



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  
AUGUST 10, 2023

## 2147 San Pablo Avenue

Use Permit #ZP2022-0113 to demolish a one-story automotive commercial building and construct a new 58,000 square foot six-story (70 feet) mixed-use building with approximately 1,873 square feet of commercial area and 128 Group Living Accommodation (GLA) units (12 Very Low-Income units), and 23 ground-floor parking spaces, utilizing State Density Bonus.

### I. Background

#### A. Land Use Designations:

- General Plan: General Plan: AC – Avenue Commercial
- Zoning: C-W – West Berkeley Commercial District

#### B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070 to demolish a non-residential main building
- Use Permit pursuant to BMC Section 23.204.020(A) for Group Living Accommodations
- Use Permit pursuant to BMC Section 23.204.030(A) to construct 5,000 square feet or more of new floor area
- Use Permit pursuant to BMC Section 23.204.140(B)(2) to construct a mixed-use residential development that is more than 9,000 square feet
- Use permit pursuant to BMC 23.304.030(C)(2) to reduce setbacks adjacent to a residential district
- Administrative Use Permit under BMC Section 23.304.050(A), to construct rooftop projections which exceed the maximum height limit

#### C. Concessions and Waivers and Pursuant to State Density Bonus Law (CA Gov't. Code Section 65915)

- Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum 50-foot and 4-stories building height limit and permit a 70-foot, 6-story building

- Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum floor area ratio (FAR) from 3.0 to 4.0

**D. CEQA Recommendation:** It is staff's recommendation to the Zoning Adjustments Board (ZAB) that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, Section 15000, et seq.) pursuant to Section 15332 ("Class 32 Infill Exemption") of the CEQA Guidelines. The determination is made by the ZAB.

**E. Parties Involved:**

- Applicant Austin Springer, Architect, Studio KDA, 1810 6<sup>th</sup> Street  
Berkeley, CA 94710
- Property Owner 2147 San Pablo LLC, 2417 Mariner Square Loop 247  
Alameda, CA 94501

Figure 1: Zoning Map

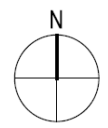
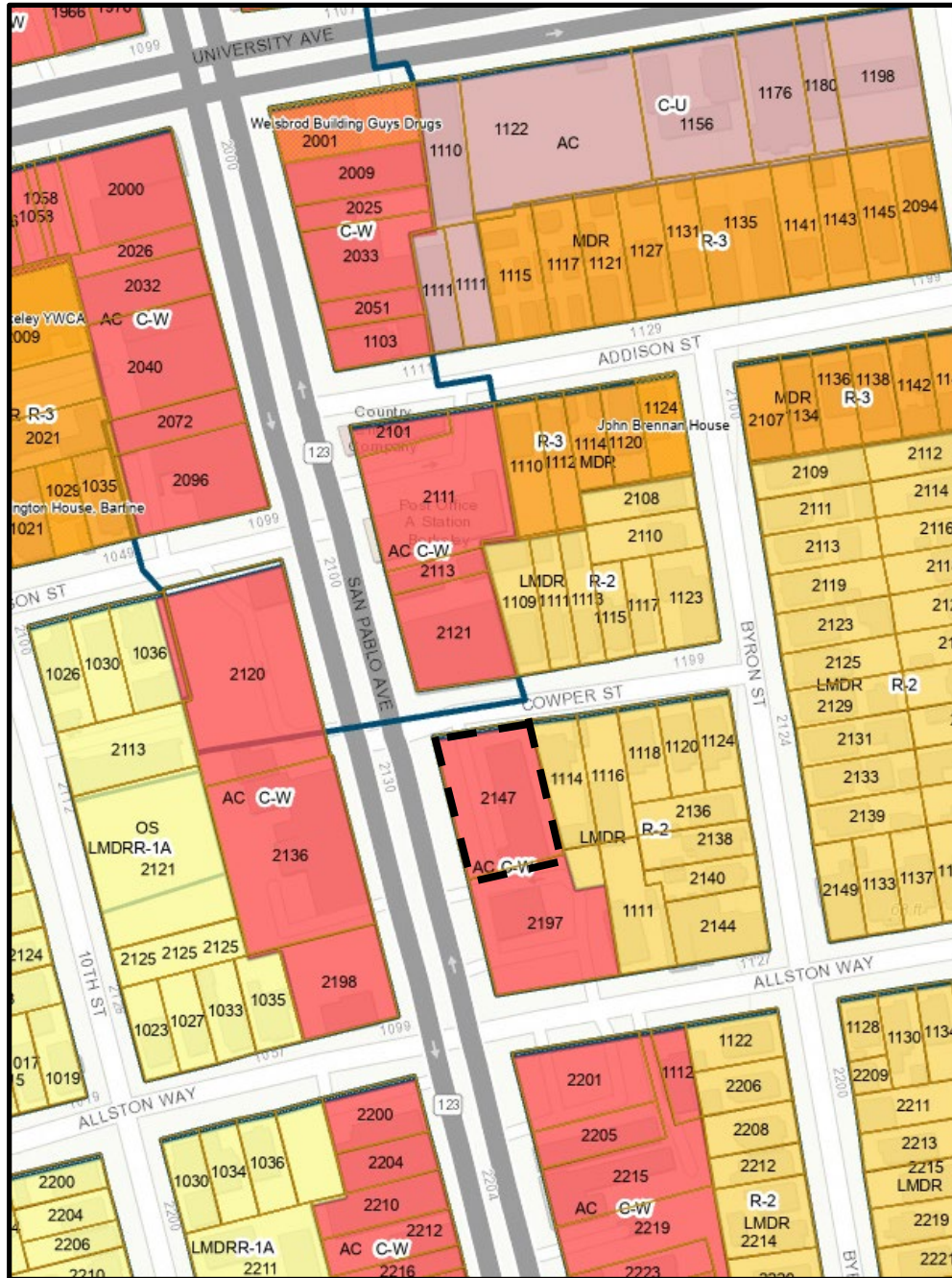


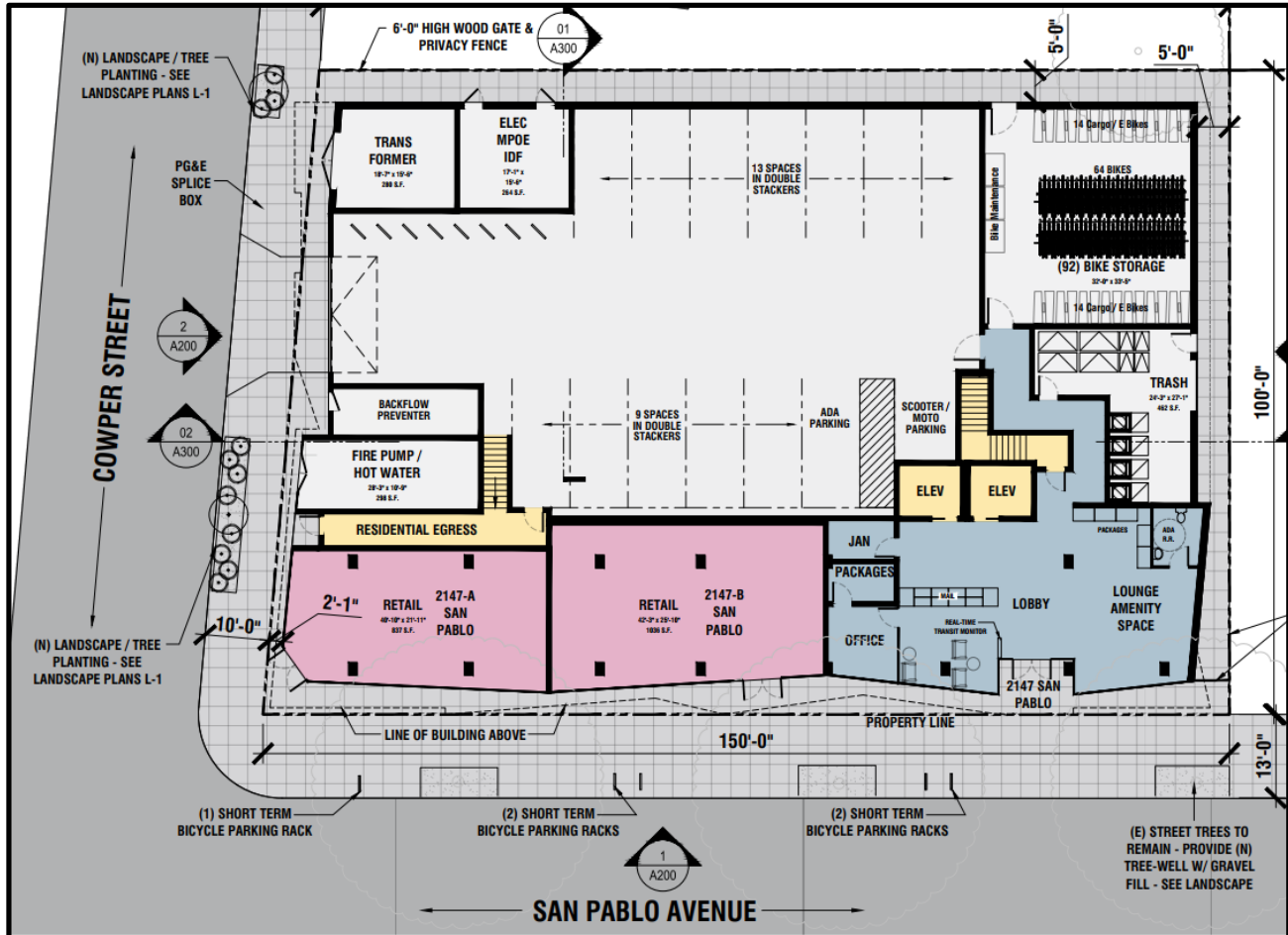
Figure 2: Vicinity Map



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22-13491 Project Location Maps  
Fig X Vicinity Map - San Pablo Ave

Figure 3: Proposed Site Plan/Ground Floor Plan



**Figure 4: Project Rendering (SE Corner of San Pablo Avenue and Cowper Street)**



**Figure 5: Project Rendering (San Pablo Avenue)**



**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Automotive Repair	C-W	Avenue Commercial (AC)
Surrounding Properties	North	Food Service Establishment (Gaumenkitzal)	C-W	Avenue Commercial (AC)
	South	Food Service Establishment (Jack in the Box)		
	East	Multi-family Residential	R-2	Low Medium Density Residential (LMDR)
	West	Vacant one-story commercial building	C-W	Avenue Commercial (AC)

**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	The proposed net new non-residential floor area is less than 7,500 square feet and therefore this project is not subject to these resolutions.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		

Affordable / Inclusionary Housing Requirements (BMC 23.328)		The project is a housing development project, as defined in BMC 23.328.020 <sup>1</sup> , and would provide at least 20 percent of residential units, pay an in-lieu fee based on the residential unit floor area of the project, or a combination. The project would provide 12 Below Market Rate (BMR) units (Very Low-Income (VLI) rate) and would be required to pay an in-lieu fee to satisfy the remainder of the requirement.
Alcohol Sales/Service	No	The applicant is not proposing alcohol sales or service with this permit.
Creeks	No	The site is not near a mapped creek or a creek culvert.
Density Bonus	Yes	The project qualifies for a 42.5 percent density bonus under State Density Bonus law (See III.B discussion below).
Historic Resources	No	The subject property is not designated as a Landmark by the City and was previously surveyed individually as part of this application for historical significance under local, state, or federal historic significance criteria. See Section IV.C for additional discussion on the Landmarks review of this property.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The proposed project is a mixed-use building that meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) <sup>2</sup> . The base project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies. See Section VI.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The proposed project is mixed-use building that meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) <sup>3</sup> . See Section VI.A of this report for additional discussion on the sections of SB 330 that apply to the project.

<sup>1</sup> BMC 23.328.020(E) defines a "Housing Development Project" for purposes of inclusionary housing requirements as "a development project, including a Mixed-Use Residential project involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership or control shall be considered as a sole Housing Development Project and not as individual projects.

<sup>2</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.

<sup>3</sup> See footnote 1

Natural Gas Prohibition (Per BMC 12.80.020)	Yes	This application is for new construction and was submitted after January 1, 2020, and is therefore subject to the Natural Gas Prohibition.
Oak Trees	No	There are no oak trees on the project site.
Percent for Art (BMC Chapter 23.316)	No	Pursuant to BMC 23.316.020, the City's Public Art on Private Projects ordinance applies to new multifamily residential projects of five or more dwelling units. The project includes GLA units which are not considered dwelling units pursuant to the BMC 23.502 (Definitions). Therefore, this project is not subject to this requirement.
Rent Controlled Units	No	The project would involve the demolition of non-residential structures; no rent-controlled units would be demolished.
Residential Preferred Parking (RPP)	No	The site is ineligible and not located in an RPP zone. Newly constructed dwellings would not be eligible to participate in the RPP program.
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, fault rupture, or landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is located within the City's Environmental Management Area. The Phase I environmental site assessment (ESA) submitted by the applicant indicated that the Vapor Phase Migration search did not identify on-site concerns and/or regulated findings from nearby sites which suggest vapor-phase migration concern currently exists at the project site. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is located on the southeast corner of San Pablo Avenue and Cowper Street, is served by multiple AC Transit bus lines (local, rapid and all-nighter) that operate along San Pablo Avenue and University Avenue (including Transbay route FS) and is approximately eight blocks from the Amtrak Berkeley Station and approximately 1 mile northeast from the North Berkley BART Station. In addition, nearby Allston Way and Ninth Street are signed bike routes.

**Table 3: Project Chronology**

Date	Action
March 21, 2022	SB 330 complete preliminary housing development project application submitted
September 13, 2022	Application submitted
October 13, 2022	Application deemed incomplete
December 8, 2022	Resubmittal
January 3, 2023	Application deemed complete
April 20, 2023	Design Review Committee hearing
April 24, 2023	Updated plans received
May 25, 2023	Public hearing notices mailed/posted
May 31, 2023	Updated plans received (with DRC comments)
June 8, 2023	ZAB hearing – continued to date certain, August 10, 2023
July 25, 2023	SB 330 complete preliminary housing development project application submitted; supersedes previous preliminary application
August 10, 2023	ZAB hearing

**Table 4: Development Standards**

West Berkeley Commercial (C-W) Standards- BMC Sections 23.204.140(E), 23.322.030		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		14,571	No change	N/A
Gross Floor Area (sq. ft.)		4,928	58,333	43,713
Floor Area Ratio		.34	4.0	3.0
Dwelling Units	Total	0	128 GLA	N/A
	Affordable	0	12 GLA	N/A
Building Height	Maximum (ft.)	20'	70'	50' for mixed-use projects
	Stories	1	6	for mixed-use projects
Building Setbacks <sup>1</sup> (ft.)	Front (Cowper St.)	N/A	2' min.	20'
	Rear	N/A	3'	10'
	Left Side	N/A	5'	5'
	Right Side (San Pablo Ave.)	N/A	3' min.	10'
Lot Coverage (%)		34	88	100
Usable Open Space (sq. ft.) per Dwelling Unit		0	5,229	No minimum for GLA's
Automobile Parking		16	23 unbundled spaces	N/A
Bicycle Parking	Commercial (1,873 sq. ft.)	N/A	1	1 (1 space/2,000 sq. ft.)
	Residential (long-term)	N/A	100	51 (1 space/2.5 GLA Units)
	Residential (short-term)	N/A	9	6 (1 space/20 GLA Units)
	Total	N/A	110	58
= Waiver, pursuant to State Density Bonus Law, requested to modify the district standard. <sup>1</sup> Setbacks per BMC 23.304.030(C)(2), Non-Residential Districts, Lots Adjacent to Residential Districts				

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located on the southeast corner of San Pablo Avenue and Cowper Street. The surrounding area consists of a mix of both commercial and residential uses ranging from one-story commercial buildings, four-story mixed-use buildings, and single and multi-family residences. Directly south of the project site is Jack in the Box fast food restaurant and to the north is Gaumenkitzel take out and full-service restaurant. The North Berkeley BART station

located along Sacramento Street between Delaware Street and Virginia Street is located to the northeast within walking distance from the project site (0.9 miles). In addition, bus service is available via AC Transit routes 802, 72R, G and FS at stops along San Pablo Avenue and University Avenue.

- B. Site Conditions:** The project site is located on the east side of the 2100 block of San Pablo Avenue. The rectangular lot is approximately 14,500-square feet, relatively flat, and developed with auto service/repair use. A surface parking lot is located at the west of the site adjacent to San Pablo Avenue. There are two driveways located on San Pablo Avenue and Cowper Street, respectively, with access to the parking lot.

### III. Project Description

- A. Proposed Project:** The project would demolish the existing one-story auto repair building, surface level parking lot, and the curb cuts along San Pablo Avenue and Cowper Street, and construct a new mixed-use building with the following primary components:

- 128 GLA units, including 12 Very-Low Income affordable units;
- Commercial space, 1,873 square feet in area, for one to two retail tenants on the ground floor at the northwest corner of the property with access from San Pablo Avenue (Note: tenants have not yet been selected for these spaces);
- A bicycle storage room for approximately 92 bicycles on the ground floor towards the rear of the site. A total of 10 off-site short-term bicycle racks would be located along San Pablo Avenue;
- A residential lobby with recessed entry located at the southwest corner of the property, with access from San Pablo Avenue;
- Residential amenities on the ground floor including community lounge room, property mail room, access to the bike storage area, and 23 unbundled parking spaces within the ground floor parking garage accessed off Cowper Street;
- A second-floor podium landscaped courtyard;
- Floors two through six would provide laundry rooms, common rooms with outdoor balconies, cooking and dining spaces, and a sky bridge connecting the building above the podium level courtyard;
- Private balconies on select units at the sixth floor along the interior side yard;
- New replacement street trees would be planted along Cowper Street; and
- Useable open space totaling 5,229 square feet consisting mostly of a ground floor courtyard situated towards the rear half and center of the site.

- B. Base Project and Density Bonus:** The applicant has requested a density bonus under the State Density Bonus Law. Under the City's density bonus procedures, the

“base project”<sup>4</sup> is 92 units and four stories. The Density Bonus calculations are provided in more detail, below and in Table 5.

**Table 5: Density Bonus**

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
92 GLA	12 VLI (13% of base project)	42.5%	40 GLA (42.5%x92)	132 GLA (36 GLA taken)

\*Pursuant to Gov't Code 65915(q), all unit calculations are rounded up to the nearest whole number.

By providing 12 Very Low Income (VLI) BMR units on site (13 percent of the 92-unit base density), the project is eligible for a 42.5 percent density bonus, or 40 additional GLA units. Therefore, the applicant proposes 36 additional units (40 density bonus units allowed) above the base density for a total of 128 GLA units.

- A. The project is eligible for two concessions but is not utilizing any.
- B. To accommodate the additional units, the project would use two waivers/modifications:
  1. to exceed the maximum 50-foot and 4-stories building height limit and permit a 70-foot, 6-story building; and
  2. to exceed the maximum floor area ratio (FAR) from 3.0 to 4.0; and

#### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City, the applicant installed yellow *Proposed Development Project* signs at the project site and invited interested neighborhood organizations, as well as owners and occupants within 300 feet of the project site, to an on-site neighborhood outreach meeting on May 27, 2022. An additional on-site voluntary neighborhood meeting was held on March 30, 2023. At both meetings approximately 8-14 members of the public attended and were able to express concerns and ask questions about the size of the project and construction timing. Many of the comments received at the outreach meetings included concerns about parking and traffic concerns on Cowper Street, entrance to the proposed parking garage, vacant storefronts and keeping the streetscape activated, types of residents (transient, not families), heights and shading, design details, and management of the property and how GLA residents would be part of the community.

<sup>4</sup> Pursuant to the City’s Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, Section 65915(f).

On May 25, 2023, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and posted notices within the neighborhood in three locations. At the time of this report, staff has not received public communications regarding the project.

**B. Design Review Committee:** The project was presented to the Design Review Committee (DRC) on April 20, 2023. The project received a favorable recommendation to the ZAB, with the following direction for Final Design Review (FDR) [MOTION: (Mitchell, Tam); VOTE (6-0-0-1) Kahn recused himself]

#### **Conditions**

- Develop planting areas at the street level to reinforce tree theme above and add interest for the pedestrian.
- Reconsider final details and colors of “tree trunks” and balcony slab; balcony floor appears to heavy; railing design is critical to overall aesthetic.
- Better integrate the corner design with the center of the façade on San Pablo; provide more organization overall.
- Provide a stronger cornice.

#### **Recommendations**

- Refine the color palette and integrate throughout the building.
- East and South elevations need further development, and more detail.
- Consider more variety with window patterns.
- Provide more interest in the color palette, including on the back and sides.
- Recommend more dramatic recesses on the San Pablo façade.
- Recommend taller plants in the stormwater planter.

For consideration by the ZAB, the DRC also recommended that the applicant include more retail square footage and that the ZAB review the unit layout for livability issues.

