



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

FOR BOARD ACTION

OCTOBER 12, 2023

2411 Sixth Street

Use Permit #ZP2023-0101 to legalize the demolition of a non-conforming single-family dwelling and construct a 2,058 square-foot, two-story (22 feet) conforming single-family dwelling.

I. Background

A. Land Use Designations:

- General Plan: Low Medium-Density Residential (LMDR)
- Zoning District: Limited Two-Family District (R1-A)

B. Zoning Permits Required:

- Use Permit to demolish a dwelling unit, under Berkeley Municipal Code Section 23.326.020(B); and
- Use Permit to construct a new dwelling unit, under BMC Section 23.202.020(A)

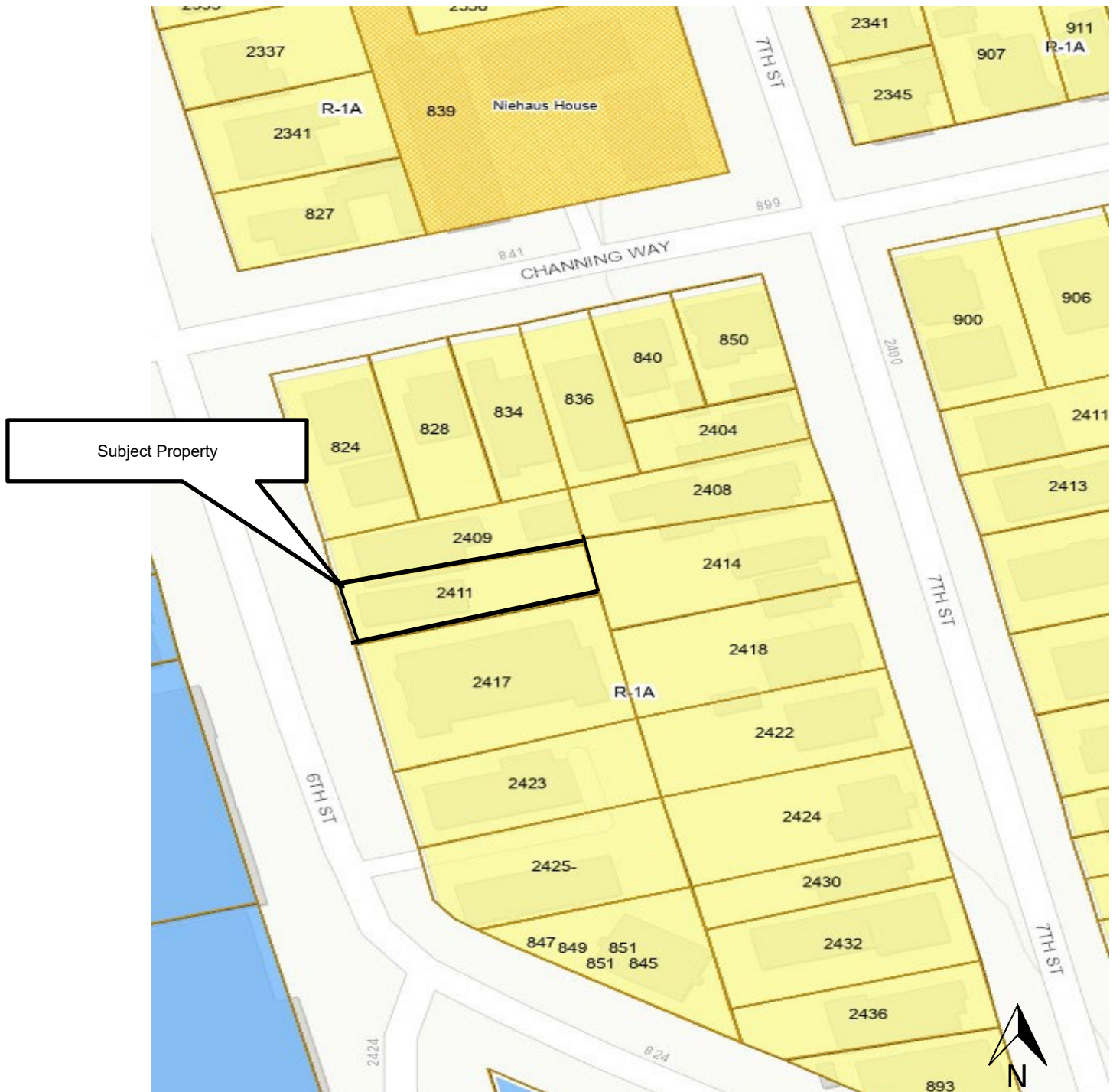
C. CEQA Recommendation:

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 CEQA Guidelines Section 15303 ("New Construction or Conversion of Small Structures").

