

# INFORMATION CALENDAR May 9, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: LPO NOD: 1919 Addison Street, #LMSAP2022-0012

#### INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting."

#### **CURRENT SITUATION AND ITS EFFECTS**

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on April 25, 2023.

#### **BACKGROUND**

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by May 9, 2023. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule on the designation within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

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LPO NOD: 1919 Addison Street/#LMSAP2022-0012

# **ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS**

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

# **POSSIBLE FUTURE ACTION**

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

# **CONTACT PERSON**

Fatema Crane, Principal Planner, Planning and Development, 510-981-7410

#### Attachments:

1: Notice of Decision – 1919 Addison Street, #LMSAP2022-0012

Attachment 1, part 1



L A N D M A R K S
PRESERVATION

Notice of Decision

DATE OF BOARD DECISION: MARCH 2, 2023

DATE NOTICE MAILED: APRIL 24, 2023

APPEAL PERIOD EXPIRATION: APRIL 25, 2023

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): May 10, 2023<sup>1</sup>

# 1919 Addison Street – Bonita Apartments

Structural Alteration Permit #LMSAP2022-0012 to provide accessibility upgrades and a renovated lobby and landscaped entry for a non-historic building located on a City Landmark site

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following request:

Structural Alteration Permit

**APPLICANT:** Jim Novosel, Architect

The Bay Architects 1840 Alcatraz Avenue Berkeley, CA 94703

**ZONING DISTRICT**: Downtown Commercial/Mixed-Use District (C-DMU)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt under the California Environmental Quality Act Guidelines, Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

1 Pursuant to BMC Chapter 3.24, the City Council may "certify" any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

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#### The application materials for this project is available online at:

https://berkeleyca.gov/construction-development/land-use-development/zoning-projects or https://permits.cityofberkeley.info/CitizenAccess/Default.aspx

# FINDINGS FOR FINAL ACTION AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

**COMMISSION VOTE: 5-0-0-4** 

YES: ADAMS, CRANDALL, LEUSCHNER, MONTGOMERY, TWU

NO: NONE

**ABSTAIN: NONE** 

ABSENT: ENCHILL, FINACOM, LINVILL, SCHWARTZ

### TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

- 1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
- 2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

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- b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
- c. The fee for all appeals by Applicants is \$2500.
- 3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark permit will be final on the first business day following expiration of the appeal period.

#### **NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

- If you challenge this decision in court, you may be limited to raising only those issues you
  or someone else raised at the public hearing described in this notice, or in written
  correspondence delivered to the Landmarks Preservation Commission at, or prior to, the
  public hearing.
- 2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
- 3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
- 4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
- 5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition

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constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

#### **PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

### **FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Desiree Dougherty, at (510) 981-7410 or Ddoughderty@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

#### ATTACHMENTS:

1. Findings for Final Action

2. Project Plans, received FEBRUARY 13, 2023

ATTEST: Fatema Crane, Secretary

Landmarks Preservation Commission

City Clerk CC:

> Applicant: Jim Novosel, Architect,

> > The Bay Architects, 1840 Alcatraz Avenue, Berkeley, CA 94703

Prasad Lakireddy, 2319 Shattuck Avenue, Berkeley, CA 94704 Property Owner:

# Findings and Conditions

# **1919 Addison Street** — Bonita Apartments

Structural Alteration Permit #LMSAP2022-0012 to provide accessibility upgrades and a renovated lobby and landscaped entry for a non-historic building located on a City Landmark site.

#### **CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

#### SECRETARY OF THE INTERIOR'S STANDARDS FINDINGS

Regarding the Secretary of the Interior's Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

- 1. The proposed project does not require a change of use. The City Landmarked property will retain the historic uses as an apartment building and the 1978 office building will also retain its current use.
- 2. This historic character of the Bonita Apartments building will be retained and preserved with this project, which would not alter the historic building. The project avoids removal of distinctive materials and any alteration of features that characterize the property. The project scope is limited to work on the entry lobby and façade of the non-historic building on this City Landmark property and will not result in changes to its form or any changes to the historic Bonita Apartments.
- 3. The project reflects the contemporary design of the detached, non-historic building at the Bonita Apartments. These proposed new features are also contemporary and will not result in a false sense of historical development.
- 4. The subject property does not feature changes that have acquired significance in their own right.