**C. Landmarks Preservation Commission (LPC):** The existing commercial building was constructed in 1983. The associated SB 330 complete preliminary housing development application was submitted on March 21, 2022. Therefore, the project would not demolish an existing commercial building that is over 40 years in age and the proposed demolition was not referred to the LPC for review prior to the consideration of the Use Permit.

## **V. Environmental Review**

### **A. CEQA Determination**

It is staff’s recommendation that the project qualifies for a Class 32 categorically exemption pursuant to Section 15332 of the CEQA Guidelines (“Infill Development Projects”). The determination is made by ZAB. Specifically:

- The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- The project site is within city limits on a project site of fewer than five acres that is substantially surrounded by urban uses.
- The project site has no value as habitat for endangered, rare or threatened species.
- Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- The site can be adequately served by all required utilities and public services.

Additionally, none of the exceptions to eligibility for a categorical exemption as listed in Section 15300.2 of the CEQA Guidelines applies. The cumulative impact of successive projects of the same type in the same place, over time would not be significant; there are no “unusual circumstances” at the project site that would result in significant environmental effects; the project site is not in view of a state scenic highway; the site is not included on a list compiled pursuant to Section 65962.5 of the Government Code; and the project would not result in a substantial adverse change in the significance of a historical resource.

## VI. 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; mixed use consisting of residential and nonresidential uses in which at least two-thirds of the square-footage is designated residential, and transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

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

The project application was deemed complete on January 3, 2023. There have been two public hearings since it was deemed complete – the April 20, 2023 Design Review Committee meeting and the June 8, 2023 ZAB hearing where the project was continued to a date certain. The August 10, 2023 ZAB hearing is the third

public hearing. The City can hold up to two additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

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

As discussed above the existing commercial building is less than 40 years old and was not required to obtain a demolition referral at a Landmark Preservation Commission Agenda meeting. Therefore, it was determined that the site did not require a Historic Resource Evaluation. 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 Section 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 CEQA. The project was deemed complete on January 3, 2023, and staff recommends that the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines (Class 32 "Infill Development Project"). Should ZAB determine the application is categorically exempt from CEQA at the August 10, 2023, public hearing, the application must be approved or disapproved by October 9, 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<sup>5</sup> on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The project is a "housing development project" consisting of a mixed-use building with at least two-thirds of the floor area in residential use. The Base Project, including the

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<sup>5</sup> A "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete".

extension of height to 50 feet and four stories, allowed by use permits<sup>6</sup>, complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduce the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, Section 65589.5(j) *does apply* to the Proposed Project. All findings discussed below are subject to the requirements of Government Code Section 65589.5.

As described in Table 4 above, the project complies with the applicable general plan and zoning standards. While the project may include other Use Permits or Administrative Use Permits to modify standards not associated with the base project, there are no objective criteria in the findings. The ZAB still has the discretion to approve, deny or modify the request according to the zoning findings, provided the action does not reduce the project density or effectively deny the project by making it infeasible, unless the ZAB is also able to make the required findings for denial set forth under Section 65589.5(j), above.

Staff is not aware of specific adverse impacts that could occur with the construction of the of the project.

**C. Demolition of Non-residential Buildings:** BMC Section 23.326.070(D) allows the ZAB to approve a Use Permit for demolition of an existing commercial structure only if the demolition would not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and makes one of the following findings that the demolition of the structure: (1) is required to allow a proposed new building or other proposed new use; (2) will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses; (3) will remove a structure which represents an un-abatable attractive nuisance to the public; or (4) is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

The most recent use of the existing building was an automotive glass repair building. The demolition of this building is proposed to allow the development of a new mixed-use residential building that includes 1,873 square feet of commercial area on the

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<sup>6</sup> The City has determined that the “protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits”. Therefore, the use permits to allow height to 50 feet and 4 stories are included in the Base Project for the purpose of determining the applicability of Section 65589.5(j).

ground floor to be used as two retail tenant spaces. The project site is currently underutilized, and the proposed new mixed-use building would provide existing and new residents in the area with additional access to housing and commercial services even with the demolition of the structures. The demolition of the commercial building and proposed construction of ground floor commercial area within the new mixed-use building would conform to the adjacent uses permitted in the C-W District along San Pablo Avenue.

Because the demolition of the non-residential structure is required in order to authorize construction of the proposed new building and new use, staff believes the ZAB can make Finding #1 to approve the proposed demolition. The proposed project includes a mixed-use building which would provide new dwelling units and commercial space in this District, and thus would be compatible with adjacent and nearby commercial and residential uses.

- D. New Floor Area-Construction of New Main Buildings:** BMC Section 23.204.030(A)(3) allows the ZAB to approve a Use Permit for new floor area in the C-W district only if the new structure provides an intensity of development which does not underutilize the property.

The project would replace an underutilized auto repair building with 128 GLA units (12 units affordable to Very Low-Income households) and 1,873 square feet of ground floor commercial space. The increase in the number of housing units would meet the City's need for additional housing and Regional Housing Needs Assessment target. The project would also provide housing in proximity to regional transit, bicycle facilities, retail, and services, therefore reducing vehicle miles traveled, air quality and greenhouse gas emission impacts. The proposed project would provide an intensification of development and would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.

- E. Density Bonus Concessions and Waivers:** The project is entitled to two concessions (or incentives) under Government Code Section 65915(d), and an unlimited number of waivers under Section 65915(e).

1. Concessions. A concession is a modification of a development standard that reduces the cost of providing affordable housing. The applicant is requesting one concession for the project: 1) request an exemption from the Public Art Allocation requirement.

The City may only deny the concession if it finds that the concession would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the concession

would be contrary to State or Federal law. Staff believes such a finding cannot be made<sup>7</sup>.

2. Waivers. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. The applicant is requesting two waivers from the following development standards: 1) exceed the maximum 50-foot and 4-stories building height limit and permit a 70-foot, 6-story building; and 2) exceed the maximum floor area ratio (FAR) from 3.0 to 4.0. The waivers are requested because, according to the applicant, they are necessary to physically accommodate the additional 36 units as allowed under the density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the waiver would be contrary to State or Federal law. Staff believes such a finding cannot be made.<sup>8</sup>

## VII. Other Considerations

The following analyses of conformance with the 2002 General Plan goals and policies are provided for informational purposes only, to provide context, because the proposed project is HAA-compliant.

- A. Findings for Use Permits in the C-W District:** Use Permits to exceed the height limit of 50 feet/4-stories, and for the rooftop elements to exceed the district height limits are included in the Base Project for the density bonus and are subject to the findings in Section 65589.5(j) of the HAA. (See section IV.B for discussion on the HAA.) Pursuant to BMC Section 23.204.140(F), in order to approve any Use Permit in the C-W district, the Board must make the findings that the proposed use or structure is:

1. Is consistent with the purposes of the district: The Project is a higher-density development in proximity to regional transit, shops and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the West Berkeley Commercial District (C-W) and is designated Avenue Commercial in the City's General Plan. It would

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<sup>7</sup> See Footnote 4.

<sup>8</sup> See Footnote 4.

create 128 new GLA units. 12 of the units would be deed restricted as very-low-income affordable housing units.

The proposal also includes 1,873 square feet of commercial space and a total of 110 secure bicycle parking spaces (short-term and long-term) on the ground floor within an enclosed storage room and off-site bicycle parking racks. The project site is well served by public transportation, including local, rapid and Transbay bus service and a BART station approximately 0.9 miles to the northeast. The surrounding commercial district includes retail sales, restaurants, personal services, single-family, and multi-family residential uses; the project would complement these commercial and residential uses and add population to support these uses.

2. Is compatible with the surrounding uses and buildings: As required by BMC Section 23.204.030(A)(3), construction of more than 5,000 square feet of new gross floor area states that the ZAB must find that the new use or structure provides an intensity of development which does not underutilize the property. The proposed project would provide opportunities for new commercial uses and housing that would contribute and be compatible to the surrounding area.

The project site currently includes an automotive repair building. The proposed project would change uses on the site to ground-floor commercial and residential uses above, providing an underutilized site with a new desirable use that activates the San Pablo Avenue Street frontage. The project would not introduce new land uses that do not already exist in the area. As noted above in Section IV. B the DRC forwarded a positive recommendation for the project design.

3. Complies with the adopted West Berkeley Plan: The project would be consistent with the West Berkeley Plan because, as discussed in the paragraphs above, the development would be of the scale and design that is appropriate for its surroundings and the proposed development would be compatible with the mix of uses in the area. The project would result in substantial investment on an underdeveloped project site, resulting in the creation of 128 GLA units and 1,873 square feet of commercial space, thereby contributing to the economic vitality of West Berkeley.
4. Supports an increase in the continuity of retail and service facilities at the ground level to the degree feasible: The project includes 1,873 square feet of ground floor commercial space and would enhance and strengthen the continuity of retail and service facilities at the ground floor. The replacement of the previous automotive repair use with new ground floor commercial would be an improvement to the site and area it serves.
5. Does not substantially degrade the existing urban fabric of the street and area: The project would replace an underutilized auto repair building with 128 GLA

units (12 units affordable to Very Low-Income households) and 1,873 square feet of ground floor commercial space. The proposed project would provide an intensification of development fully utilizing the property and would not be materially detrimental to the existing urban fabric of the street and public interest of the affected neighborhood and the City.

6. If the project includes the construction of new floor area, provides an intensity of development which does not underutilize the property: The project would result in substantial investment on an underdeveloped project site, resulting in the creation of 128 GLA units and 1,873 square feet of commercial space. The proposed project would provide an intensification of development fully utilizing the property and would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.
7. Meets any applicable performance standards for off-site impacts: The project would meet applicable performance standards for off-site impacts with adherence to the Conditions of Approval. Additionally, the proposed use would not create substantial dust, glare, noise, odor, vibration, hazardous materials, or other potential off-site environmental impacts because it would be required to comply with performance standards applicable in West Berkeley.
8. Does not exceed the amount and intensity of use that can be served by the available traffic capacity and potential parking supply: Pursuant to BMC Section 23.334 the project is required to comply with the City Transportation Demand Management (TDM) requirements. These requirements include real time transportation information monitors, transit passes to residents of the building, unbundled parking, and bicycle parking. Implementation of these measures would promote and incentivize alternative means of transportation and would create less of a burden on the traffic capacity and potential parking supply. Additionally, the North Berkeley BART station is located on Sacramento Street, approximately 0.9 miles northeast of the project site. Bus services provided by AC Transit services are also available at the BART Station.

**B. General Non-Detriment Finding:** BMC Section 23.406.040 states that before the ZAB approves an application for a Use Permit, it must find that 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.

Shadows: According to the shadow studies submitted for the project (See Attachment 2, Project Plans – Sheets G20-G22), new shadows would affect dwellings in the existing single and multi-family buildings directly east of the site, casting new shadows

in the winter and summer months in the few hours before sunset and casting new shadows in the winter months on the properties directly north of the project site (retail and other personal service commercial uses) in the few hours after sunrise and mid-day.

Shadow impact on adjacent dwellings are to be expected, because the subject site is located in the C-W district, which allows heights of up to 40 feet by right and 50 feet for mixed-use projects. A waiver is allowed for height beyond 50 feet to accommodate the density bonus units (see Section VI.D for a discussion of waivers), for a proposed building of 70 feet and six stories. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. Staff believes that shadow impacts from the project would be reasonable and not detrimental.

Non-Detriment: 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 would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City. These standard conditions would ensure that the project would satisfy this finding.

- C. Roof-Top Projections:** BMC Section 23.304.050(A) requires an Administrative Use Permit for roof-top projections, such as mechanical penthouses, elevator equipment rooms or stair towers, that would exceed the maximum height limit. Such projections are limited to no more than 15 percent of the average floor area of all of the building's floors and cannot be used as habitable space or for commercial purposes. The project would include a staircase/elevator penthouse totaling 443 square feet that would extend approximately 5 feet over 70-foot roof height. The penthouses represent 15 percent of the 9,722-square-foot average of all the floor areas. The projection is, therefore, permissible.
- D. General Plan Consistency:** The following is an analysis of conformance with the 2002 General Plan goals and policies, provided for informational purposes only:
1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
  2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

3. Policy LU-27-Avenue Commercial Areas: Encourage that pedestrian-friendly, visually attractive areas of pedestrian scale and ensure that Avenue areas fully serve neighborhood needs as well as a broader spectrum of needs.
4. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City’s share of regional housing needs.
5. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.
7. Policy T-16 – Access by Proximity, Action B: Encourage higher density housing and commercial infill development that is consistent with General Plan and zoning standards in areas adjacent to existing public transportation services.
8. Policy T-43 – Bicycle Network, Action C: Encourage, and when appropriate, require new multi-family residential developments to provide secure locker and storage space for resident bicycles.
9. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

As discussed in sections VII.A through VII.C, the project would improve the utilization of the site with development that is of appropriate intensity, that is compatible with the existing surrounding development, and that would further improve the neighborhood character and quality of life by increasing existing street-level activity and bringing in new residents and new business patrons along a major commercial and transit corridor. The project site is served by multiple bus lines, including local, rapid, and Transbay lines, that operate along San Pablo and University avenues, and a nearby BART Station.

10. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
11. 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.)

The project would help Berkeley meet its regional housing needs by adding 128 net new GLA units, including 12 VLI units. The project would be subject to standard conditions of approval that promote sustainable building design, including conditions for solar PV systems, electric vehicle charging, water efficient landscaping, and natural gas prohibitions.

## VIII. 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 ZP2022-0113, pursuant to BMC Section 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1, Exhibit A).

**Attachments:**

1. Findings and Conditions
2. Project Plans, received May 31, 2023
3. Notice of Public Hearing, posted May 25, 2023
4. Continuance Memo to ZAB, dated June 8, 2023

**Staff Planner:**

Claudia Garcia, Principal Planner, [cgarcia@berkeleyca.gov](mailto:cgarcia@berkeleyca.gov)

# ATTACHMENT 1

## EXHIBIT A

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### FINDINGS AND CONDITIONS

AUGUST 10, 2023

## 2147 San Pablo Avenue

Use Permit #ZP2022-0113 to demolish a one-story automotive commercial building and construct a new 58,000 square foot six-story (70 feet) mixed-use building with approximately 1,873 square feet of commercial area and 128 Group Living Accommodation (GLA) units (12 Very Low-Income units), and 23 ground-floor parking spaces, utilizing State Density Bonus.

### PERMITS REQUIRED

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- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070 to demolish a non-residential main building
- Use Permit pursuant to BMC Section 23.204.020(A) for Group Living Accommodations
- Use Permit pursuant to BMC Section 23.204.030(A) to construct 5,000 square feet or more of new floor area
- Use Permit pursuant to BMC Section 23.204.140(B)(2) to construct a mixed-use residential development that is more than 9,000 square feet
- Use permit pursuant to BMC 23.304.030(C)(2) to reduce setbacks adjacent to a residential district
- Administrative Use Permit under BMC Section 23.304.050(A), to construct rooftop projections which exceed the maximum height limit

### CONCESSIONS AND WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

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- Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum 50-foot and 4-stories building height limit and permit a 70-foot, 6-story building.
- Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum floor area ratio (FAR) from 3.0 to 4.0.

### I. CEQA FINDINGS

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- A.** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332-Class 32 of the CEQA Guidelines (“Infill Development Projects”).

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

1. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
2. The project occurs within the Berkeley City limits on a project site of no more than five acres and is surrounded by urban uses.

3. The project site has previously been developed and has no value as habitat for endangered, rare or threatened species.
  4. The project will not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions will address potential impacts related to traffic, noise, air quality, and water quality.
  5. The site can be adequately served by all required utilities and public services.
- B.** 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 significant cumulative impacts, (c) there are no significant effects due to unusual circumstances, (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 will not affect an historical resource.

## **II. HOUSING ACCOUNTABILITY ACT FINDINGS**

- A.** The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that: (A) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; 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.
- B.** Because the project complies with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, policies, or conditions, have been identified.

## **III. DENSITY BONUS FINDINGS**

- A.** Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
1. Under the City's methodology for implementing density bonuses, the "base project" consists of 92 GLA units;
  2. The project will provide at least 12 Very Low-Income (VLI) qualifying units in the 92-unit "base project", as more fully set forth in Condition of Approval #34;
  3. The project is entitled to a density increase of 42.5 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus two concessions or incentives. This equates to a density bonus of 36 units (40 density bonus units allowed) above the Base Project, for a total of 128 GLA units.
- B.** In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession

would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) would not be contrary to State or Federal law.

- C.** In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers in order to provide for affordable housing costs:
1. Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum 50-foot and 4-stories building height limit and permit a 70-foot, 6-story building; and
  2. Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum floor area ratio (FAR) from 3.0 to 4.0.

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

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

#### **IV. FINDINGS FOR APPROVAL**

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- A.** Pursuant BMC 23.406.040, ZAB finds that the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.
1. The project site currently includes an automotive repair building. The proposed project will change uses on the site to ground-floor commercial and residential uses above, providing an underutilized site with a new desirable use that activates the San Pablo Avenue Street frontage. The project will not introduce new land uses that do not already exist in the area.
  2. The Project is a higher-density development in proximity to regional transit, shops and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the West Berkeley Commercial District (C-W) and is designated Avenue Commercial in the City's General Plan. It will create 128 new GLA units. Twelve of the units will be deed restricted as affordable housing units to very-low-income residents.
  3. The proposal also includes 1,873 square feet of commercial space and a total of 110

secure bicycle parking spaces (short-term and long-term) on the ground floor within an enclosed storage room and off-site bicycle parking racks. The project site is well served by public transportation, including a BART station approximately 0.9 miles to the northeast. The surrounding commercial district includes retail sales, restaurants, personal services, single-family, and multi-family residential uses; the project will complement these commercial and residential uses and add population to support these uses.

4. The project will be subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, which will ensure that the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

## **V. OTHER FINDINGS FOR APPROVAL**

**A.** As required by Section 23.204.140(F) of the BMC, the Zoning Adjustments Board finds that the proposed use or structure:

1. Is consistent with the purposes of the district: The Project is a higher-density development in proximity to regional transit, shops and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the West Berkeley Commercial District (C-W) and is designated Avenue Commercial in the City's General Plan. It will create 128 new GLA units. Twelve of the units will be deed restricted as very-low-income affordable housing units.

The proposal also includes 1,873 square feet of commercial space and a total of 110 secure bicycle parking spaces (short-term and long-term) on the ground floor within an enclosed storage room and off-site bicycle parking racks. The project site is well served by public transportation, including a BART station approximately 0.9 miles to the northeast. The surrounding commercial district includes retail sales, restaurants, personal services, single-family, and multi-family residential uses; the project will complement these commercial and residential uses and add population to support these uses.

2. Is compatible with the surrounding uses and buildings: As required by BMC Section 23.204.030(A)(3), construction of more than 5,000 square feet of new gross floor area states that the ZAB must find that the new use or structure provides an intensity of development which does not underutilize the property. The proposed project will provide opportunities for new commercial uses and housing that will contribute and be compatible to the surrounding area.

The project site currently includes an automotive repair building. The proposed project will change uses on the site to ground-floor commercial and residential uses above, providing an underutilized site with a new desirable use that activates the San Pablo Avenue Street frontage. The project will not introduce new land uses that do not already exist in the area.

The project will be subject to final design review.

3. Complies with the adopted West Berkeley Plan: The project will be consistent with the West Berkeley Plan because, as discussed in the paragraphs above, the development will be of the scale and design that is appropriate for its surroundings and the proposed development will be compatible with the mix of uses in the area. The project will result in substantial investment on an underdeveloped project site, resulting in the creation of 128 GLA units and 1,873 square feet of commercial space, thereby contributing to the economic vitality of West Berkeley.
4. Supports an increase in the continuity of retail and service facilities at the ground level to the degree feasible: The project includes 1,873 square feet of ground floor commercial space and will enhance and strengthen the continuity of retail and service facilities at the ground floor. The replacement of the previous automotive repair use with new ground floor commercial will be an improvement to the site and area it serves.
5. Does not substantially degrade the existing urban fabric of the street and area: The project will replace an underutilized auto repair building with 128 GLA units (12 units affordable to Very Low-Income households) and 1,873 square feet of ground floor commercial space. The proposed project will provide an intensification of development fully utilizing the property and will not be materially detrimental to the existing urban fabric of the street and public interest of the affected neighborhood and the City.
6. If the project includes the construction of new floor area, provides an intensity of development which does not underutilize the property: The project will result in substantial investment on an underdeveloped project site, resulting in the creation of 128 GLA units and 1,873 square feet of commercial space. The proposed project will provide an intensification of development fully utilizing the property and will not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.
7. Meets any applicable performance standards for off-site impacts: The project will meet applicable performance standards for off-site impacts with adherence to the Conditions of Approval. Additionally, the proposed use will not create substantial dust, glare, noise, odor, vibration, hazardous materials, or other potential off-site environmental impacts because it will be required to comply with performance standards applicable in West Berkeley.
8. Does not exceed the amount and intensity of use that can be served by the available traffic capacity and potential parking supply: Pursuant to BMC Section 23.334 the project is required to comply with the City Transportation Demand Management (TDM) requirements. These requirements include real time transportation information monitors, transit passes to residents of the building, unbundled parking, and bicycle parking. Implementation of these measures will promote and incentivize alternative means of transportation and will create less of a burden on the traffic capacity and potential parking supply. Additionally, the North Berkeley BART station is located on Sacramento Street, approximately 0.9 miles northeast of the project site. Bus services provided by AC Transit services are also available at the BART Station.