D. Parties Involved:

- Applicant: James Novosel, 1840 Alcatraz Avenue, Berkeley, CA 94703
- Property Owner: Tom Jozinovic, 1619 Heidelberg Drive, Livermore, CA

Figure 1: Vicinity Map



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Figure 2: Site Plan

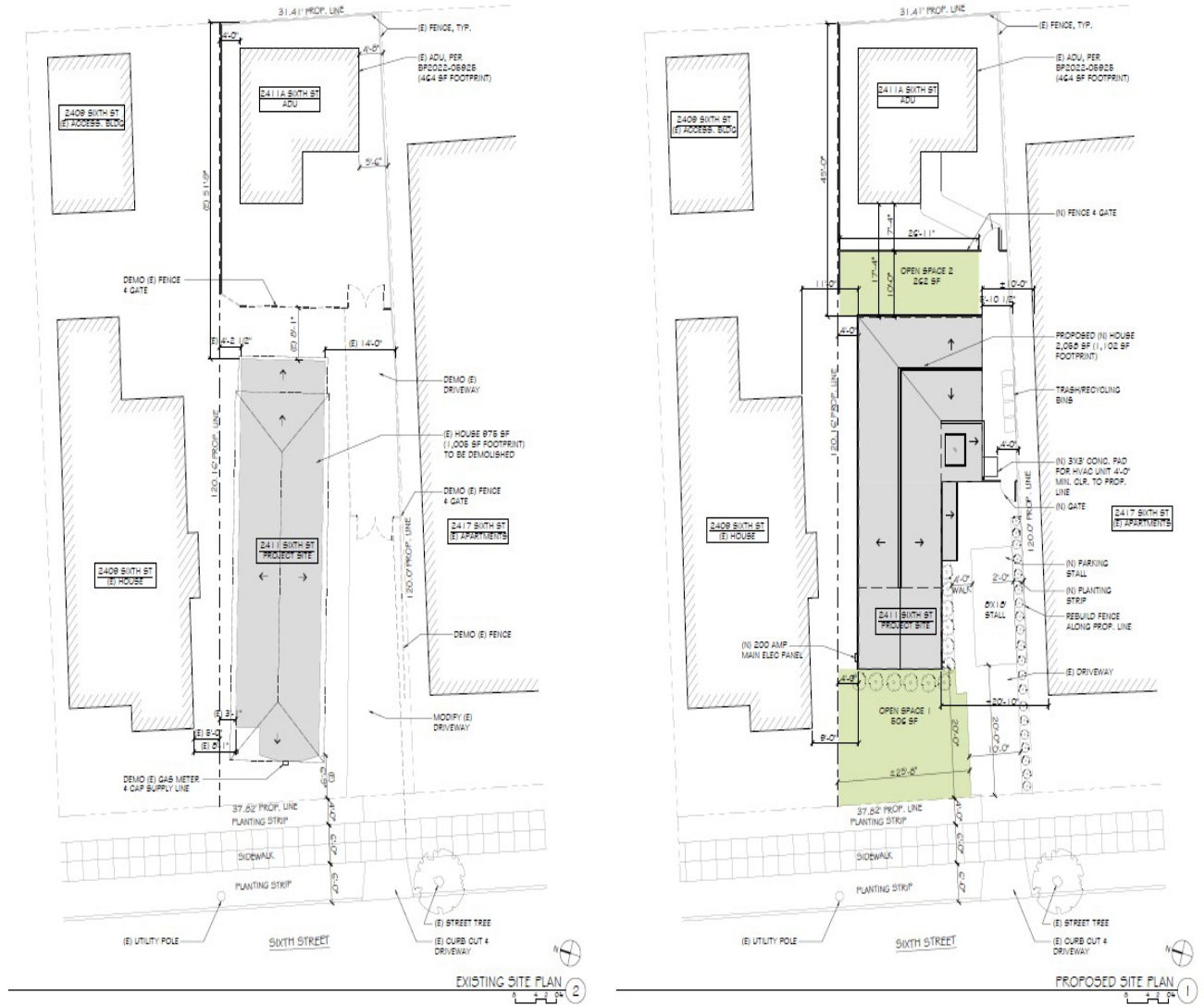


Figure 3: Proposed Elevations



Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	R-1A Limited Two-Family District	Low-Medium Density Residential
Surrounding Properties	North			
	South	Multi-Family Dwelling		
	East	Single-Family Dwelling	Mixed-Use Residential	Manufacturing Mixed-Use
	West	Manufacturing Business		