- 5. Distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize the Mission Revival style of the Bonita Apartments will be preserved as the scope will not touch the historic structure.
- 6. As conditioned herein, if deteriorated historic features will be affected by this request, then they would be repaired or replaced to match the materials, design, and finishes of the original items.
- 7. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible.
- 8. The project does not have the potential to affect any archaeological resources because the applicant proposes no excavation.
- 9. The proposed new work is designed with complimentary, high-quality materials in simplified, contemporary style employing colors and finishes that harmonize with the design elements of the existing non-historic building. Owing to these aspects, new work will be sufficiently differentiated from the historic design.
- 10. If the proposed improvements were removed in the future, they would not permanently impair the integrity or essential form of the Bonita Apartments building.

#### FINDINGS FOR APPROVAL

- 1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
  - a. The proposed area of scope is contained to the non-historic building located on the City Landmark parcel, but not a part of the Landmarked structure. No changes are proposed on the Landmarked building.
  - b. The proposed project would provide safety and accessibility upgrades to the entry lobby of the non-historic Addison Street building. There are no aspects of this proposal that would be detrimental to the character of the Landmarked apartment building.

#### STANDARD CONDITIONS

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

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions

shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

# 2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

# 3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

# 4. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

# 5. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

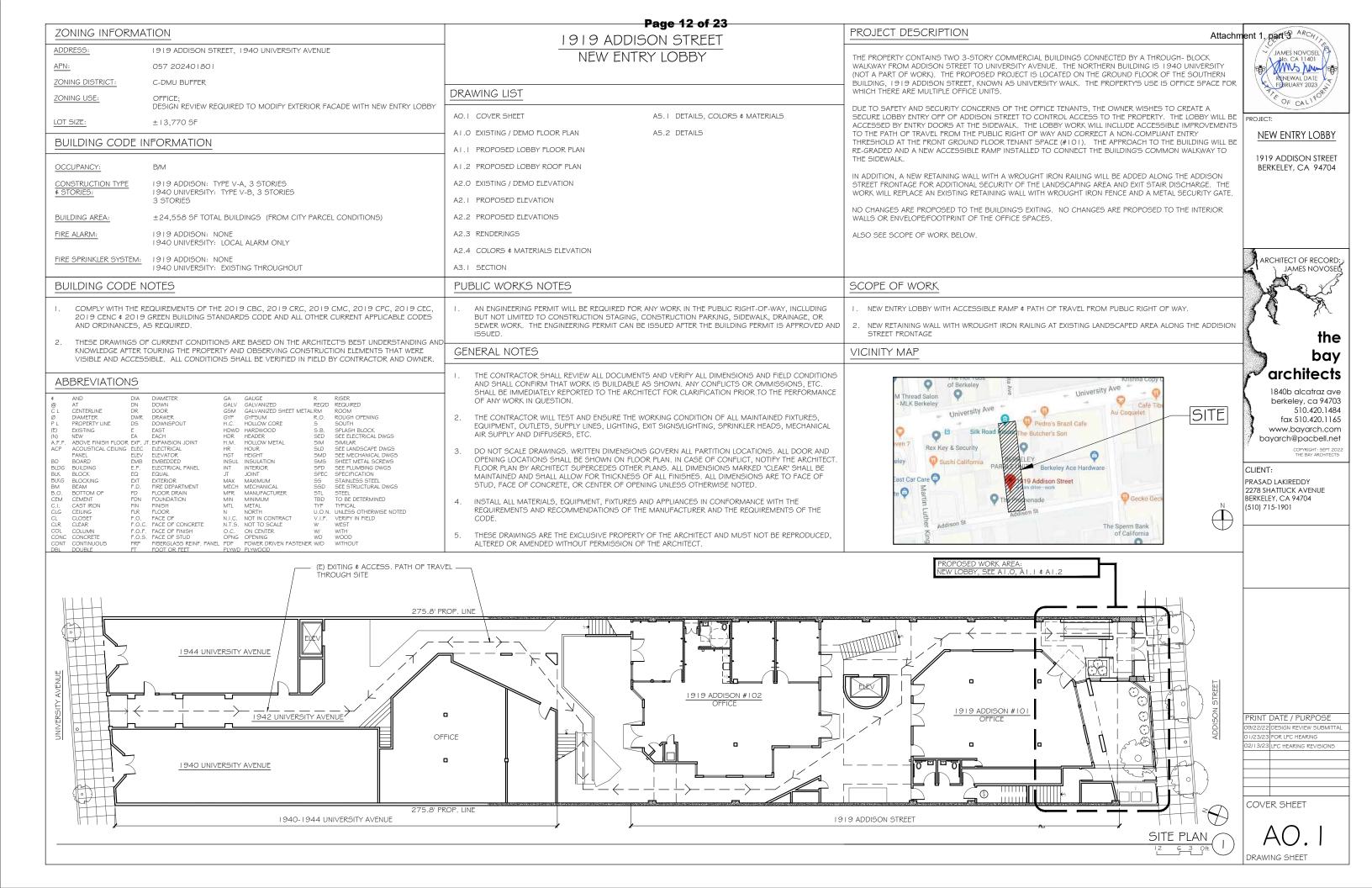
### **ADDITIONAL CONDITIONS**

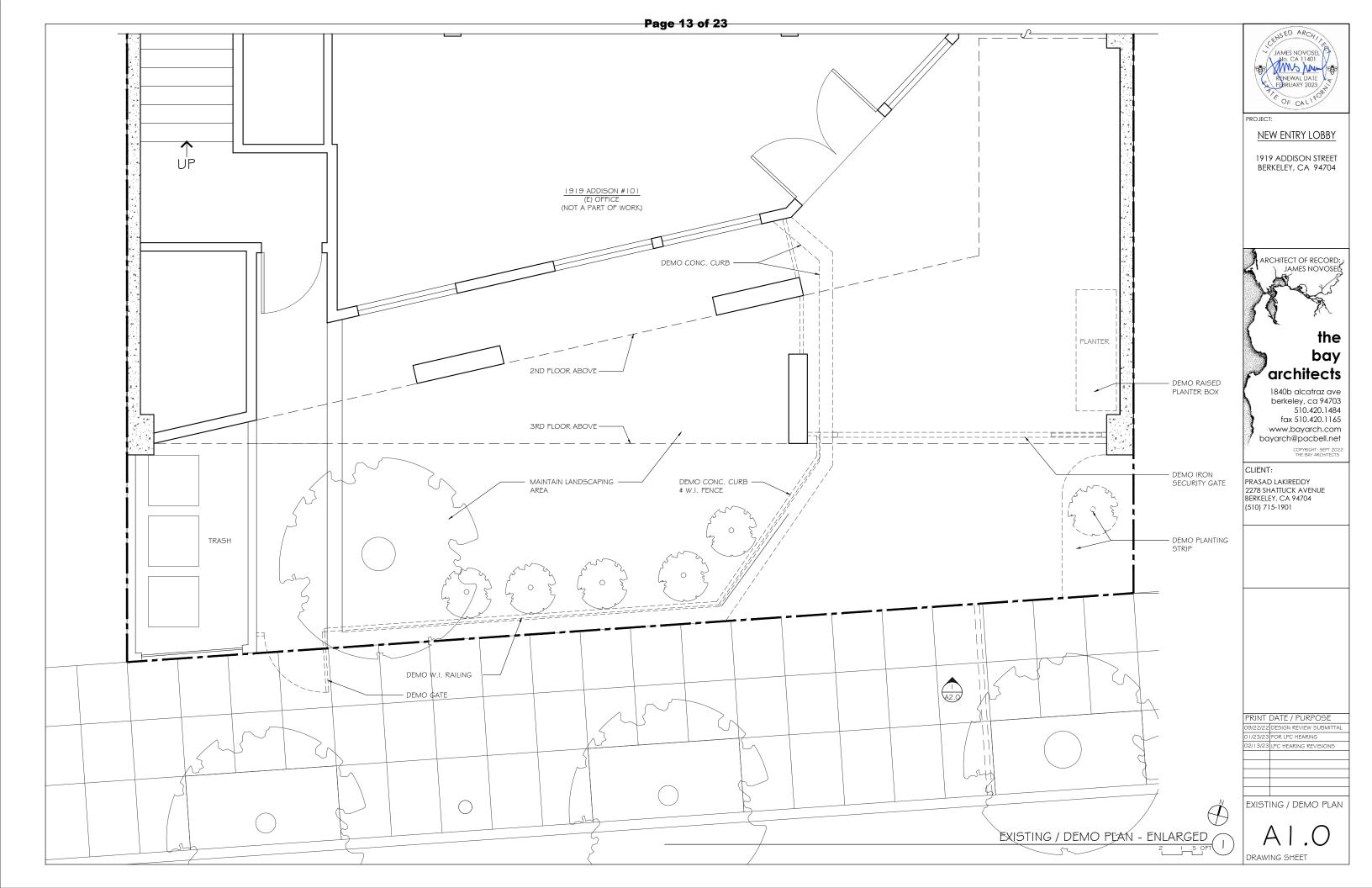
The following additional conditions are attached to this Permit:

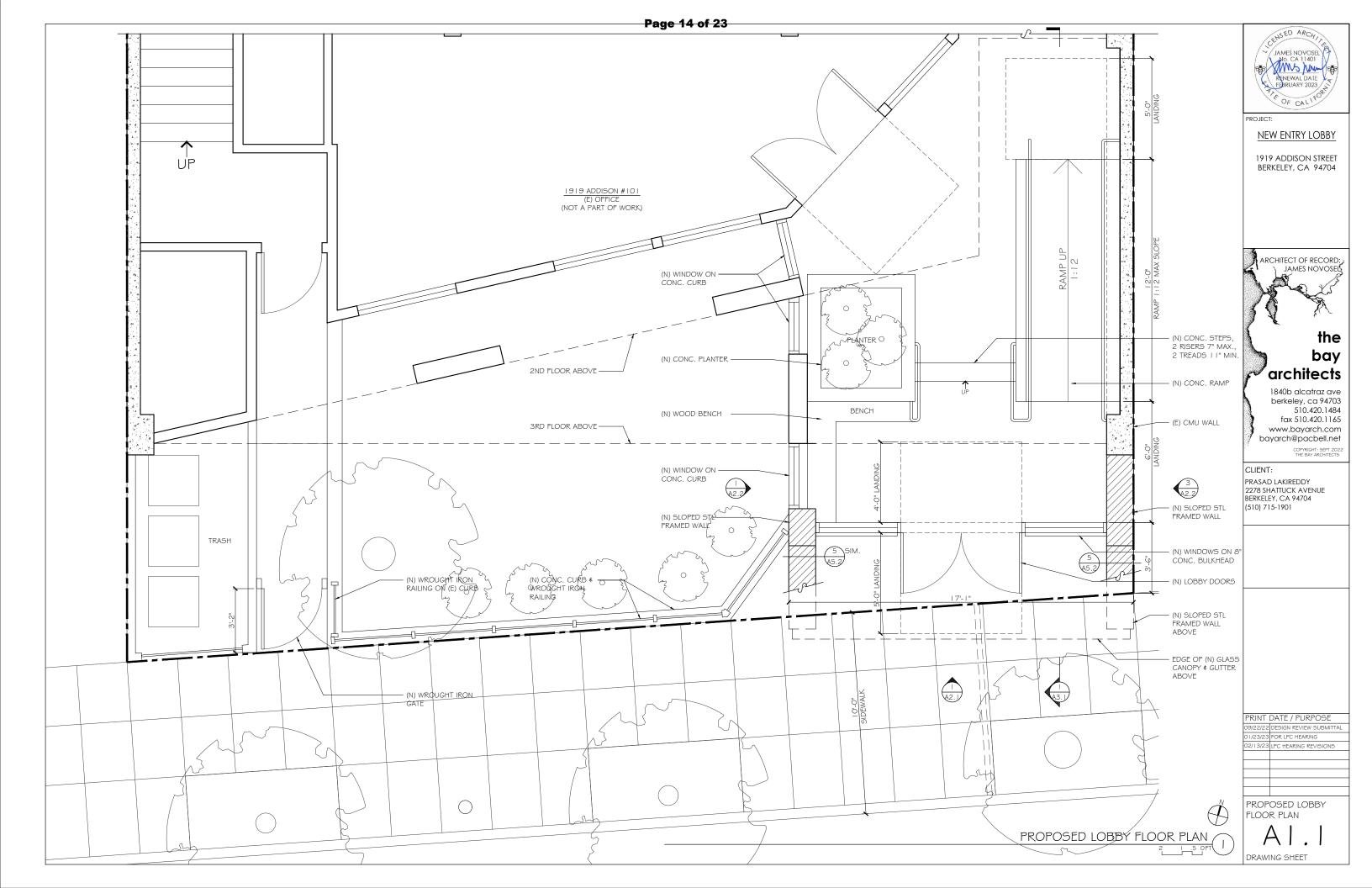
- 6. The proposed façade upgrades are approved as shown on the drawings dated "received February 13, 2023" subject to the following conditions.
- 7. No changes can be made to these approved plans without prior approval.
- **8. CITY PERMITS**. This Structural Alteration Permit (SAP) approval is contingent upon approval of the requisite Use Permit and Public Work Permit for the project scope.