- B.** As required by Section 23.304.030(C)(2)(b) of the BMC, the Zoning Adjustments Board finds that the reduced setbacks adjacent to a residential district allow for fence screening to increase privacy to residential uses and provide a buffer with the commercial use.
- C.** As required by Section 23.326.070(D) of the BMC, the Zoning Adjustments Board finds that the proposed demolition of the existing building at 2147 San Pablo Avenue will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and meets the finding that demolition is required to allow a proposed new building or other proposed new use.
- D.** As required by Section 23.204.030(A)(3) of the BMC, the Zoning Adjustments Board finds that the creation of over 5,000 square feet of new floor area is permissible in the C-W district only if the new structure provides an intensity of development which does not underutilize the property.

The project will replace an underutilized auto repair building with 128 GLA units (12 units affordable to Very Low-Income households) and 1,873 square feet of ground floor commercial space. The increase in the number of housing units will meet the City's need for additional housing and Regional Housing Needs Assessment target. The project will also provide housing in proximity to regional transit, bicycle facilities, retail, and services, therefore reducing vehicle miles traveled, air quality and greenhouse gas emission impacts. The proposed project will provide an intensification of development fully utilizing the property and will not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.

- E.** As required by Section 23.304.050(A) of the BMC, the Zoning Adjustments Board finds that the proposed rooftop equipment, which exceeds the district height limit, does not exceed 15 percent the average floor area of the building's floors. None of the equipment structures are used as habitable or commercial space.
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## **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 Shall be Printed on Plans**

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

### **2. Compliance Required (BMC Section 23.102.050)**

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

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

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

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

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

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

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

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

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

**7. Permit Modifications (BMC Section 23.404.070)**

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

**8. Permit Revocation (BMC Section 23.404.080)**

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

**9. Pay Transparency Acknowledgement (BMC Section 13.104.030)**

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

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

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

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

**11. Posting of Ordinance (BMC Section 13.104.050)**

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

office address, telephone number, and email address of the Labor Commissioner of the State of California.

**12. Conditions of Approval (BMC Section 13.104.060)**

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under BMC Section 23.404.080.

**13. Indemnification Agreement**

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

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23.404.050(H), the Zoning Adjustments Board attaches the following additional conditions to this Permit.

**Prior to Submittal of Any Building Permit:**

**14. Project Liaison.** The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

**Project Liaison** \_\_\_\_\_  
Name Phone #

**15. Final Design Review.** The Project requires approval of a Final Design Review application by the Design Review Committee.

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

Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing condition study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall:

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

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

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

- 19. Construction Noise Management - Public Notice Required.** At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison will determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
- 20. Construction Phases.** The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
- 21. 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.
- 22. 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.

**23. 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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24. 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.
25. 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.
26. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.
27. Electric Vehicle (EV) Charging. At least 5 percent of the project parking spaces for residential parking shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations, at least 25 percent shall have installed low power Level 2 EV charging receptacles (20 amp), and at least 20 percent shall be "EV Capable" equipped with raceway, electrical panel service capacity, and an electrical system to support future Level 2 (40 amp) EV charging stations, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Required Level 2 charging stations and low power Level 2 EV charging receptacles shall be installed, maintained, and made available for building resident use. EV charging station installations, EV charging receptacles, and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions.

28. Nonresidential Electric Vehicle (EV) Charging. At least 10 percent of project parking spaces for nonresidential use shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations and/or DC Fast Charging Stations, and least 40 percent shall be “EV Capable” equipped with raceway, electrical panel service capacity, and an electrical system to support future Level 2 (40 amp) EV charging stations, or any more stringent EV charging requirements, as specified by the Berkeley Green Code (BMC Chapter 19.37). EV charging station installations and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions.
29. 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.
30. 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). The building permit plan set submission shall include a cover sheet declaration: ‘Natural Gas-Free Design as required by BMC Chapter 12.80.
31. 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).
32. 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.

### **BELOW MARKET RATE UNITS**

33. Affordable Housing. Project will comply with all applicable provisions of BMC Chapter 23.328, Inclusionary Housing.
34. Number of Below Market Rate Units. The project shall provide 12 (Very Low-Income) below market rate rental dwelling units (“BMR Units”), which are required to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
35. Affordable Housing: Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit should they elect to provide BMR units to avoid or reduce their AHMF

obligation. The Regulatory Agreement shall include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for very low income BMR Units shall be 50 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 50 percent of AMI. The maximum qualifying household income for Low Income BMR units shall be 80 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 80 percent of AMI for Low-Income households, as set forth in the following paragraphs of this condition. If the BMR units are occupied by Very Low-Income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Department of Health, Housing and Community Services (HHCS) via email to [affordablehousing@cityofberkeley.info](mailto:affordablehousing@cityofberkeley.info) for review and approval.

36. Affordable Housing – Density Bonus. If a density bonus was granted for the project, the regulatory agreement shall reflect the number of qualifying units set forth in Section 65915(f)(4) that are needed to support the bonus that was granted.

**Prior to Demolition or Start of Construction:**

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

**During Construction:**

38. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
39. Construction Hours- Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.
40. Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:
- Contact information (i.e. “hotline” phone number, and email address) for the project construction manager

- Calendar and schedule of daily/weekly/monthly construction activities
  - The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
- 41. 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.
- 42. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
  - B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

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

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
  - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
- 43. 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.
- 44. 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.
- 45. 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.

- 46. 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.
- 47. 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 will 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.
- 48. 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.

49. 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.
50. 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.
51. 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 private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- J. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.
- K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the

sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

- L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 52. 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.
- 53. 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.
- 54. 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.
- 55. 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.
- 56. 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.
- 57. 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:**

- 58. 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.
- 59. 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 **May 31, 2023**, except as modified by conditions of approval.
- 60. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management (PTDM) compliance

report documenting that the programmatic measures required in Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in these sections.

- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection.
- B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
  1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
  2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

**At All Times:**

61. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit.
62. Transportation Demand Management Compliance. A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
63. 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.
64. 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.
65. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review Committee approval.

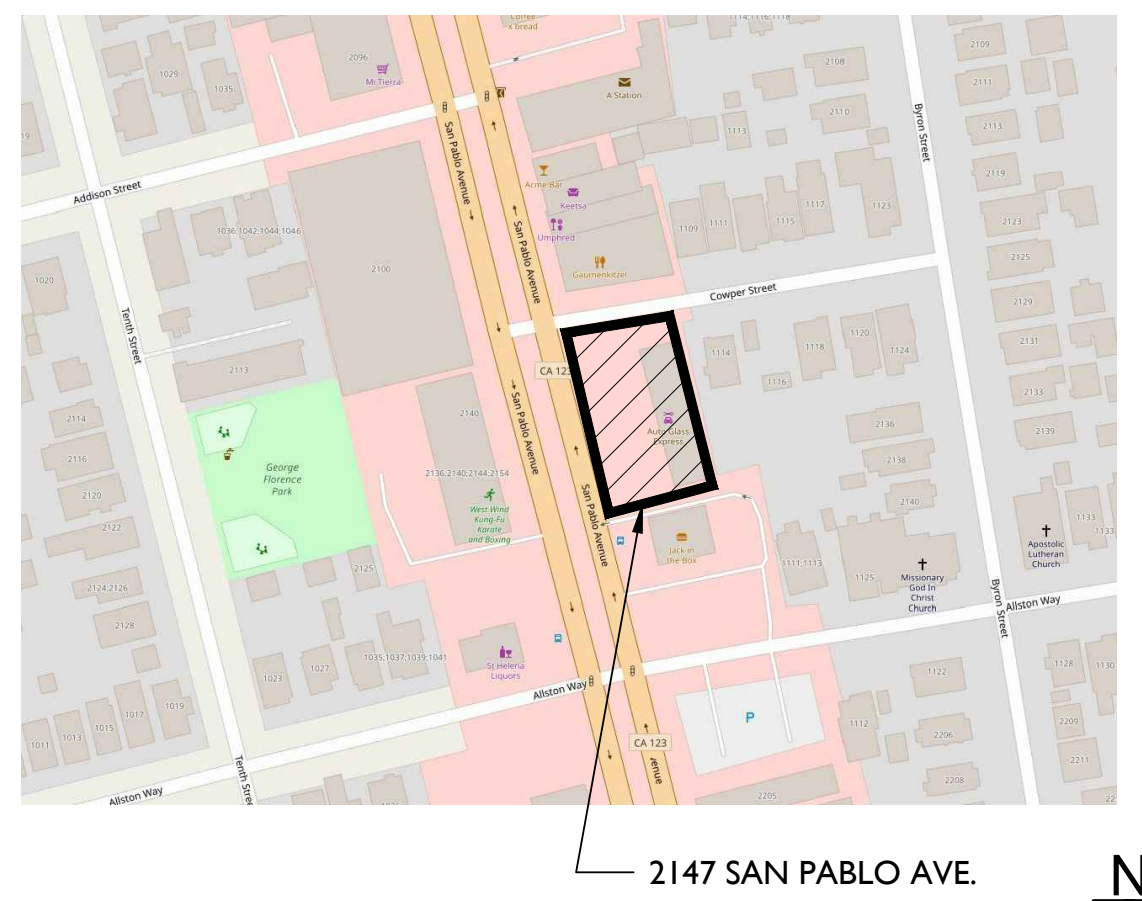
66. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
  67. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
  68. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
  69. 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.
  70. Parking to be Leased or Sold Separately. All residential parking spaces shall be leased or sold separate from the rental or purchase of dwelling units.
  71. Bike Parking. Secure and on-site bike parking for at least 58 bicycles shall be provided for the life of the building.
  72. Electric Vehicle (EV) Charging. Required Level 2 charging stations and low power Level 2 EV charging receptacles, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in good working condition and made available for building resident use.
  73. Nonresidential Electric Vehicle (EV) Charging. Required Level 2 charging stations and DC Fast Charge stations, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in *good working condition and made available for building occupant and/or visitor* use.
  74. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
-



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**2147 SAN PABLO AVENUE**  
**BERKELEY, CALIFORNIA 94702**

# NEW MIXED USE RESIDENTIAL BUILDING 2147 SAN PABLO AVE, BERKELEY, CA 94702

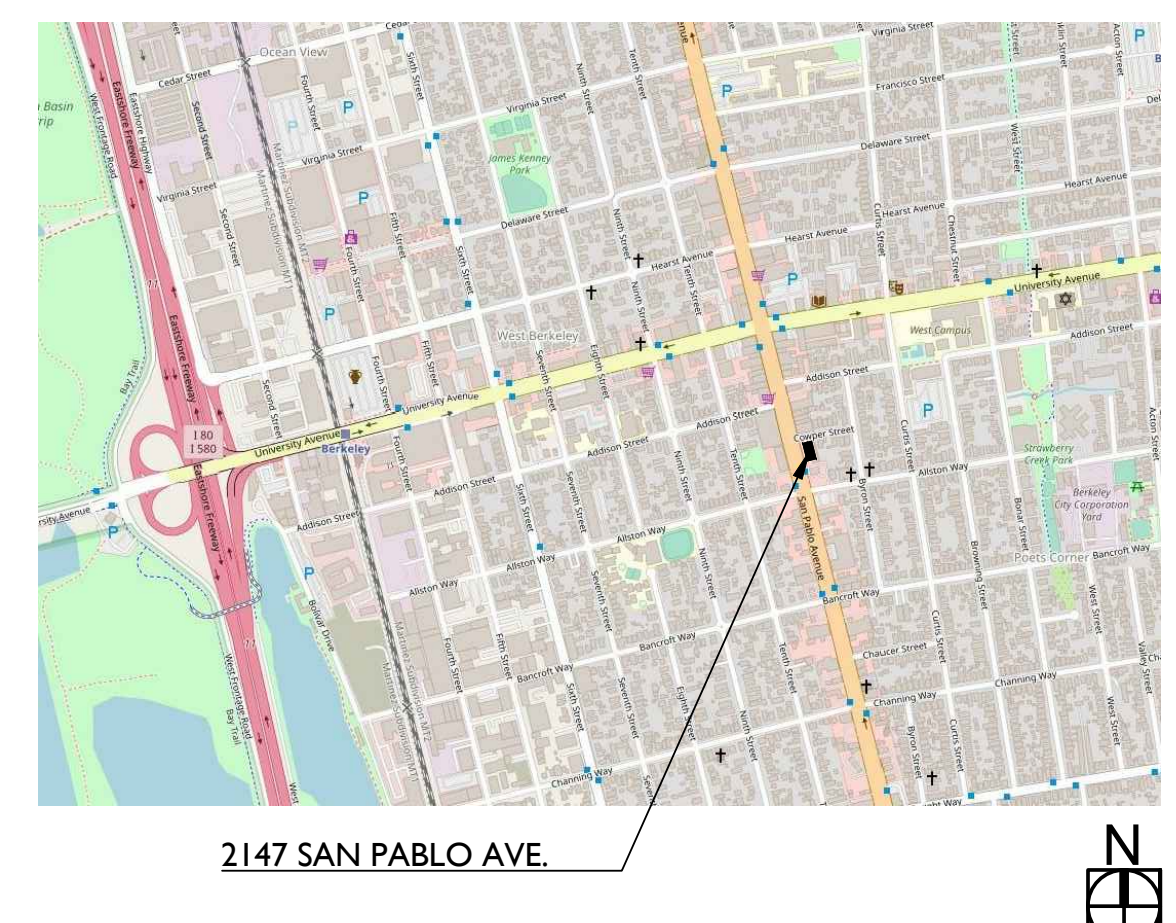


**8** LOCATION MAP  
N.T.S.

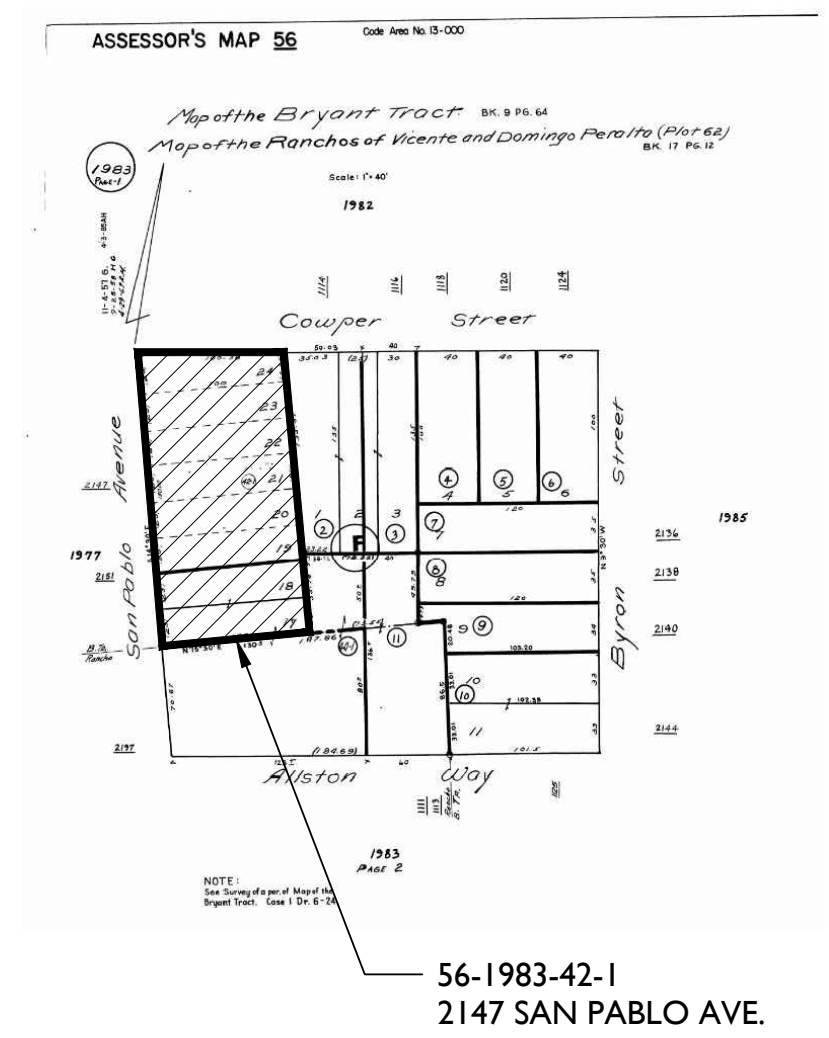
**7** APPLICABLE CODES

**APPLICABLE BUILDING CODE REGULATIONS:**  
2019 CALIFORNIA BUILDING CODE (CBC)  
2019 CALIFORNIA FIRE CODE (CFC)  
2019 CALIFORNIA MECHANICAL CODE (CMC)  
2019 CALIFORNIA ELECTRICAL CODE (CEC)  
2019 CALIFORNIA PLUMBING CODE (CPC)  
2019 CALIFORNIA ENERGY CODE (CBEES)  
2019 CalGREEN

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



**6** VICINITY MAP  
N.T.S.



**5** ASSESSORS PARCEL MAP  
N.T.S.

2147 SAN PABLO AVE IS A PROPOSED MIXED-USE DEVELOPMENT AT THE CORNER OF SAN PABLO AND COWPER STREET IN BERKELEY, CA. THE PROJECT IS A MULTI-STORY WOOD CONSTRUCTION OVER A CONCRETE PODIUM THAT INCLUDES 128 UNITS (GROUP LIVING ACCOMMODATIONS), 1,873 SF OF STREET LEVEL RETAIL, 23 PARKING SPACES, AND INVOKES THE STATE DENSITY BONUS LAW FOR INCREASED UNIT COUNT.

THE PROJECT FEATURES OPEN SPACE FOR THE TENANTS ON THE 2ND FLOOR PODIUM AS WELL AS A COLLECTION OF BALCONIES AND ROOF DECKS. THE PROJECT INCLUDES A SECURED BIKE PARKING ROOM, MANAGER'S OFFICE AND RESIDENT COMMUNITY WORKSHARE SPACE.

A USE PERMIT IS REQUESTED TO DEMOLISH THE EXISTING 4,928 S.F. AUTO-BODY SHOP AND ASSOCIATED PARKING LOT AT 2147 SAN PABLO AVENUE.

