\\_ZAB\\_Agenda.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-12-08_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: LMDR- Low Medium Density Residential
- Zoning: R-2-Restricted Two-Family Residential District

**B. Zoning Permits Required:**

- Use Permit, under Berkeley Municipal Code (BMC) Section 23.326.020(B) to demolish a dwelling unit
- Use Permit, under BMC Section 23.202.020(A) to add two new single-family dwellings
- Administrative Use Permit (AUP), under BMC Section 23.304.030(B)(2) to reduce the required rear setback
- Administrative Use Permit (AUP), under BMC Section 23.322.070(D) to add excess parking

**C. CEQA Recommendation:** It is staff's recommendation that the project is categorically exempt pursuant to Section 15303, of the CEQA Guidelines ("New Construction or Conversion of Small Structures"). The determination is made by ZAB.

**D. Parties Involved:**

- Applicant                      John Newton
- Property Owner                Creek Capital, LLC

**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, Nilu Karimzadegan, at (510) 981-7430 or [nkarimzadegan@cityofberkeley.info](mailto:nkarimzadegan@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](mailto: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](mailto: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.



**Riemer, Allison**

---

**From:** Fran Haselsteiner <franhaselsteiner@gmail.com>  
**Sent:** Monday, March 21, 2022 5:56 PM  
**To:** Riemer, Allison  
**Cc:** John Newton; Sheldon Li; juneyou@gmail.com  
**Subject:** ZP2022-0028 1200 Dwight Way

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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

Hello—I am the owner and resident of 1202 Dwight Way, a single-story bungalow. I have lived here since 1984. I'm 72, a widow, and have moderately severe emphysema.

I have been in contact with the owners and architect, and they know my primary design concern with the proposed development: the 4-foot side setback from our shared property line. I realize that that is code, but it is going to have significant effects on my quality of life, during teardown and construction as well as after construction. I am hopeful that they will modify the plans to help prevent these issues. At this point, I wish to communicate to Planning this important concern during the design phase. Please let me know how I may do so.

Thank you for your assistance.

Frances Ann Haselsteiner  
1202 Dwight Way  
Berkeley CA 94702

**Riemer, Allison**

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**From:** Fran Haselsteiner <franhaselsteiner@gmail.com>  
**Sent:** Wednesday, April 13, 2022 10:19 AM  
**To:** Riemer, Allison  
**Subject:** ZP2022-0028, 1200 Dwight Way

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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Dear Ms. Riemer:

I am writing to let you know why the owners and architect of 1200 Dwight Way are submitting revised plans.

I am the longtime owner and resident of 1202 Dwight Way, a one-story bungalow. The plans specified a four-foot side setback of the new building from the common property line. My bedroom and study are on the west side of my house, and I anticipated loss of sunlight and air circulation from the new two-story dwelling.

Fortunately, the owners were receptive to an important modification. They now propose to place the driveway on my side of the property. I can live with that. The traffic engineer has no objection to moving the curb cut, and the city arborist agrees that the current street tree, a privet, can be removed as long as a replacement tree is planted.

I should mention that the privet (*Ligustrum lucidum*) is invasive and extraordinarily messy for about four months a year, necessitating frequent sidewalk cleanups. Also, it is hazardous, in that the trunk is some seven feet from the utility pole and transformer.

I am grateful for their cooperation and willingness to make this modification. I hope the city will accept the revised design.

If you have any questions or concerns, please contact me. Thank you.

Frances Ann Haselsteiner  
1202 Dwight Way  
510-843-9547

**From:** [David Kellogg](#)  
**To:** [Riemer, Allison](#)  
**Cc:** [jmnewton67@sbcglobal.net](mailto:jmnewton67@sbcglobal.net); [Karimzadegan, Niloufar](#)  
**Subject:** Re: Inquiry re: ZP2022-0028 1200 Dwight  
**Date:** Tuesday, November 22, 2022 1:23:56 PM

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Please ensure that PRC 21080.1/.2 is complied with in your next project.