- **9. PLANS COMPLIANCE.** Construction and building permit plans shall substantially conform to the Structural Alteration Permit (SAP) project plans dated/received February 13, 2023.
- 10. REPAIR AND REPLACEMENT OF CHARACTER-DEFINING FEATURES. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
- **11.** Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
- **12. COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.
- **13. TILE** Decorative tile detailing is approved only on the bulkhead at the lobby entrance and palette may only contain two colors.
- **14. FENCE** The fence at the landscaped area shall match the existing railings in configuration, material, and color.
- **15. CLEAR GLASS.** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Landmarks staff.
- **16. DETAILS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit storefront, ramp, stairs, interior seating and planting area, glass awning, tile, retaining wall, handrail wall details for review and approval by the Landmarks plan checker.
- **17. LIGHTING.** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. Exterior lighting, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.
- 18. LANDSCAPE PLANS. Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit a Landscape plan including the number, location, and species of all proposed plantings, and which existing plantings shall be removed. The applicant shall provide irrigation for all landscaped areas or provide drought tolerant plant palette. This shall be called out on Landscape building permit drawings.
- **19. CURB CUTS.** All curbs and curb cuts shall be constructed per the standards and specifications of the Public Works Department. Curb cuts no longer utilized shall be restored per the Public Works Department specifications.

- **20.** The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.
- **21.** The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.
- **22.** All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.
- 23. 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.







DRAWING SHEET

DRAWING SHEET

PROPOSED WEST ELEVATION,











NEW ENTRY LOBBY

1919 ADDISON STREET BERKELEY, CA 94704

ARCHITECT OF RECORD: the bay **architects** 1840b alcatraz ave berkeley, ca 94703 510.420.1484 fax 510.420.1165 www.bayarch.com bayarch@pacbell.net

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CLIENT:

PRASAD LAKIREDDY 2278 SHATTUCK AVENUE BERKELEY, CA 94704 (510) 715-1901

PRINT DATE / PURPOSE

RENDERINGS

DRAWING SHEET

VIEW FROM EAST



PROJECT:

NEW ENTRY LOBBY

1919 ADDISON STREET BERKELEY, CA 94704



CLIENT:

PRASAD LAKIREDDY 2278 SHATTUCK AVENUE BERKELEY, CA 94704 (510) 715-1901

PRINT DATE / PURPOSE
09/22/22 DESIGN REVIEW SUBMITTA

02/13/23 LPC HEARING REVISIONS

COLORS & MATERIALS ELEVATION

A2.4

DRAWING SHEET

COLOR # MATERIALS FRONT ELEVATION

PROP LINE

SECTION

A3.1
DRAWING SHEET

SECTION THRU (N) LOBBY - LOOKING WEST