AN ADDITIONAL USE PERMIT IS REQUESTED TO BUILD A NEW MIXED-USE RESIDENTIAL BUILDING; COMPRISED OF ~1.87 S.F. OF RETAIL SPACE, 23 PARKING SPACES, & 128 RESIDENTIAL GLA (GROUP LIVING ACCOMMODATION) UNITS IN A 6-STORY, 58,333 S.F. BUILDING

**4** PROJECT DESCRIPTION

Zoning Code Information			
<b>Site Information</b>			
Address: 2147 San Pablo Avenue			
APN: 55-1983-42-1			
Zoning District: C-W			
Overlay/Special District: N/A			
<b>Seismic Safety</b>			
Eearthquake Fault Rupture Zone	No	Landslide Zone	No
Liquefaction Zone	No	Unreinforced Masonry Building Inventory	No
<b>Historic Zone</b>			
Landmark/Structure of Merit	No		
<b>Environmental Safety</b>			
Creek Buffer	No	Fire Zone	1
Flood Zone	No	Environmental Management Area	Yes
<b>Additional Parcel Info</b>			
Redevelopment Area	No	Specific Plan (West Berkeley, SS, Etc...)	No
<b>Building Data Per Planning Code</b>			
	Existing	Proposed	Required/Allowed Notes/Code
<b>Parcel Conditions</b>			
Occupancy Type (Per Planning)	S1,B	M, R2	See BMC 23E.64.030
Lot Area	14,571	14,571	N/A
Building Footprint	4,928	12,264	N/A
Lot Coverage	34%	84%	N/A
Floor Area Ratio	0.34	4.00	3: Waiver for Additional FAR
<b>Areas</b>			
Retail Floor Area	4,928	1,873	N/A
Residential Floor Area	0	56,460	See Density Bonus
Usable Open Space	0	5,229	0: No UOS Required for GLAs
Impervious Surface Area	12,760	14,571	See Civil SWCP
Gross Floor Area	4,928	58,333	43,713: Waiver for Additional FAR
<b>Height</b>			
Building Height - # of Stories	1	6	4: 4th Story allowed with Residential use on top floor
Building Height - Foot	20'	70'	50: 50' Height allowed with Residential use on top floor
<b>Setbacks</b>			
Front Setback	~12'-6"	2'	0'-0"
Side Setbacks	43'-0", 10'-0"	3'-0", 5'-0"	0'-0"
Rear Setback	0'-0"	3'-0"	0'-0"
<b>Parking</b>			
Bike Parking (Short Term)	0	10	(1) Space per 20 GLA Residents & 9 (1) Space per 2,000 s.f. Commercial
Bike Parking (Long Term)	0	100	51 (1) Space per 2.5 GLA Residents
Auto Parking	16	23	Per AB 2097, no parking is required due to 0 proximity to high-quality transit

**2** ZONING/BUILDING CODE INFORMATION

SHEET #	SHEET NAME
<b>GENERAL</b>	
G000	COVER SHEET
G002	STREET CONTEXT PHOTOS
G003	STREET CONTEXT PHOTOS
G011	PERSPECTIVE CONTEXT PHOTO RENDERINGS
G012	PERSPECTIVE CONTEXT PHOTO RENDERINGS
G013	PERSPECTIVE CONTEXT PHOTO RENDERINGS
G020	SHADOW STUDY - DECEMBER 21
G021	SHADOW STUDY - JUNE 21
G022	SHADOW STUDY - SEPTEMBER 9
G030	DENSITY BONUS DIAGRAMS AND STATS
G031	USABLE OPEN SPACE CALCULATIONS
<b>CIVIL DRAWINGS</b>	
C1.0	EXISTING CONDITIONS
C2.0	GRADING AND UTILITY PLAN
SW1.0	STORMWATER CONTROL PLAN
<b>LANDSCAPE DRAWINGS</b>	
L-1	LANDSCAPE PLAN - STREETSCAPE
L-2	LANDSCAPE PLAN - COURTYARD
L-3	LANDSCAPE PLAN - ROOF DECK
L-4	IRRIGATION CALCULATIONS
<b>ARCHITECTURAL DRAWINGS</b>	
A010	SITE PLAN - EXISTING
A012	LOT COVERAGE DIAGRAMS
A100	GROUND FLOOR AND SITE PLAN
A101	SECOND FLOOR PLAN
A102	THIRD THROUGH FIFTH FLOOR PLANS
A103	SIXTH FLOOR PLAN
A200	ELEVATIONS & MATERIALS
A201	ELEVATIONS & MATERIALS
A300	BUILDING SECTIONS

**1** SHEET INDEX

**LANDSCAPE:**  
122 WEST LANDSCAPE ARCH.  
TEL: (510) 525-9517  
CHRISTIAN MACKE  
cmacke@122westdesign.com  
HENRY NARIGON  
henry.narigon.la@gmail.com

**CIVIL/TOPO:**  
BKF ENGINEERING  
1646 N. CALIFORNIA BLVD.,  
SUITE 400  
WALNUT CREEK, CA 94596  
TEL: (925) 940-2200  
MELINDA THOMAS  
melindathomas@bkf.com

**JOINT TRENCH:**  
VIZION UTILITY PARTNERS  
7901 STONERIDGE DRIVE,  
SUITE 200  
PLEASANTON, CA 94588  
TEL: (925) 682-1114 x 224  
KEVIN YUKI ARATA  
karata@vzionutility.com

**ARCHITECT:**  
STUDIO KDA  
1810 6TH ST.  
BERKELEY, CA 94710  
TEL: (510) 841-3555  
FAX: (510) 841-1225  
AUSTIN SPRINGER  
austin@studiokda.com  
BUDDY WILLIAMS  
buddy@studiokda.com  
CHARLES KAHN  
charles@studiokda.com

**3** PROJECT TEAM

**PROJECT ISSUE RECORD:**

NO.	DATE	DESCRIPTION

**CITY PERMIT RECORD:**

DATE	DESCRIPTION
03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL
04/11/2023	DRG HEARING

**PROJECT:**  
KWP06

**TITLE:**  
COVER SHEET

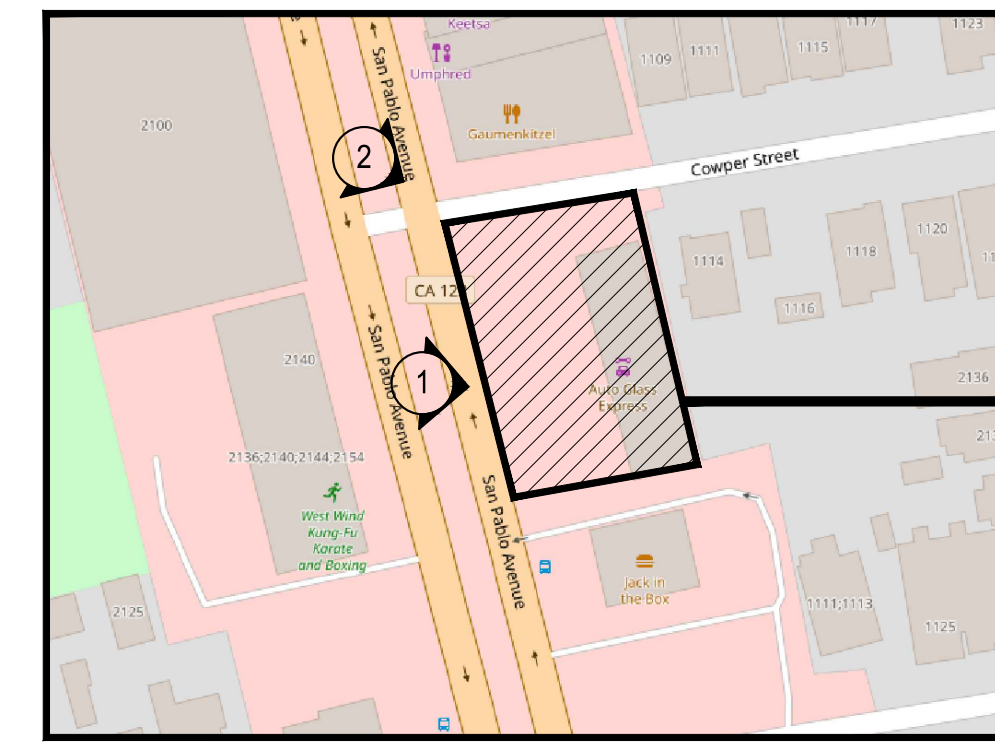
**SHEET:**  
**G000**



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**2147 SAN PABLO AVENUE**

**BERKELEY, CALIFORNIA 94702**



KEY MAP



2 STREET VIEW FROM THE CORNER OF SAN PABLO AVE AND COWPER STREET - EXISTING  
N.T.S.



1 STREET VIEW FROM SAN PABLO AVENUE - EXISTING  
N.T.S.



2 STREET VIEW FROM THE CORNER OF SAN PABLO AVE AND COWPER STREET - PROPOSED  
N.T.S.



1 STREET VIEW FROM SAN PABLO AVENUE - PROPOSED  
N.T.S.

PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

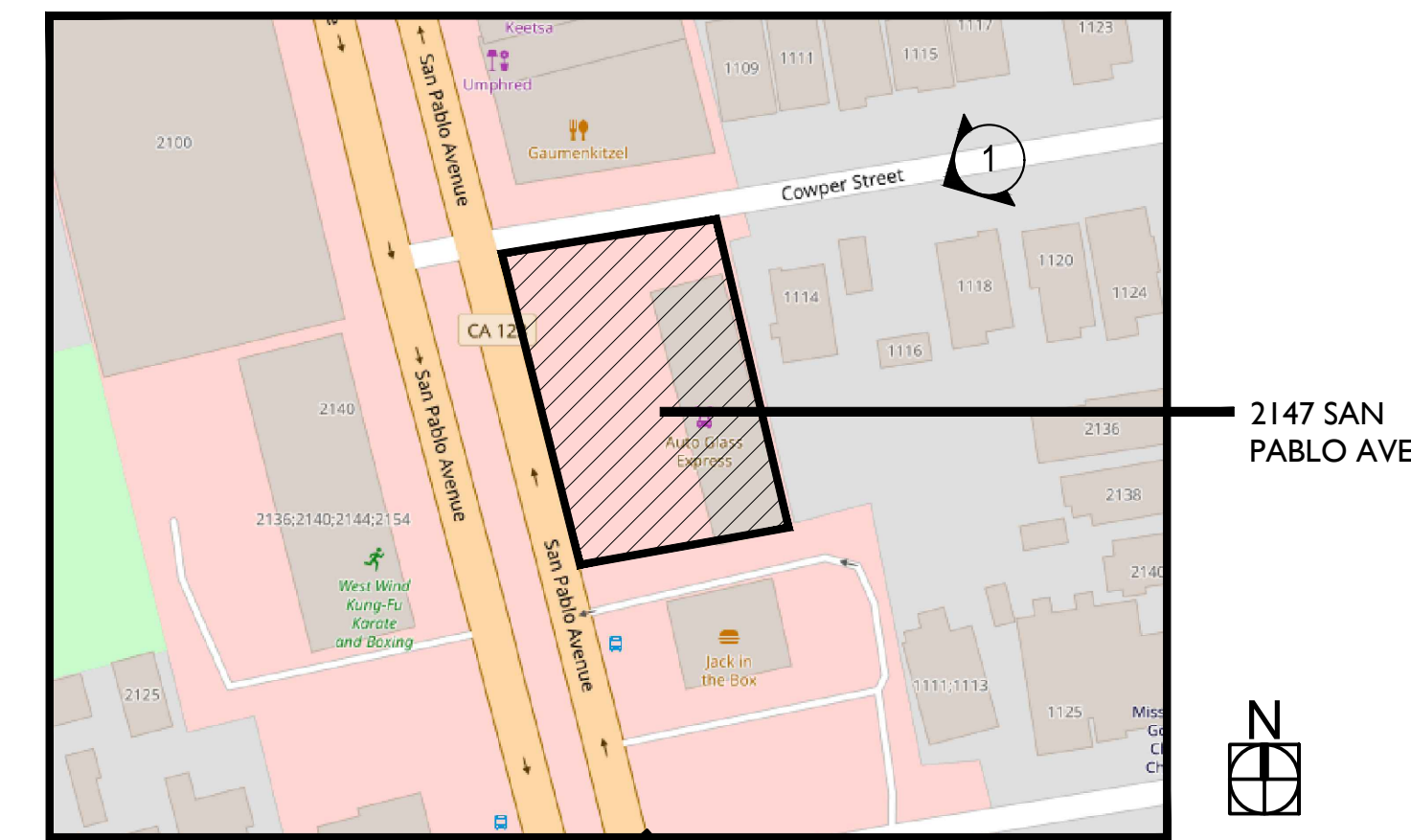
PROJECT:  
KWPP6  
TITLE:  
PERSPECTIVE CONTEXT  
PHOTO-RENDERINGS

SHEET:  
**G011**



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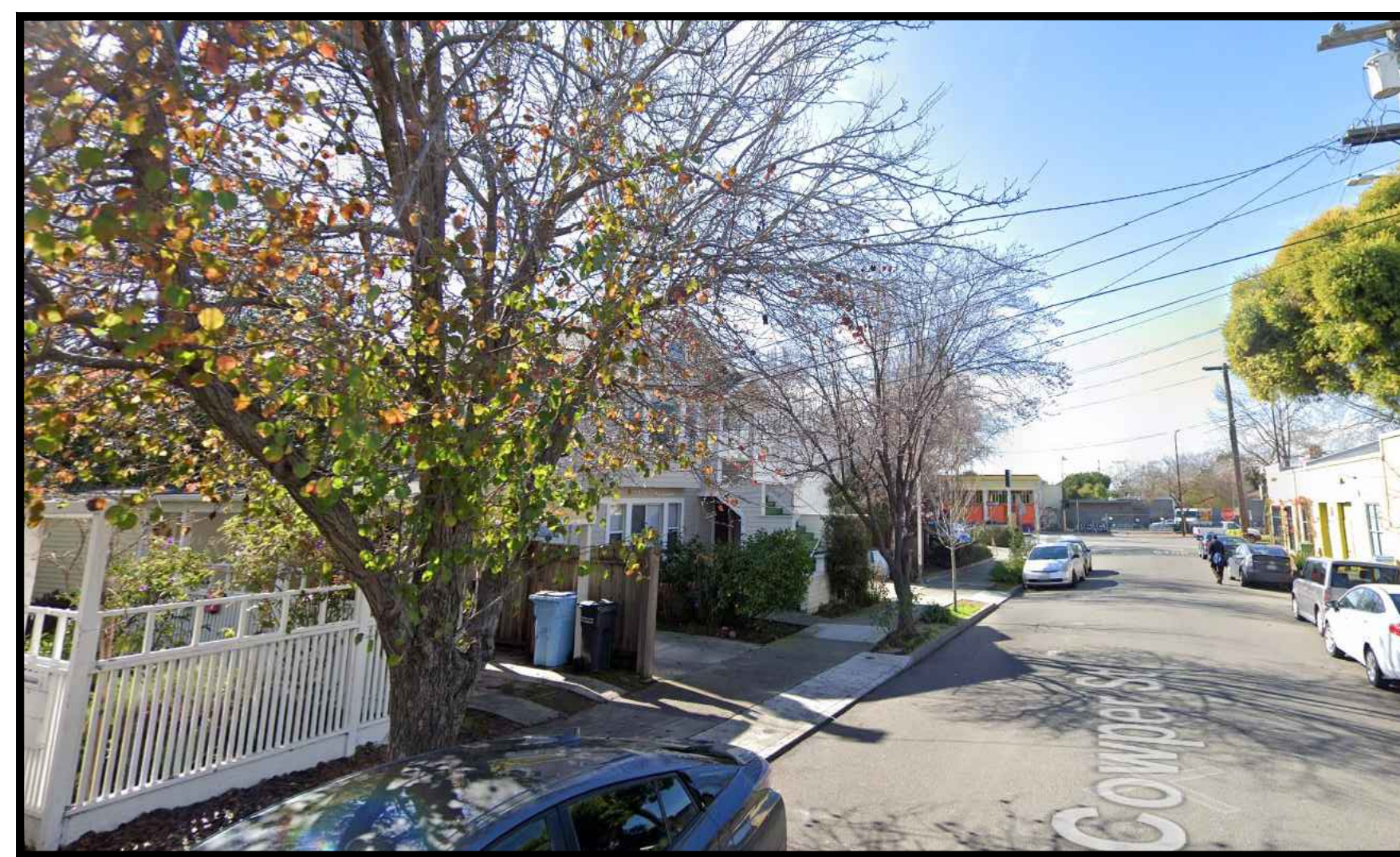
**2147 SAN PABLO AVENUE**  
**BERKELEY, CALIFORNIA 94702**



KEY MAP



2 STREET VIEW FROM THE CORNER OF SAN PABLO AVE AND COWPER STREET - EXISTING  
N.T.S.



1 STREET VIEW FROM SAN PABLO AVENUE - EXISTING  
N.T.S.



2 STREET VIEW FROM THE CORNER OF SAN PABLO AVE AND COWPER STREET - PROPOSED  
N.T.S.



1 STREET VIEW FROM SAN PABLO AVENUE - PROPOSED  
N.T.S.

PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT:

KWPG6

TITLE:

PERSPECTIVE CONTEXT PHOTO-RENDERINGS

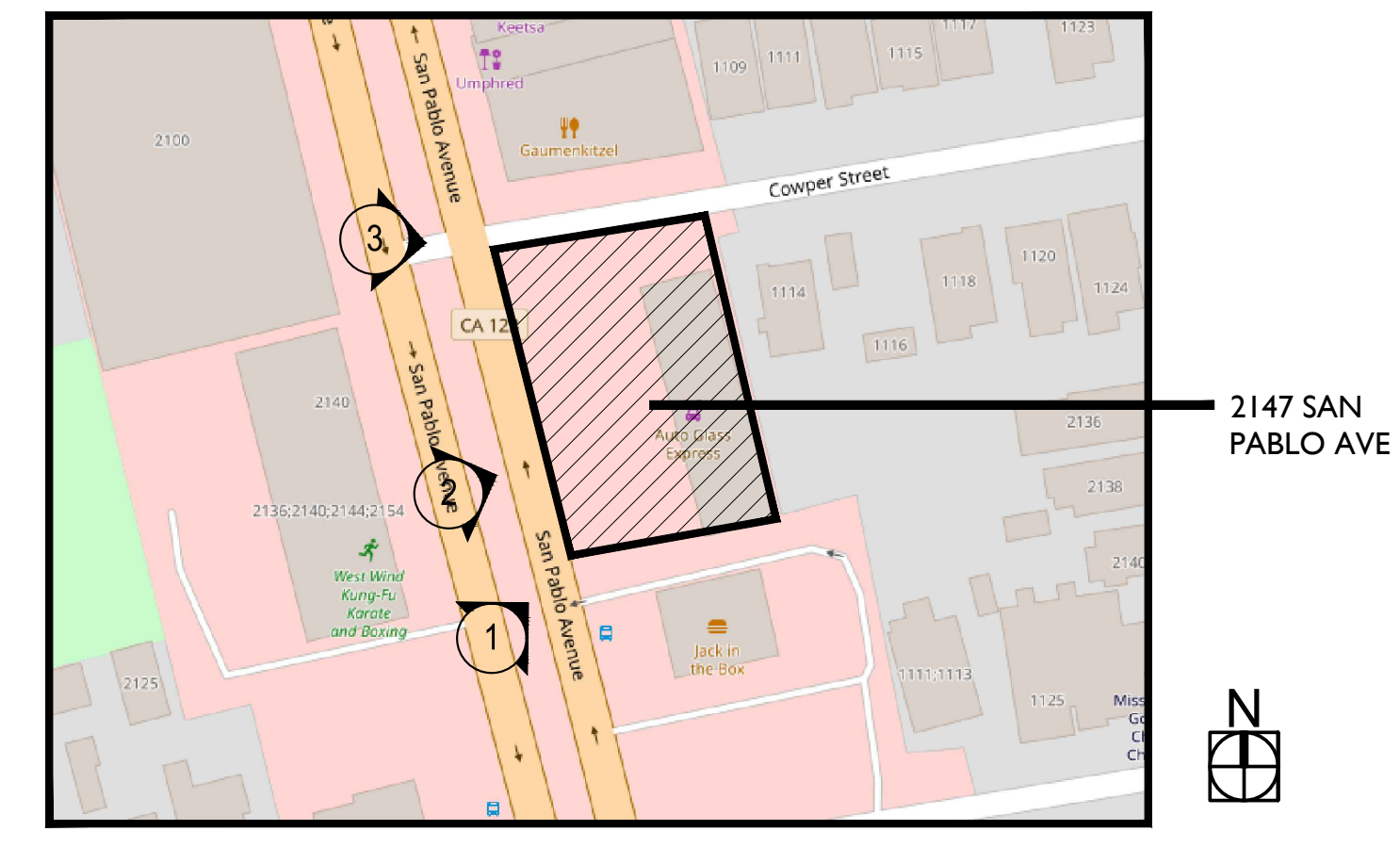
SHEET:

**G012**



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**2147 SAN PABLO AVENUE**  
**BERKELEY, CALIFORNIA 94702**



○ KEY MAP



③ CORNER OF SAN PABLO AVE AND COWPER STREET - EXISTING  
N.T.S.



② STREET VIEW FROM SAN PABLO AVENUE - EXISTING  
N.T.S.



③ CORNER OF SAN PABLO AVE AND COWPER STREET - PROPOSED  
N.T.S.



② STREET VIEW FROM SAN PABLO AVENUE - PROPOSED  
N.T.S.



① STREET VIEW FROM SAN PABLO AVENUE - PROPOSED  
N.T.S.

PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

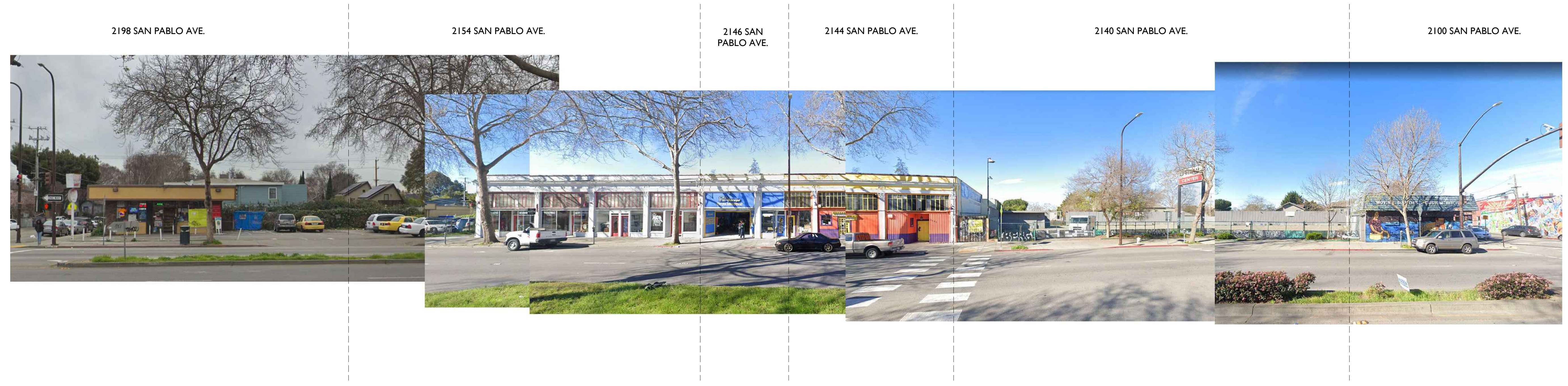
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KW06  
TITLE:  
PERSPECTIVE CONTEXT  
PHOTO-RENDERINGS

SHEET:  
**G013**



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**2147 SAN PABLO AVENUE**  
**BERKELEY, CALIFORNIA 94702**



2 SAN PABLO AVE LOOKING WEST



1 SAN PABLO AVE LOOKING EAST

**PROJECT ISSUE RECORD:**


**CITY PERMIT RECORD:**

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

**PROJECT:**  
KWPO6

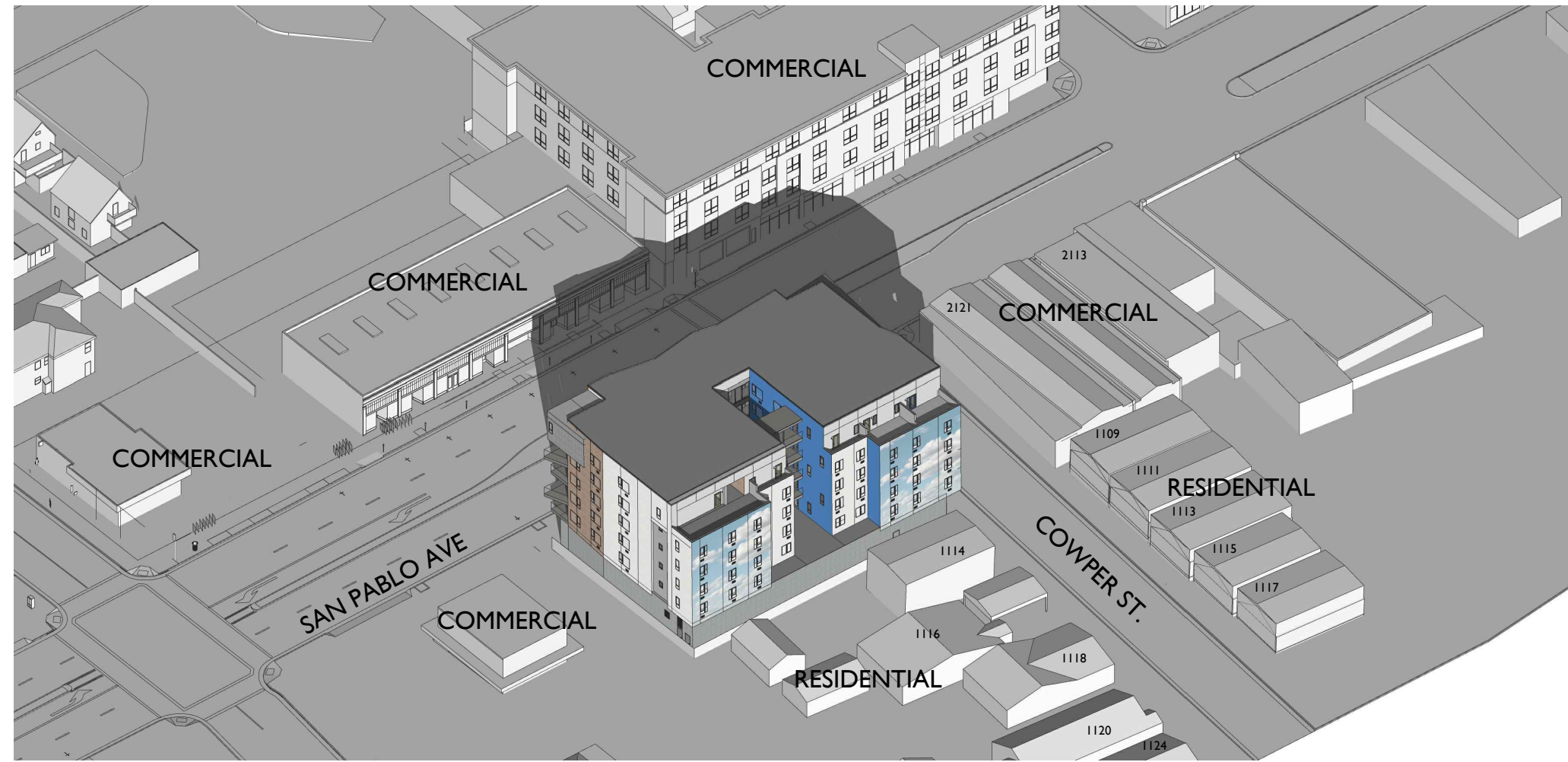
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STREET  
CONTEXT  
PHOTOS

**SHEET:**  
**G002**

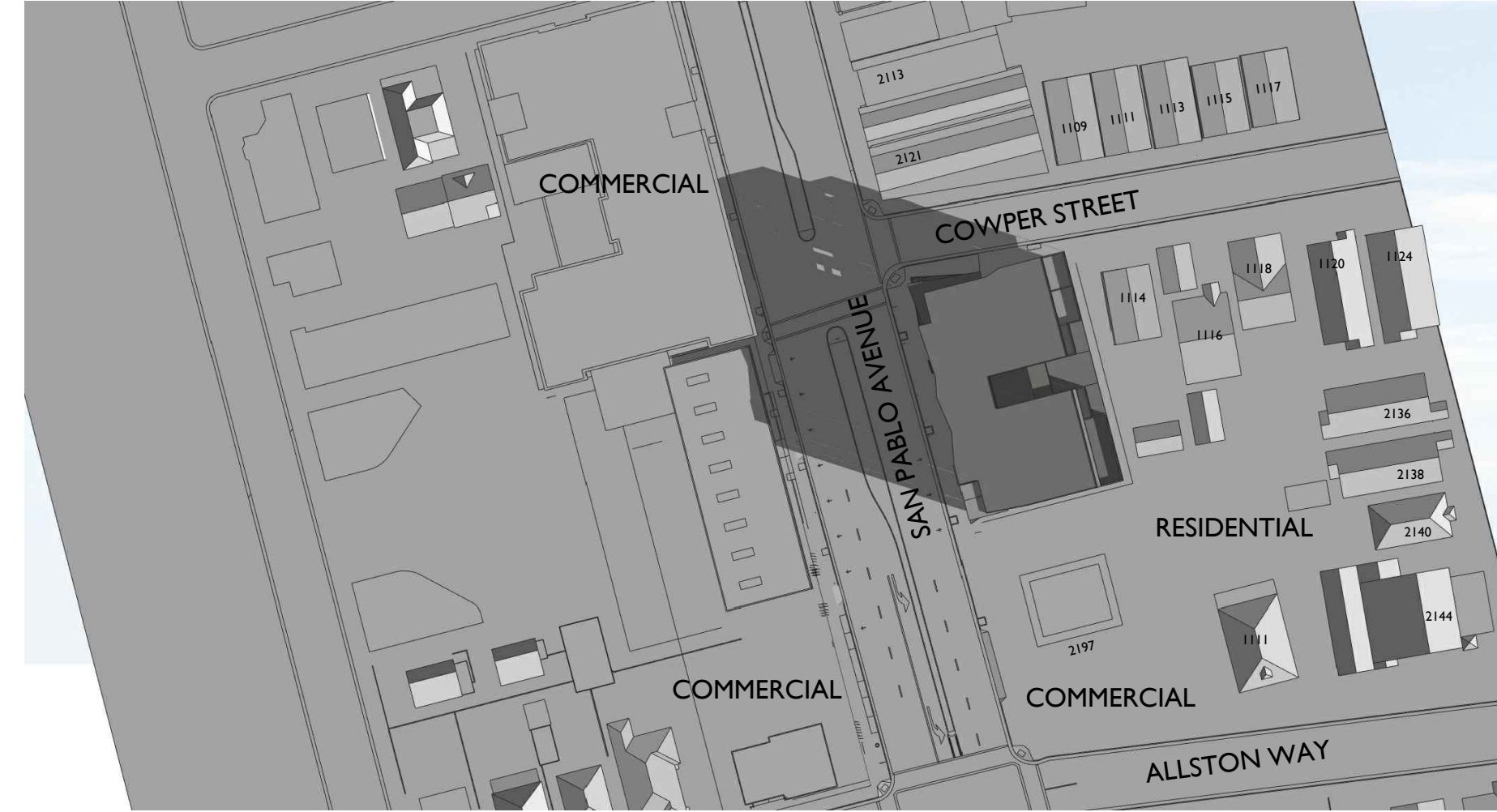




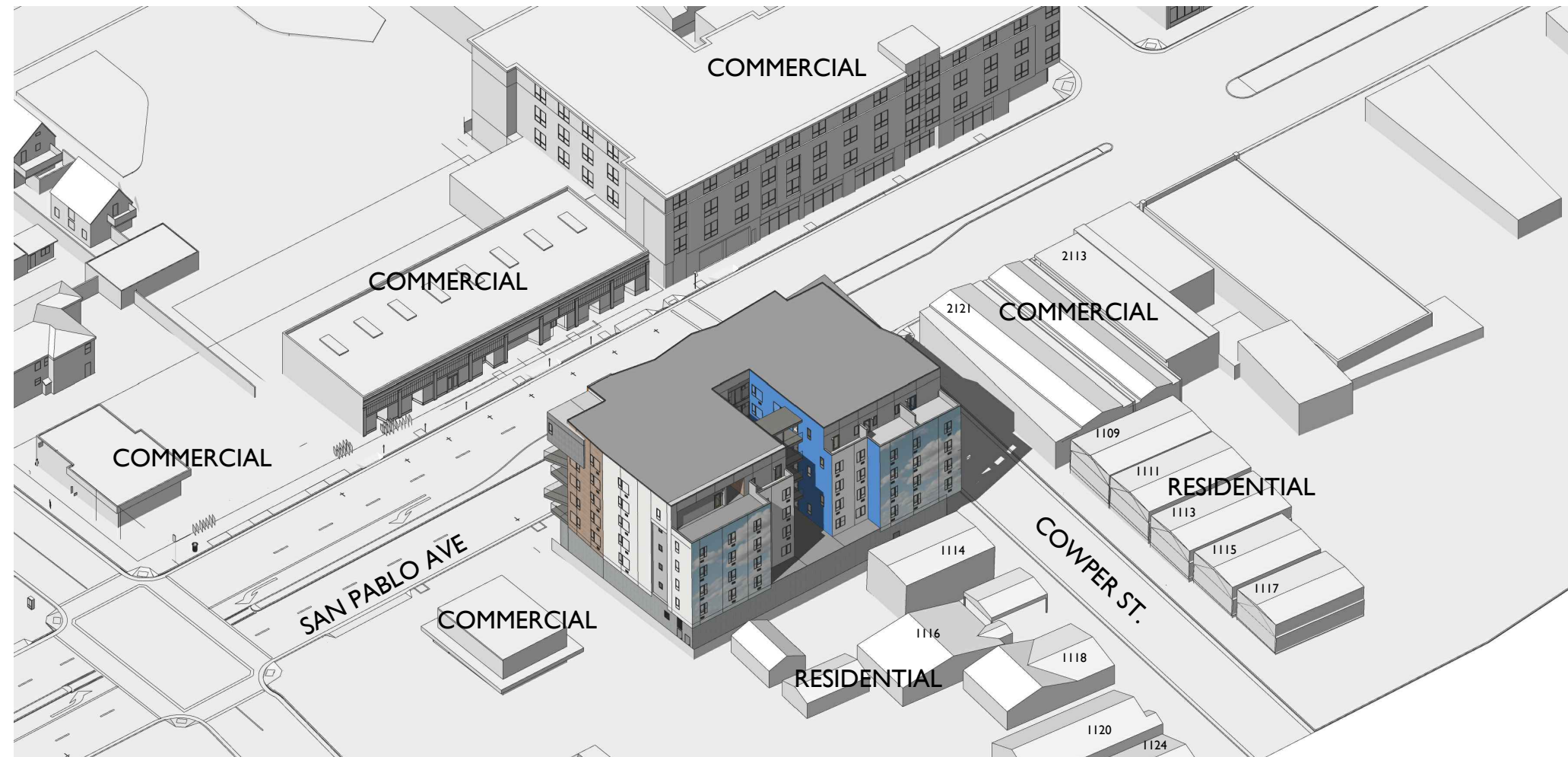




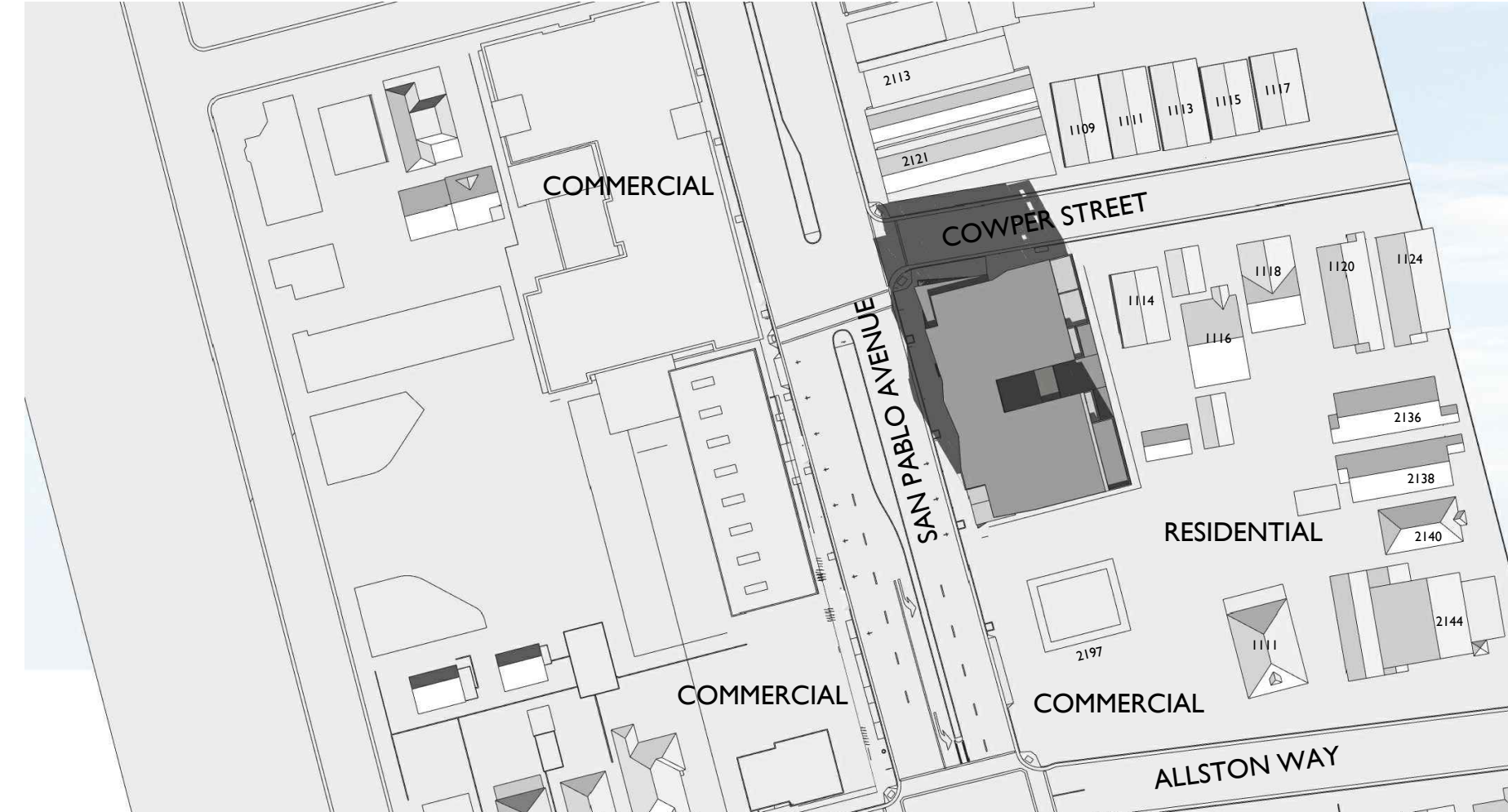
6 SHADOW STUDY: MARCH 21, 9:11 AM - PERSPECTIVE



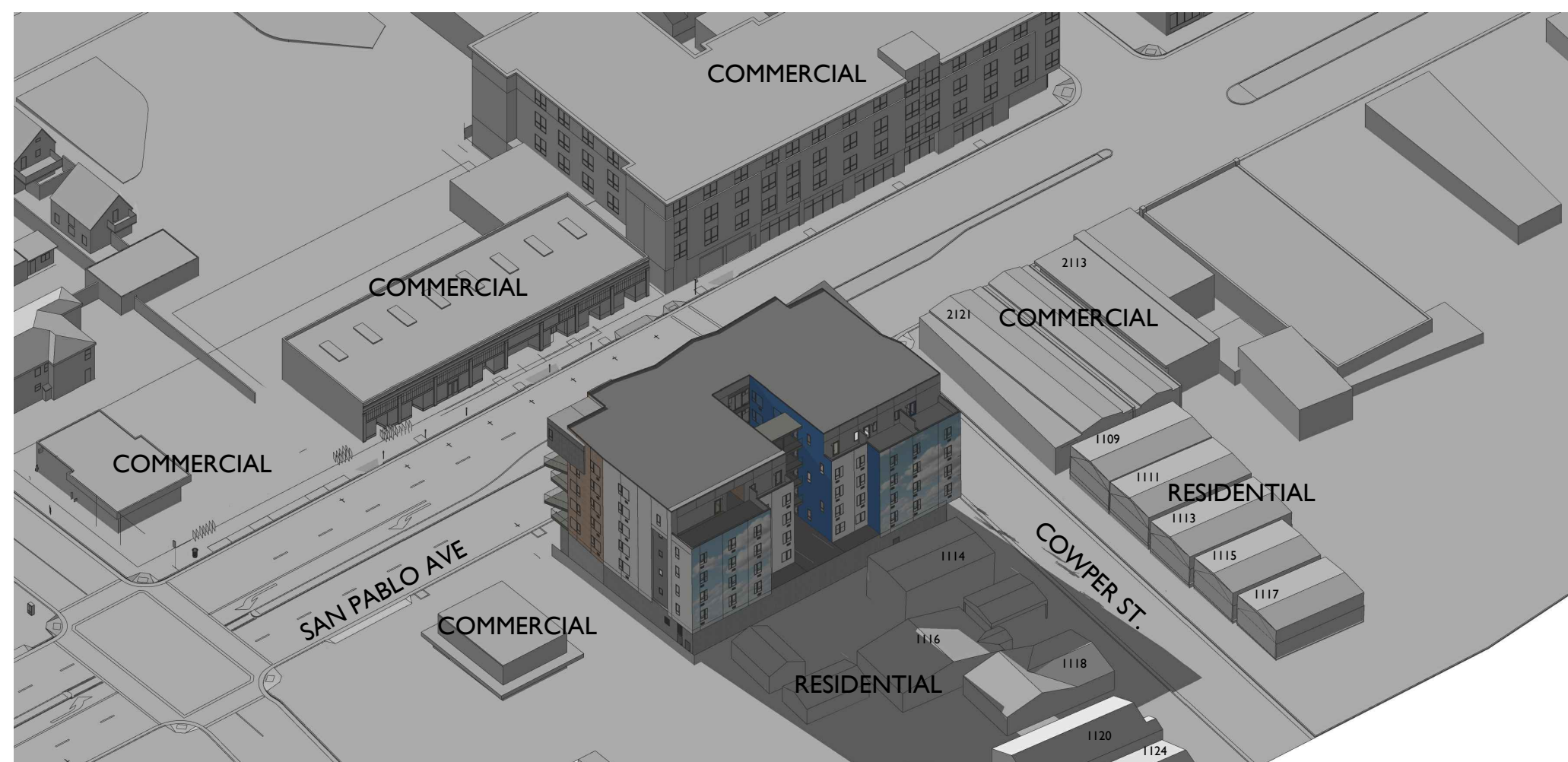
3 SHADOW STUDY: MARCH 21, 9:11 AM - PLAN VIEW