Best,  
David

On Tue, Nov 22, 2022 at 12:32 PM Riemer, Allison <[ARiemer@cityofberkeley.info](mailto:ARiemer@cityofberkeley.info)> wrote:

David,

I have forwarded your email to the Planning Manager, who is out this week.

Best,

Allison

**From:** David Kellogg <[david.kellogg@gmail.com](mailto:david.kellogg@gmail.com)>  
**Sent:** Tuesday, November 22, 2022 12:00 PM  
**To:** Riemer, Allison <[ARiemer@cityofberkeley.info](mailto:ARiemer@cityofberkeley.info)>  
**Cc:** [jmnewton67@sbcglobal.net](mailto:jmnewton67@sbcglobal.net); Karimzadegan, Niloufar <[NKarimzadegan@cityofberkeley.info](mailto:NKarimzadegan@cityofberkeley.info)>  
**Subject:** Re: Inquiry re: ZP2022-0028 1200 Dwight

Hi Allison,

Attached please find a letter from Shannan West "Housing Accountability Unit Chief" at HCD. Her letter was sent to express the state's position that PRC 21080.1 is not satisfied by staff recommendations and delayed ZAB determinations.

Again, please explain how your staff recommendation of CEQA exemption satisfies PRC 21080.1/.2. As you may know, 21080.1 requires a determination from the lead agency and Berkeley denies that staff recommendations qualify as a determination from the lead agency. HCD has also historically indicated that plans such as you lay out do not comply with the law.

Best,

David

On Tue, Nov 22, 2022 at 11:54 AM David Kellogg <[david.kellogg@gmail.com](mailto:david.kellogg@gmail.com)> wrote:

Hi Allison,

Please explain how your staff recommendation of CEQA exemption satisfies PRC 21080.1/.2. As you may know, 21080.1 requires a determination from the lead agency and Berkeley denies that staff recommendations qualify as a determination from the lead agency.

Best,

David

On Tue, Nov 22, 2022 at 11:50 AM Riemer, Allison <[ARiemer@cityofberkeley.info](mailto:ARiemer@cityofberkeley.info)> wrote:

Hello David,

Yes, I did not submit an incomplete letter by March 25, 2022. The applicant worked with the neighbor to redesign the project, and they submitted revised plans on April 29, 2022.

This project was transferred to my colleague Nilu in July. I have updated the CEQA determination in Accela to reflect the July completeness date. The project is categorically exempt. I think it's going to ZAB on December 8.

Best,

Allison

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**From:** David Kellogg <[david.kellogg@gmail.com](mailto:david.kellogg@gmail.com)>  
**Sent:** Tuesday, November 22, 2022 11:24 AM  
**To:** [jmnewton67@sbcglobal.net](mailto:jmnewton67@sbcglobal.net); Riemer, Allison <[ARiemer@cityofberkeley.info](mailto:ARiemer@cityofberkeley.info)>  
**Subject:** Inquiry re: ZP2022-0028

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Hi Allison,

I am researching this zoning permit and have a question, as Accela's records don't make sense.

I can see that the application was filed on February 24, 2022, with a minor revision to the setbacks submitted on April 29, 2022.

Accela's records indicate that you sent a letter of "incompleteness" on May 26, 2022 - more than 30 days from the application's submission date. It seems apparent that you were operating under the (false) belief that the completeness clock reset upon the minor revision of April 29, 2022. However, that is not how state law works. Absent a major change, such as increasing or reducing the number of homes by 20% or more, minor revisions do not reset the completeness clock of the Permit Streamlining Act.

Please advise by (1) confirming the project was deemed complete 30 days from 2/24/22 and withdrawing your apparently-illegal incompleteness letter or (2) providing an affirmative explanation of the legal basis of your apparently-illegal incompleteness letter.

After confirming, please explain your plan for compliance with PRC 21080.1/.2, which requires the lead agency to issue "determinations" of CEQA (and CEQA-exemption) within 30 days of completeness. That appears wildly overdue given the above.

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Best,