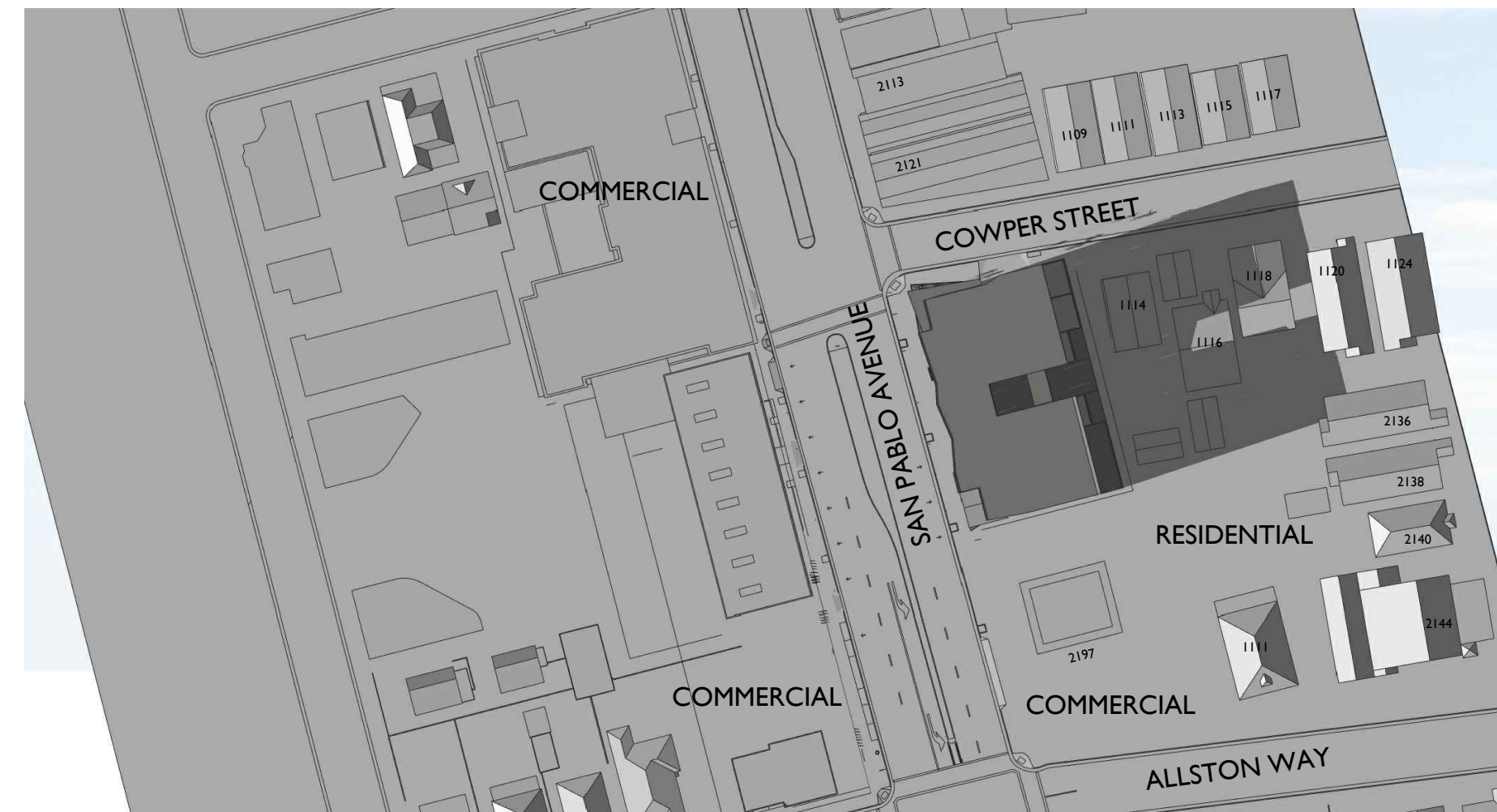
5 SHADOW STUDY: MARCH 21, 12:00 PM - PERSPECTIVE



2 SHADOW STUDY: MARCH 21, 12:00 PM - PLAN VIEW



4 SHADOW STUDY: MARCH 21, 5:22 PM - PERSPECTIVE



1 SHADOW STUDY: MARCH 21, 5:22 PM - PLAN VIEW

PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT:

KWP06

TITLE:

SHADOW STUDIES - MARCH 21

SHEET:

**G022**













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STREETSCAPE - PLANT SCHEDULE

SYMBOL	LOCATION	SPECIES	NOTES
	SAN PABLO AVENUE	LONDON PLANE TREE (EXISTING)	- ALL EXISTING STREET TREES TO BE EVALUATED FOR PRUNING AND SOIL AMENDMENTS PRIOR TO CONSTRUCTION BY A CERTIFIED ARBORIST.
	COWPER STREET	ISLAND OAK - Quercus tomentella*	- 24" BOX SIZE - PROPOSED LOCATIONS PER PLAN, - 7" MINIMUM BRANCHING HEIGHT
	COWPER STREET	DEERGRASS Muhlenbergia rigens*	- #5 GAL - PROPOSED LOCATIONS PER PLAN

PAVING	DESCRIPTION	COLOR	MANUFACTURER
P-1	DECOMPOSED GRANITE	MEDIUM GRAY	AMERICAN SOIL & STONE

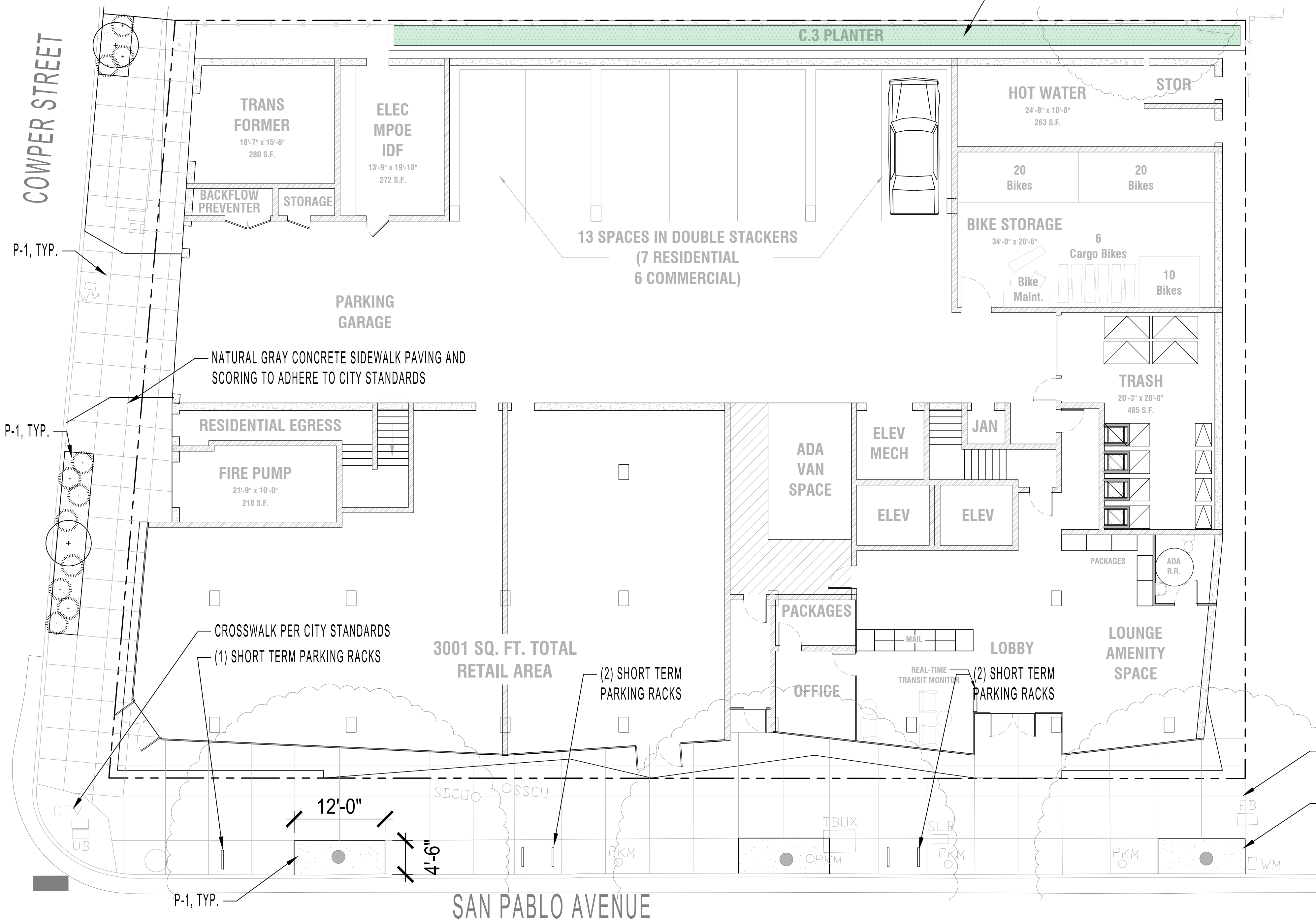
DECOMPOSED GRANITE



FLOW-THROUGH PLANTERS

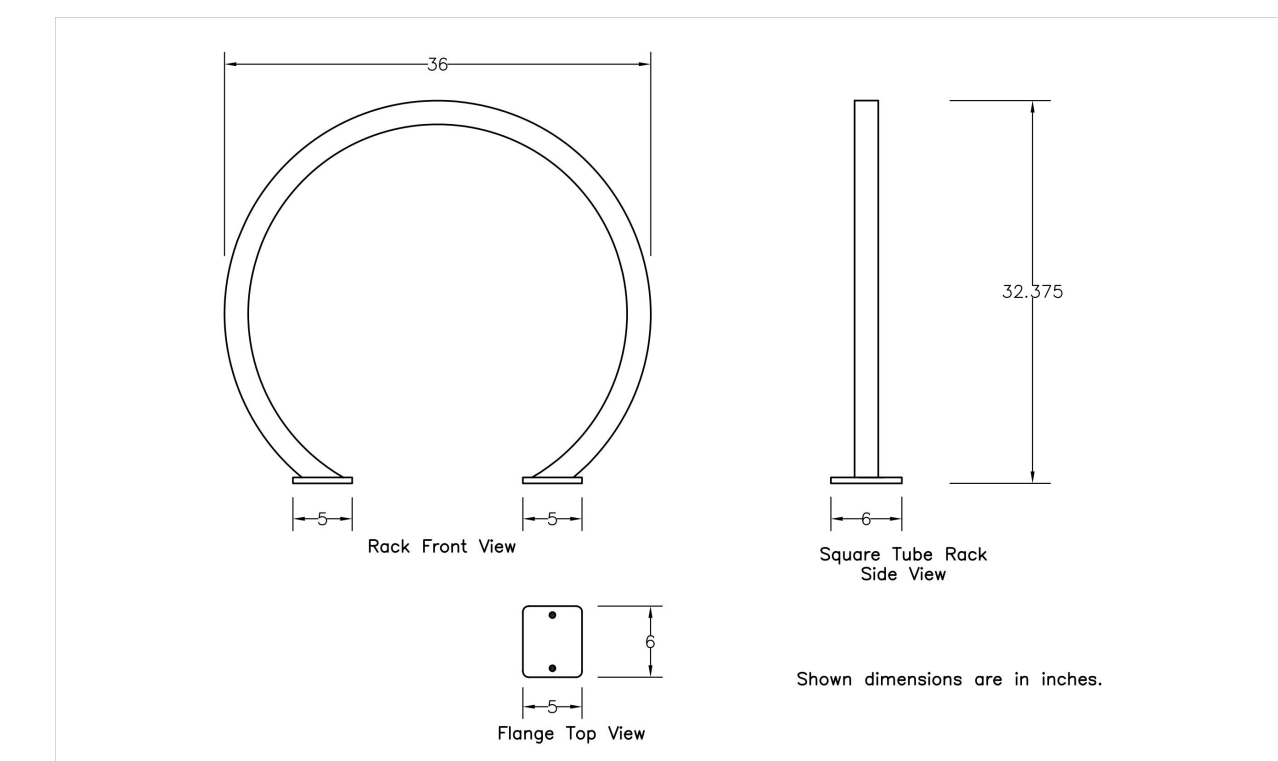
COMMON NAME	BOTANICAL NAME	SIZE	SPACING	WUCOLS
CALIFORNIA GRAY RUSH	Juncus patens*	#1	30" O.C., TRIANGULAR	Low
DOUGLAS IRIS	Iris douglasiana*	#5 Min.	30" O.C., TRIANGULAR	Low
CALIFORNIA NATIVE SEDGE	Carex nudata* or Carex senta*	#1	30" O.C., TRIANGULAR	Low

- \* AFTER BOTANICAL NAME INDICATES NATIVE CA SPECIES
- STREETSCAPE SPECIES WILL BE APPROXIMATELY 100% NATIVE SPECIES
- WHEN MULTIPLE SPECIES ARE PROVIDED, OPT FOR NATIVE SPECIES



CITY APPROVED SHORT TERM BIKE RACK

CITY OF BERKELEY SURFACE MOUNTED SINGULAR CIRCULAR RACK SPECIFICATIONS



**Surface Mounted Single Circular Rack**  
 Height: 32.375"  
 Width: 36"  
 Flanges: 5" x 6" x 3/8"  
 Mounting Holes: (4) 9/16" dia.  
 Mounting Bolts: 1/2" x 3.75" Wedge Anchor Bolt, or 1/2" x 3.75" Anchor Rawl Spike  
 Hoop: 2" x 2" x 0.188" Square tube  
 Finish: Hot-dipped Galvanized (-G), Powder-coated (-P), Stainless #4 Brush Finish (-SS)

SAN PABLO AVENUE GROUP LIVING ACCOMMODATION  
 LANDSCAPE PLANS  
 2147 SAN PABLO AVE, BERKELEY, CA

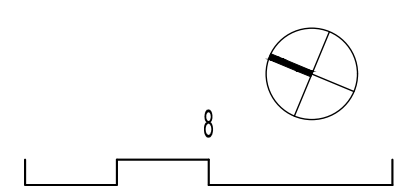
PHASE AGENCY REVIEW  
DATE 11/28/2022

REVISIONS

No.	Description	Date

LANDSCAPE PLAN  
STREETSCAPE

NOTES  
1. SITE PLAN INFORMATION DERIVED FROM ARCHITECTURAL PLANS DATED 11/14/2022.





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SAN PABLO AVENUE GROUP LIVING ACCOMMODATION  
 LANDSCAPE PLANS  
 2147 SAN PABLO AVE, BERKELEY, CA

PHASE AGENCY REVIEW  
DATE 11/28/2022

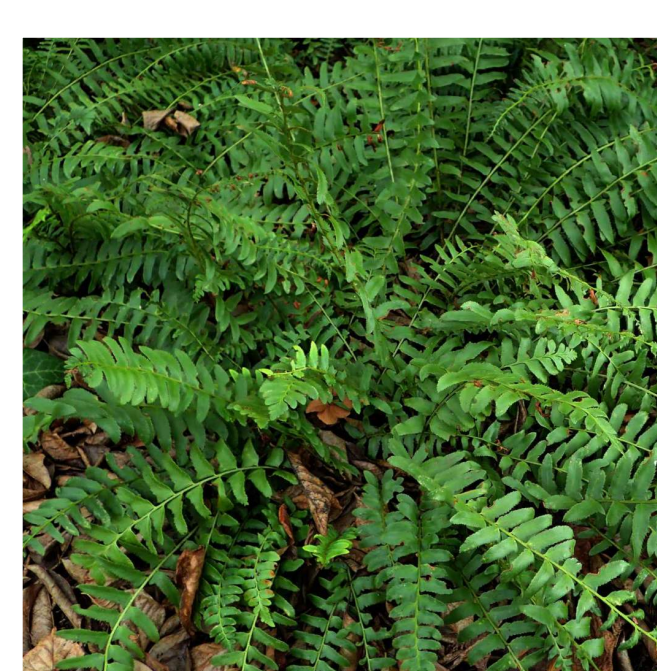
REVISIONS

No.	Description	Date

LANDSCAPE PLAN  
COURTYARD

L-2

IRIS DOUGLASIANA - C3 FLOW THROUGH PLANTER



COURTYARD - PLANT SCHEDULE

SYMBOL	COMMON NAME	BOTANICAL NAME	SIZE	SPACING / MIX PERCENTAGE	WUCOLS
	WEAVER'S BAMBOO	Bambusa textilis	#20 Min.	Per Plan	Low
	TASMANIAN TREE FERN	Dicksonia antarctica	#20 Min.	Per Plan	High
	PHILODENDRON	Monstera deliciosa	#20 Min.	Per Plan	High
	BAMBOO PALM	Chamaedorea seifrizii	#20 Min.	Per Plan	High
	WOODLAND STRAWBERRY	Fragaria vesca*	#1	15%	Low
	CAST IRON PLANT	Aspidistra elatior	#1, #5	15%	Low
	STAR JASMINE	Trachelospermum jasminoides	#1	10%	Moderate
	GIANT CHAIN FERN	Woodwardia fimbriata*	#1, #5	15%	Moderate
	TURF LILY	Liriope gigantea	#1	10%	Moderate
	WESTERN SWORD FERN	Polystichum munitum*	#1, #5	15%	Moderate
	CREeping RASPBERRY	Rubus calycinoide*	#5	20%	Moderate

- \* AFTER BOTANICAL NAME INDICATES NATIVE CA SPECIES
- STREETSCAPE SPECIES WILL BE APPROXIMATELY 37% NATIVE SPECIES
- WHEN MULTIPLE SPECIES ARE PROVIDED, OPT FOR NATIVE SPECIES

FLOW-THROUGH PLANTERS (See Sheet L-1)

COMMON NAME	BOTANICAL NAME	SIZE	SPACING	WUCOLS
	CALIFORNIA GRAY RUSH	Juncus patens*	#1 30" O.C., TRIANGULAR	Low
	DOUGLAS IRIS	Iris douglasiana*	#5 Min. 30" O.C., TRIANGULAR	Low
	CALIFORNIA NATIVE SEDGE	Carex nudata* or Carex senta*	#1 30" O.C., TRIANGULAR	Low

LANDSCAPE MATERIALS SCHEDULE

**PAVING**

DESCRIPTION	MANUFACTURER	COLOR	NOTES
P-2 PRECAST CONCRETE PAVERS - PORTERO	QCP	MIX: 75% BUNGALOW / 25% NATURAL	MORTARED ON CONCRETE SLAB. SLAB DRAINAGE BY ARCHITECT.

**MOVABLE SITE FURNISHINGS**

DESCRIPTION	MANUFACTURER	COLOR	NOTES
SF-1 METAL BISTRO TABLE & CHAIR SET	FERMOB	TBD	COLOR PENDING FINAL MATERIALS SELECTION
SF-2 WOVEN LOUNGE CHAIR	INNIT DESIGNS	WEAVE: TBD FRAME: TBD	COLOR PENDING FINAL MATERIALS SELECTION

**PLANTERS**

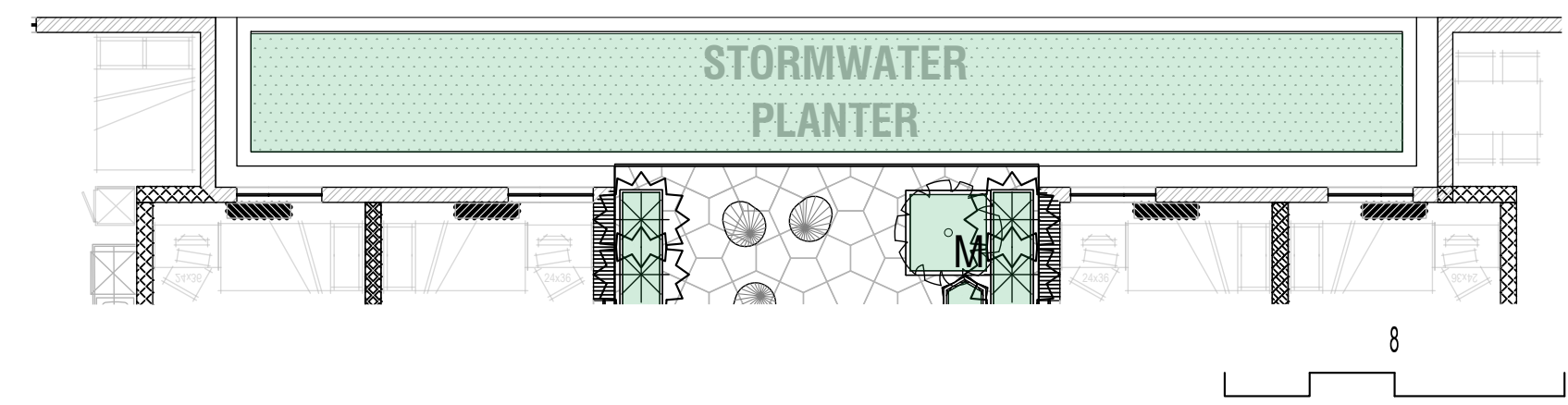
DESCRIPTION	MATERIAL	MANUFACTURER	MODEL	COLOR, FINISH
FTP FLOW-THROUGH PLANTER	CAST-IN-PLACE CONCRETE	-	-	NATURAL GRAY, BOARDFORM FINISH
PT-C1 PERIMETER PLANTER	FRP	TOURNESOL	WILSHIRE COLLECTION #WR-962430	PUDDLE / T-2
PT-C2 36" SQUARE PLANTER			WILSHIRE COLLECTION #WR-3600	PUDDLE / T-2
PT-C3 48" SQUARE PLANTER			WILSHIRE COLLECTION #WR-4824	PUDDLE / T-2
PT-C4 ACCENT PLANTER			HARLIE COLLECTION TBD	TBD

NOTES:  
1. ALL PLANTERS TO BE PLUMBED FOR IRRIGATION AND DRAINAGE FROM BELOW.

**LANDSCAPE LIGHTING**

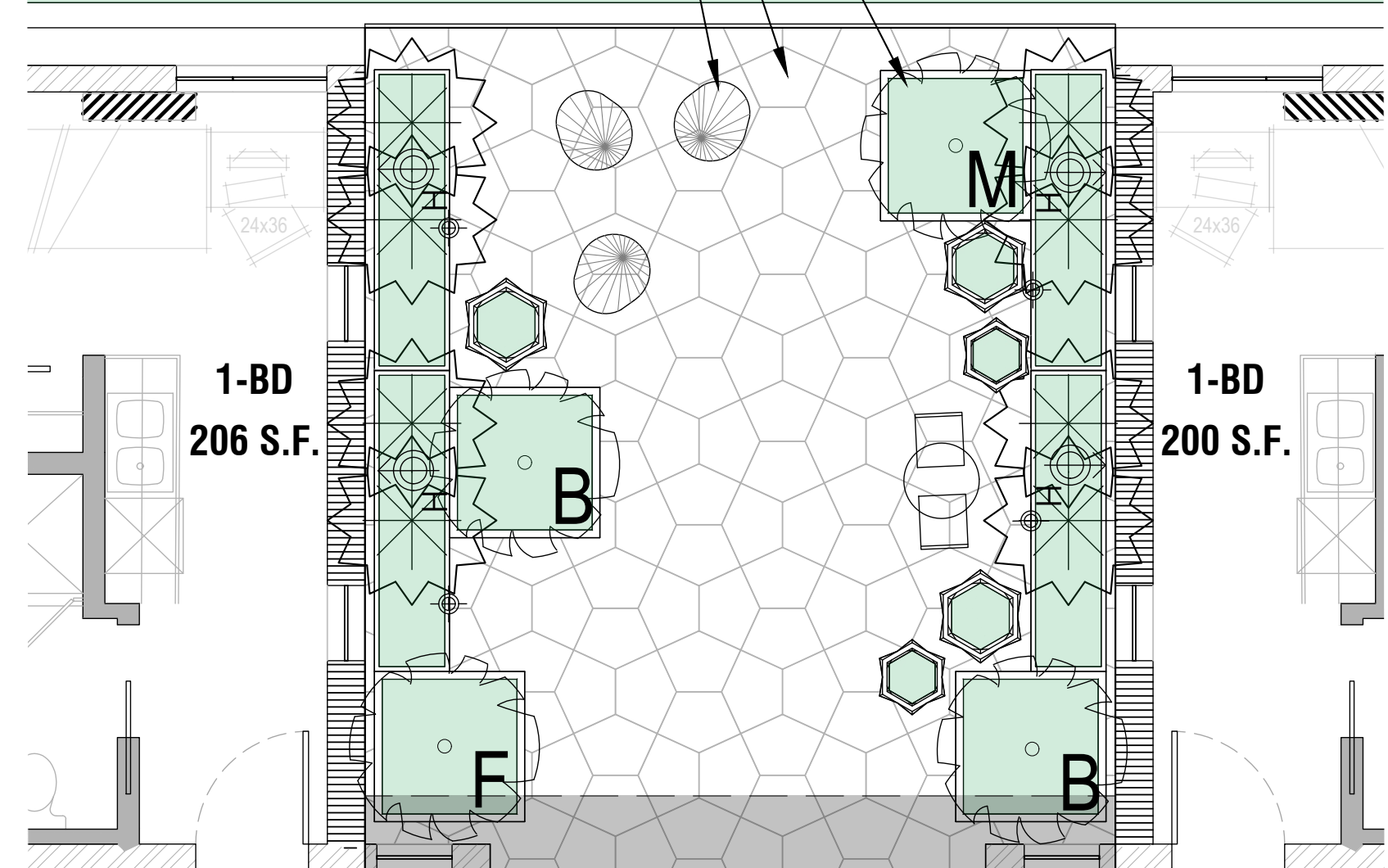
DESCRIPTION	NOTES
PLANTER LIGHT	LED, LOUVERED STEP LIGHT RECESSED IN FACE OF PLANTER
HEDGE / WASH LIGHT	LED, 6" HIGH, LOW-VOLTAGE, METAL FIXTURE ON AUTOMATIC TIMER DIRECTED TO BLANK ARCHITECTURAL WALL

C3 FLOW-THROUGH PLANTERS PLAN



PT-C3, TYP.  
P-2  
MOVABLE SITE FURNISHINGS

STORMWATER PLANTER

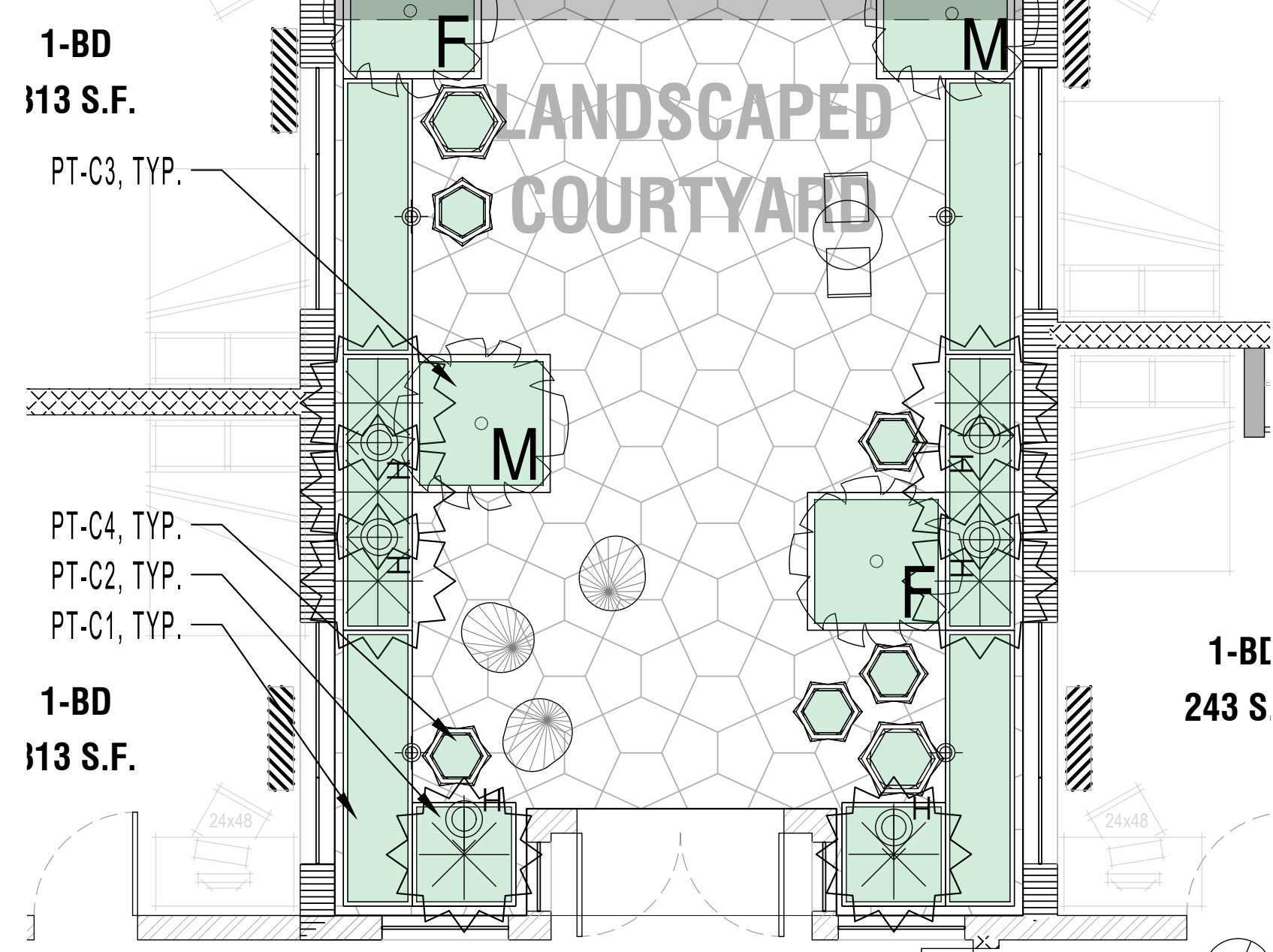


1-BD  
206 S.F.

1-BD  
200 S.F.

SKYBRIDGE, ABOVE COURTYARD

LANDSCAPED COURTYARD



1-BD  
113 S.F.

PT-C3, TYP.

PT-C4, TYP.  
PT-C2, TYP.  
PT-C1, TYP.

1-BD  
113 S.F.

1-BD  
243 S


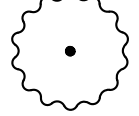
COURTYARD PLAN



www.122westdesign.com  
510.992.3122

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**COMMON DECK TOURNESOL PLANTERS**

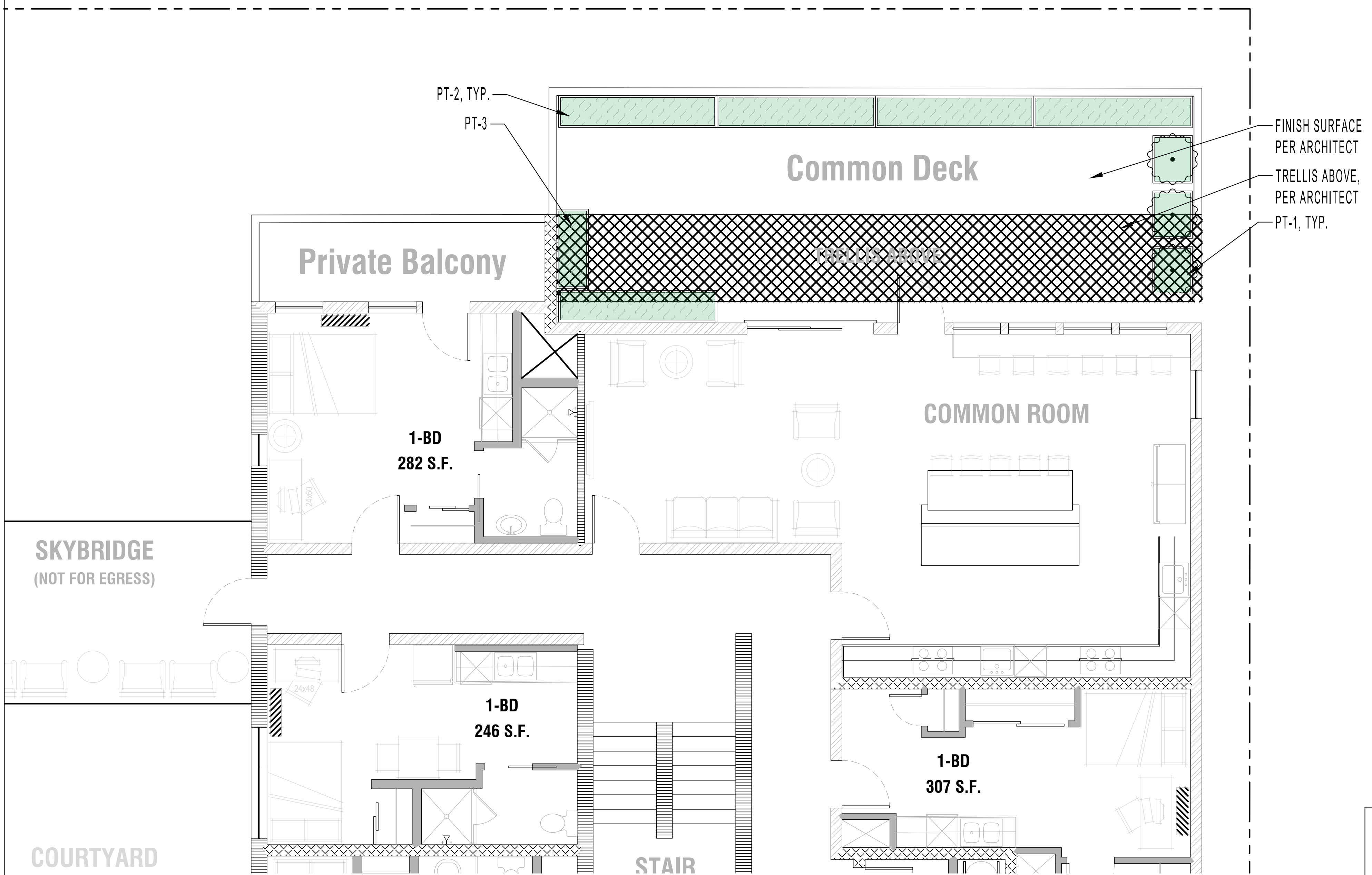
	COMMON NAME / BOTANICAL NAME	SIZE	SPACING	WUCOLS
	NATIVE PERENNIALS AND CULINARY HERBS Hyssop spp.* Lavender spp.* Mint spp. Oregano spp. Penstemon spp.* Rosemary spp. Salvia spp.* Strawberry spp. Thyme spp. Yarrow spp.*	#5 Min.	Per Plan	Moderate
	FRUIT TREE VARS. Citrus aurantifolia 'Bearss' Citrus limon 'Meyer' Nagami Kumquat	#20/25 Min.	Per Plan	Moderate

- \* AFTER BOTANICAL NAME INDICATES NATIVE CA SPECIES
- COMMON DECK SPECIES WILL BE APPROXIMATELY 38% NATIVE SPECIES
- WHEN MULTIPLE SPECIEES ARE PROVIDED, OPT FOR NATIVE SPECIES

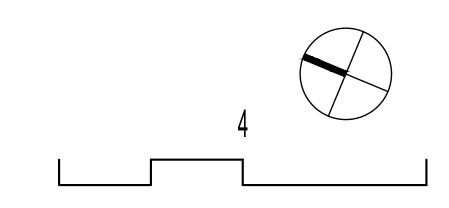
**PLANTER POTS**

	DESCRIPTION	MANUFACTURER / MODEL	COLOR, FINISH
PT-1	FRP 36"x30"x42" PLANTER	TOURNESOL / MODEL #WR-363042	PUDDLE / T-2
PT-2	FRP 120"x24"x42" PLANTER	TOURNESOL / MODEL #WR-1202442	PUDDLE / T-2
PT-3	FRP 36"x30"x42" PLANTER	TOURNESOL / MODEL #WR-602442	PUDDLE / T-2

NOTES:  
1. ALL PLANTERS TO BE PLUMBED FOR IRRIGATION AND DRAINAGE FROM BELOW.



NOTES  
1. SITE PLAN INFORMATION DERIVED FROM ARCHITECTURAL PLANS AND VISUAL OBSERVATION. EXACT LOCATIONS OF ALL ELEMENTS TO BE CONFIRMED IN FIELD.



SAN PABLO AVENUE GROUP LIVING ACCOMMODATION  
LANDSCAPE PLANS  
2147 SAN PABLO AVE, BERKELEY, CA

PHASE AGENCY REVIEW		
DATE	11/28/2022	
REVISIONS		
No.	Description	Date

LANDSCAPE PLAN  
ROOFDECK



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SAN PABLO AVENUE GROUP LIVING ACCOMMODATION  
 LANDSCAPE PLANS  
 2147 SAN PABLO AVE, BERKELEY, CA

**COMMERCIAL LANDSCAPE**  
2147 San Pablo Ave. Berkeley, CA

Estimated Applied Water Use (EAWU)	
KI = Landscape Coefficient	Kd = Density Factor (range = 0.5 to 1.3) (See WUCOLS for density ranges)
LA = Landscape Area (square feet)	Kmc = Microclimate Factor (range = 0.5 to 1.4)
0.62 = Conversion factor (gallons/ square foot)	WUCOLS - <a href="http://www.owse.water.ca.gov/docs/wucols00.pdf">www.owse.water.ca.gov/docs/wucols00.pdf</a>
IE = Irrigation Efficiency = IME x DU	
EAWU Calculation: $ETo \times KI \times LA \text{ in SF} \times 0.62 = \text{Gallons per Year}$	

	ETo	KI	LA	Conversion	IE	EAWU (Gallons Per Year)
Non-Irrigated Landscape	41.8	x 0.00	x 288	x 0.62	÷ 1	= 0
Water Feature	41.8	x 1.00	x 0	x 0.62	÷ 1	= 0
High Using Shrub (drip)	41.8	x 0.70	x 28	x 0.62	÷ 0.81	= 627
Moderate Using Shrub (drip)	41.8	x 0.30	x 376	x 0.62	÷ 0.81	= 3,609
Low Using Shrub (drip)	41.8	x 0.20	x 600	x 0.62	÷ 0.81	= 3,839
<b>Total EAWU =</b>			<b>1,292 SF</b>			<b>8,076 Gallons per year</b>
						<b>11 Billing units</b>

The EAWU (12,005 gallons per year) is less than the MAWA (22,622 gallons per year).  
The project's Landscape Estimate of Applied Water Use complies with the City's Water Efficient Landscape Ordinance

Sprinkler Head Types	Average Precipitation Rate	Distribution Uniformity of Irrigation Head
Drip	0.6"/hr	1.00
Stream Bubbler	1.5"/hr.	0.90
Spray Nozzle	1.0"/hr.	0.78

**KI Resource Table**

Special Landscape Area	0.30
Cool Season Turf (spray)	0.80
Warm Season Turf (spray)	0.60
High Using Shrub (drip)	0.70
Moderate Using Shrub (drip)	0.30
Low Using Shrub (drip)	0.20
Very-Low Using Shrub (drip)	0.10
Pool	1.00

**ETo Table**

Yearly	41.8
July	4.7

**Water Efficient Landscape Worksheet**  
2147 San Pablo Ave. Berkeley, CA

<b>Point-of-Connections:</b>		<b>COMMERCIAL LANDSCAPE</b>			
<b>Maximum Applied Water Allowance (MAWA)</b>					
Total MAWA = $(ETo \times 0.45 \times LA \text{ in SF} \times 0.62) + (ETo \times .3 \times SLA \text{ in SF} \times 0.62) = \text{Gallons per Year for LA+SLA}$					
Where:					
MAWA = Maximum Applied Water Allowance (gallons per year)					
ETo = Reference Evapotranspiration (54.6 inches per year)					
0.45 = ET Adjustment Factor (ETAF) Non-Residential					
1.0 = ET Adjustment Factor (ETAF) for Special Landscape Area					
LA = Landscape Area (square feet)					
0.62 = Conversion factor (to gallons per square foot)					
SLA = Special Landscape Area (square feet)					
Billing Unit = 1 Hundred Cubic feet (HCF) or 748 gallons					
	ETo	ETAF	LA or SLA (SF)	Conversion	MAWA (Gallons per Year)
MAWA for LA =	42.9	x 0.45	x 1,292	x 0.62	15,464
MAWA for SLA =	42.9	x 0.3	x 0.0	x 0.62	0
<b>Total MAWA =</b>	<b>Total Area (SF) = 1,292</b>		<b>Total MAWA =</b>	<b>15,464 Gal/Yr.</b>	
				<b>= 21 Billing units</b>	

0.55 = ET Adjustment Factor (ETAF) Residential  
0.45 = ET Adjustment Factor (ETAF) Non-Residential

PHASE AGENCY REVIEW  
DATE 11/28/2022  
REVISIONS

No.	Description	Date

IRRIGATION  
CALCULATIONS









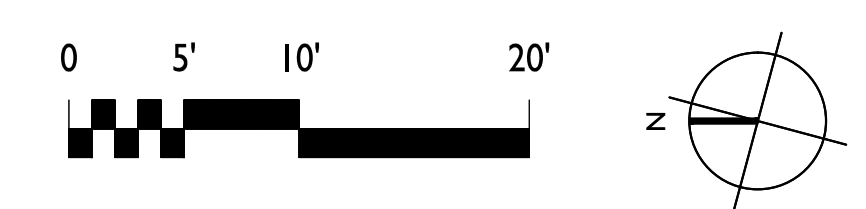
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2147 SAN PABLO AVENUE

BERKELEY, CALIFORNIA 94702



RESIDENTIAL	7,508 SF	27 UNITS
AMENITY	1,481 SF	2 ROOMS + LAUNDRY/TRASH
CIRCULATION	1,334 SF	
COVERED BALCONIES	770 SF	
<hr/>		
TOTAL	11,093 SF	GROSS BUILDING SQUARE FOOTAGE
<hr/>		
UNCOVERED BALCONIES	1,273 SF	CENTRAL COURTYARD
STAIRS/ELEVATORS	750 SF	(2) STAIRS AND (2) ELEVATORS



PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT:

KWP06

TITLE:

SECOND FLOOR PLAN

SHEET:

**A101**

1 SECOND FLOOR PLAN  
1/8" = 1" 0"



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**2147 SAN PABLO AVENUE**  
**BERKELEY, CALIFORNIA 94702**



RESIDENTIAL	7,508 SF	27 UNITS
AMENITY	1,481 SF	2 ROOMS + LAUNDRY/TRASH
CIRCULATION	1,334 SF	
COVERED BALCONIES	770 SF	
<hr/>		
TOTAL	11,093 SF	GROSS BUILDING SQUARE FOOTAGE
STAIRS/ELEVATORS	750 SF	(2) STAIRS AND (2) ELEVATORS

PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT:

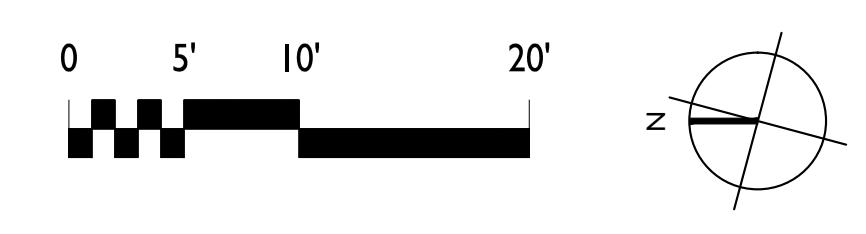
KWP06

TITLE:

THIRD THROUGH FIFTH FLOOR PLANS

SHEET:

**A102**



**I** THIRD THROUGH FIFTH FLOOR PLANS  
1/8" = 1" 0"

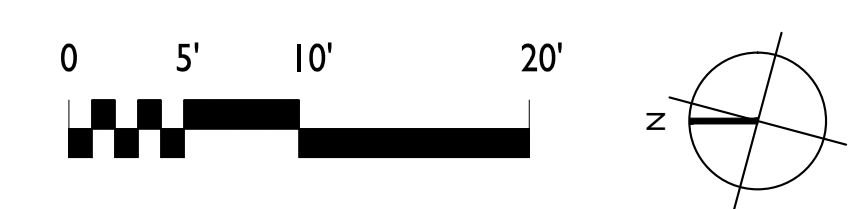


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**2147 SAN PABLO AVENUE**  
**BERKELEY, CALIFORNIA 94702**



RESIDENTIAL	6,375 SF	20 UNITS
AMENITY	1,645 SF	2 ROOMS + LAUNDRY/TRASH
CIRCULATION	1,189 SF	
COVERED BALCONIES	534 SF	
<hr/>		
TOTAL	9,743 SF	GROSS BUILDING SQUARE FOOTAGE
<hr/>		
UNCOVERED BALCONIES	1,399 SF	CENTRAL COURTYARD
STAIRS/ELEVATORS	750 SF	(2) STAIRS AND (2) ELEVATORS



PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT: KWPO6  
TITLE: SIXTH FLOOR PLAN

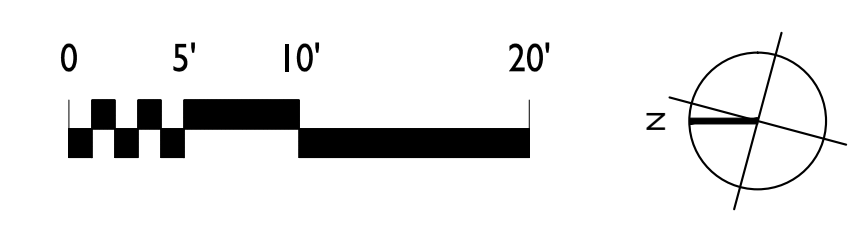
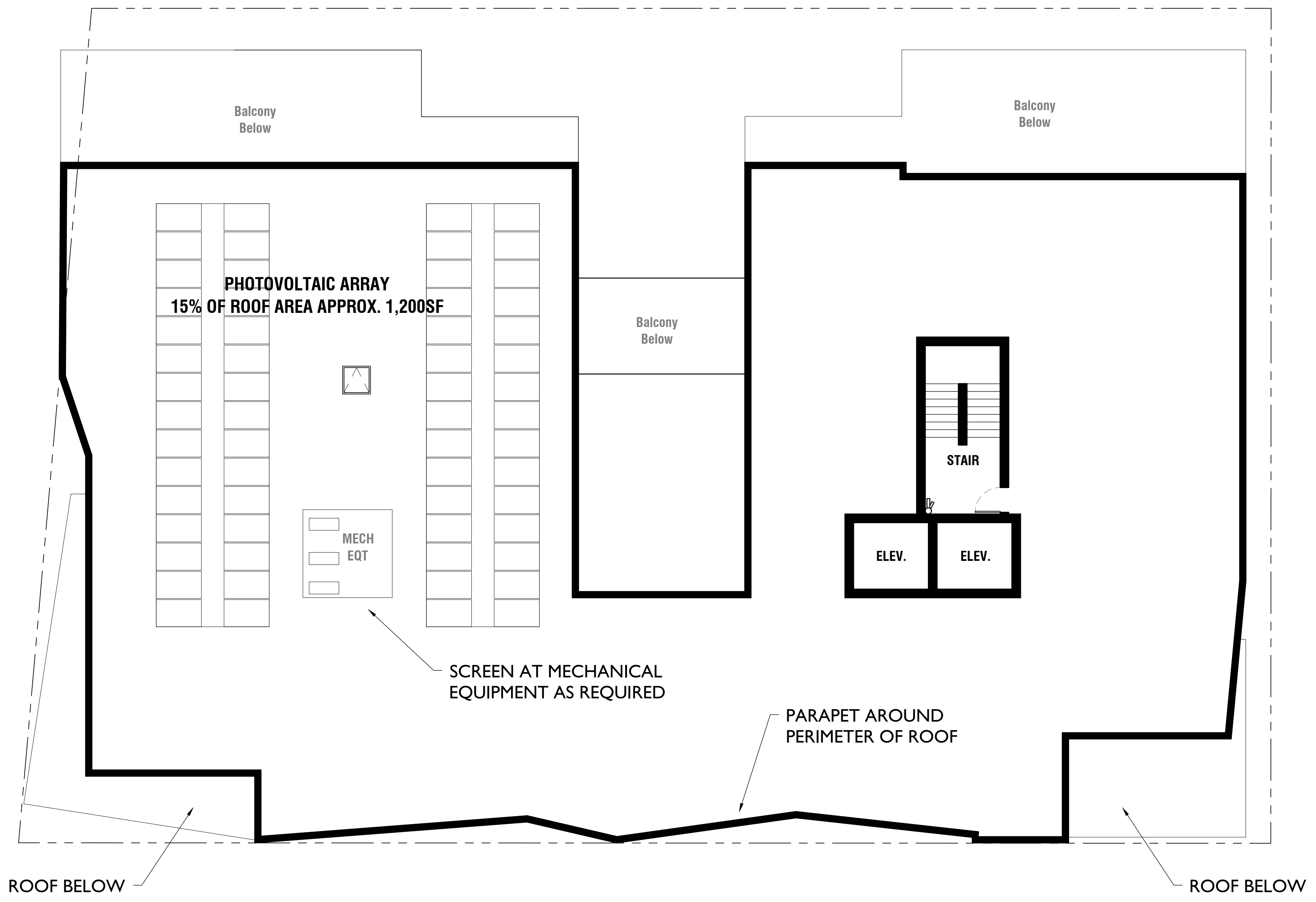
SHEET: **A103**



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**2147 SAN  
PABLO  
AVENUE**

**BERKELEY,  
CALIFORNIA  
94702**



PROJECT ISSUE RECORD:


CITY PERMIT RECORD:

03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT:

KWPO6

TITLE:

ROOF PLAN

SHEET:

**A104**

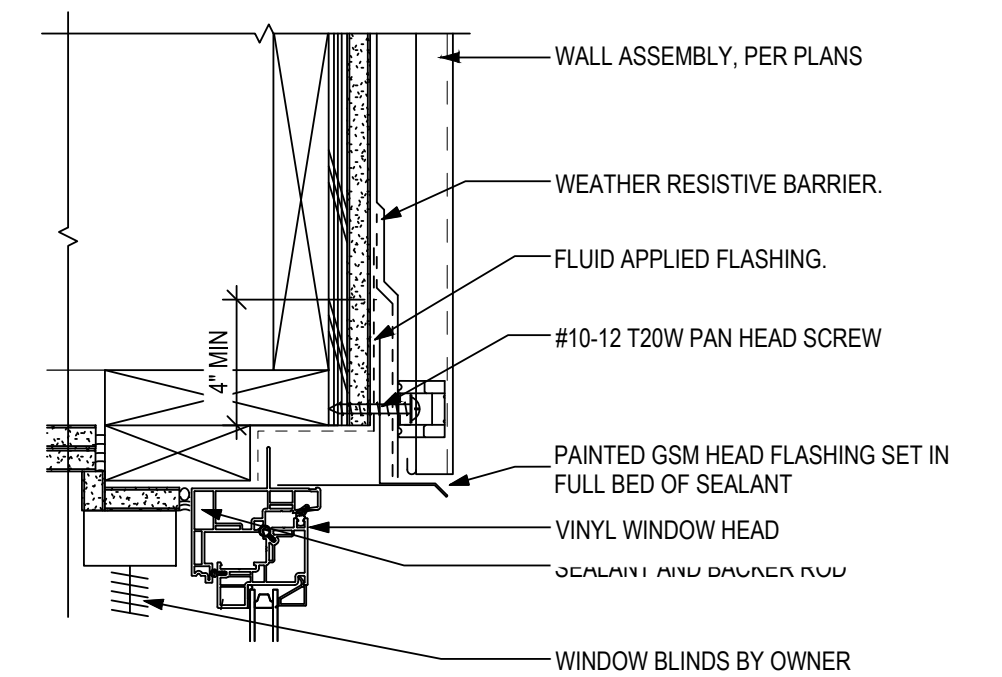




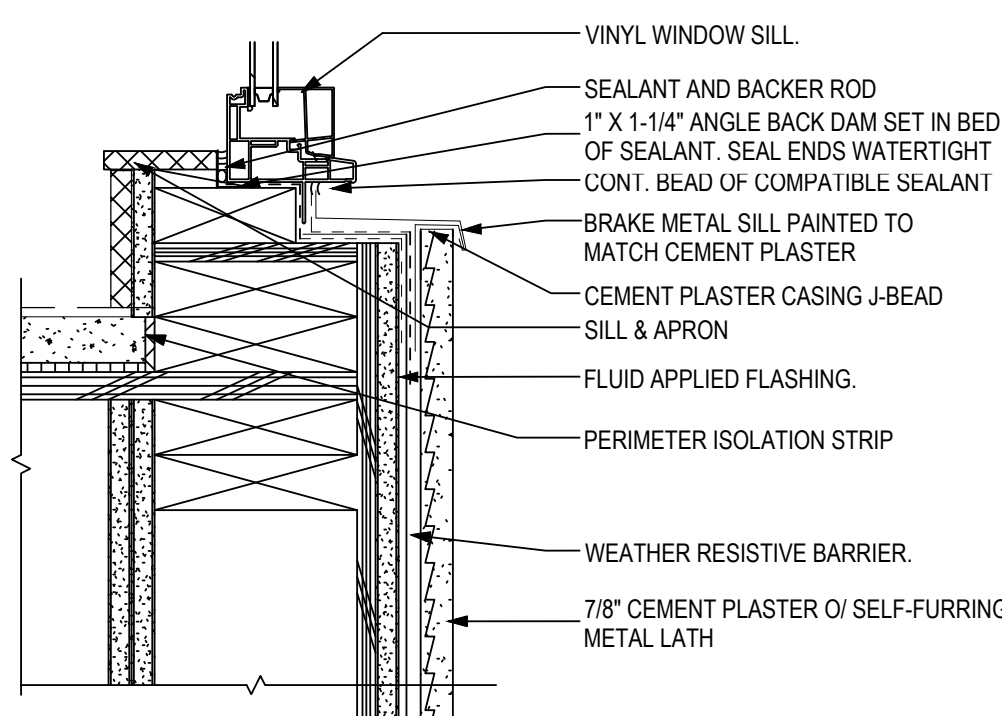
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**BERKELEY, CALIFORNIA 94702**

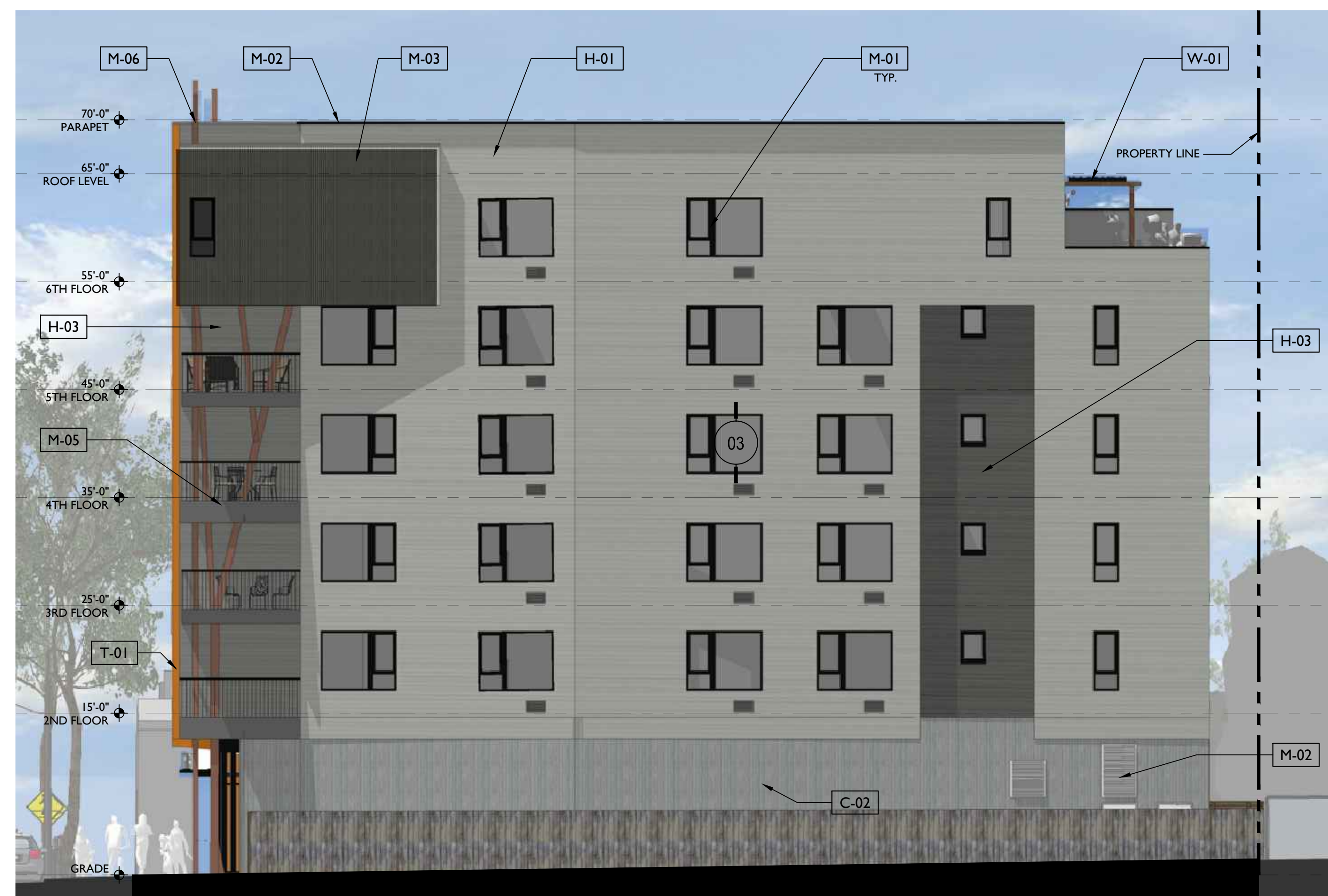
- |   |   |
|---|---|
| <p><b>M-01</b> WINDOW AND STOREFRONT SYSTEM, ANODIZED ALUMINUM BLACK</p> <p><b>M-03</b> METAL SIDING, AEP SPAN NU-WAVE CORRUGATED ZINC GRAY</p> <p><b>M-05</b> PAINTED GALVANIZED METAL BM 1601 HEARTHSTONE</p> <p><b>P-01</b> CEMENT PLASTER, 16/20 MEDIUM SAND FLOAT FINISH BM OC-19 SEAPEARL</p> <p><b>H-01</b> CEMENT SIDING HARDIE ASPYRE ARTISAN LAP BM 1473 GRAY HUSKIE</p> <p><b>H-03</b> CEMENT SIDING HARDIE ASPYRE ARTISAN LAP BM AF-710 SECRET</p> <p><b>W-01</b> WOOD FENCE OR TRELLIS NATURAL CLEAR STAIN</p> | <p><b>M-02</b> PAINTED GALVANIZED METAL BLACK</p> <p><b>M-04</b> PAINTED GALVANIZED METAL VENT TO MATCH ADJACENT STUCCO</p> <p><b>M-06</b> PAINTED GALVANIZED METAL BM 1224 COYOTE TRAIL</p> <p><b>P-02</b> CEMENT PLASTER 16/20 MEDIUM SAND FLOAT FINISH BM 797 ATHENS BLUE</p> <p><b>H-02</b> CEMENT SIDING HARDIE ASPYRE ARTISAN LAP BM 1484 ASHWOOD MOSS</p> <p><b>T-01</b> EXTERIOR CLADDING PANELS, TRESPA OR SIM. A04.I.7 GOLD YELLOW</p> <p><b>C-02</b> BOARD-FORMED CIP CONCRETE, VERTICAL ORIENTATION</p> |
|---|---|



WINDOW HEADER



WINDOW SILL



2 SOUTH ELEVATION  
1/8" = 1'-0"

3 TYPICAL WINDOW DETAILS  
N.T.S.



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

4 MATERIAL KEY

PROJECT ISSUE RECORD:

DATE	DESCRIPTION

CITY PERMIT RECORD:

DATE	DESCRIPTION
03/11/2022	ENTITLEMENT SET
07/15/2022	RESUBMITTAL
11/28/2022	RESUBMITTAL

PROJECT: KWP06

TITLE: ELEVATIONS AND MATERIALS

SHEET: **A201**





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

## 2147 San Pablo Avenue

**Use Permit #ZP2022-0113 to demolish a one-story automotive commercial building and construct a new six-story (70 feet) mixed-use building with approximately 1,873 square feet of commercial area and 128 Group Living Accommodation (GLA) units (12 Very Low-Income units), and 23 ground-floor parking spaces, utilizing State Density Bonus.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.404.

**When:** Thursday, June 8, 2023, 7:00 pm

**Where:** Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please visit: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board> and click on the hearing date to access the most up-to-date meeting information, or call the Land Use Planning division (510) 981-7410.

***PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.***

*For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.*

*Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.*

**A. Land Use Designations:**

- General Plan: General Plan: AC – Avenue Commercial
- Zoning: C-W – West Berkeley Commercial District

**B. Zoning Permits Required:**

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070 to demolish a non-residential main building
- Use Permit pursuant to BMC Section 23.204.020(A) for Group Living Accommodations
- Use Permit pursuant to BMC Section 23.204.030(A) to construct 5,000 square feet or more of new floor area
- Use Permit pursuant to BMC Section 23.204.140(B)(2) to construct a mixed-use residential development that is more than 9,000 square feet
- Use permit pursuant to BMC 23.304.030(C)(2) to reduce setbacks adjacent to a residential district
- Administrative Use Permit under BMC Section 23.304.050(A), to construct rooftop projections which exceed the maximum height limit

**C. Concessions and Waivers and Pursuant to State Density Bonus Law (CA Gov't. Code Section 65915)**

- Concession to allow for an exemption from the Public Art Allocation requirement, under BMC Section 23.316
- Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum 50-foot and 4-stories building height limit and permit a 70-foot, 6-story building
- Waiver of BMC Section 23.204.140(E)(1) to exceed the maximum floor area ratio (FAR) from 3.0 to 4.0

**D. CEQA Recommendation:** It is staff's recommendation that the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("Class 32 Infill Exemption"). The determination is made by the ZAB.

**E. Parties Involved:**

- Applicant Austin Springer, Architect, Studio KDA, 1810 6<sup>th</sup> Street  
Berkeley, CA 94710
- Property Owner 2147 San Pablo LLC, 2417 Mariner Square Loop 247  
Alameda, CA 94501

**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, Claudia Garcia, at (510) 981-7412 or [cgarcia@berkeleyca.gov](mailto:cgarcia@berkeleyca.gov).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@berkeleyca.gov](mailto:zab@berkeleyca.gov).

**Communication Disclaimer:**

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

**Written Comments, Communications, and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@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 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.



**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.
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Z O N I N G  
A D J U S T M E N T S  
B O A R D

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M E M O R A N D U M

FOR BOARD ACTION  
JUNE 8, 2023

## 2147 San Pablo Avenue

**Use Permit #ZP2022-0113 to demolish a one-story automotive commercial building and construct a new six-story (70 feet) mixed-use building with approximately 1,873 square feet of commercial area and 128 Group Living Accommodation (GLA) units (12 Very Low-Income units), and 23 ground-floor parking spaces, utilizing State Density Bonus.**

### Request for Continuance

The ZAB Secretary is recommending continuance of the hearing for Use Permit #ZP2022-0113 to a date certain, on August 10, 2023. Staff received a request from the applicant for a concession, under California Government Code Section 65915, to Berkeley Municipal Code (BMC) Chapter 23.316 which establishes a public art requirement for private developments to provide on-site art or pay an in-lieu fee. The continuance would afford staff the opportunity to consider this request and the implications to future Density Bonus projects that include GLA units.

**Staff Planner:** Claudia Garcia, [cgarcia@berkeleyca.gov](mailto:cgarcia@berkeleyca.gov), (510) 981-7412