Table 2: Special Characteristics

Characteristic	Applicability	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to net newly constructed nonresidential gross floor area over 7,500 square feet. The project would only add new residential floor area; therefore, the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable / Inclusionary Housing Requirements (BMC 23.328)	No	The project is a housing development project, as defined in BMC 23.328.020 ¹ , that would provide 5,000 square feet or less of residential unit floor area and is not part of a larger housing development project, and is exempt from the inclusionary housing provisions.
Coast Live Oak Trees (BMC 6.52.010)	No	There are no Coast Live Oak (<i>Quercus agrifolia</i>) trees on the project site.
Creeks	No	No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the project site.
Density Bonus	No	The project is not a Density Bonus Project. See Section III.B for discussion.
Historic Resources	No	A historic resource evaluation (HRE) prepared by Caitlin Himba (February, 2021) concluded that the structure was not a significant cultural resource under CEQA prior to the unpermitted demolition in 2023.

¹ 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.

Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	Yes	The proposed project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) ² because it would add a single-family dwelling to a lot with an ADU that is under construction. No modifications have been requested, the proposed project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies. See Section V.A of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Act of 2019 (SB330)	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) ³ because it would add a single-family dwelling to a lot with an ADU that is under construction. See Section V.B of this report for additional discussion on the sections of SB 330 that apply to the project.
Natural Gas Prohibition (BMC 12.80)	Yes	This project is an application for new construction and was submitted after January 1, 2020, and is therefore subject to the Natural Gas Prohibition.
Rent Controlled Units	No	The project would not demolish, reconfigure, or alter any rent controlled dwelling units.
Residential Preferred Parking (RPP)	No	The site is not located in an RPP zone. The project is not eligible for RPP permits per BMC Section 14.72.080(C)(1) as no permits shall be issued to residents in newly constructed residential units.
Seismic Hazards (SHMA)	Yes	The project site is located within an area susceptible to landslide/liquefaction/fault rupture as shown on the State Seismic Hazard Zones ⁴ map. However, because the proposed project would be construction of a single-family wood-frame dwelling unit not exceeding two stories, this project is exempt from a geotechnical and seismic hazard investigation.
Soil/Groundwater Contamination	No	The project site not located within the City's Environmental Management Area and is not on the Cortese List. ⁵ Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project is located within a 0.5 mile of Alameda County Transit lines #36, #72M, #72R, and #802.

² 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.

³ See footnote 2

⁴ California Department of Conservation. DOC Maps: Geologic Hazards. Available: <https://maps.conservation.ca.gov/geologic Hazards/>

⁵ The Cortese List is an annually updated list of hazardous materials sites compiled pursuant Government Code Section 65962.5.

Table 3: Project Chronology

Date	Action
July 11, 2023	Application submitted
August 11, 2023	Application deemed complete
September 28, 2023	Public hearing notices mailed/posted
October 12, 2023	ZAB hearing

**Table 4: Limited Two-Family Residential District (R-1A) Development Standards
BMC Sections 23.202.060(D)**

Standard		Existing	Proposed Total	Permitted/ Required
Dwelling Units	Total	1 (demolished)	1	1
Building Height	Average (ft.)	13'-1"	21'-11"	28'-0"
	Stories	1	2	20'-0"
Building Setbacks (ft.)	Front	6'-9"	20'-0"	20'-0"
	Rear	51'-9"	45'-0"	20'-0"
	Left Side	3'-1"	4'-0"	3'-9" (lot less than 40' in width)
	Right Side	14'	4'-0"	3'-9" (lot less than 40' in width)
Lot Coverage (%)		35.3	37.6	40%
Usable Open Space (sq. ft.)		400+	768	400 min.

II. Project Setting

A. Neighborhood/Area Description:

The project is located on the east side of Sixth Street between Channing Way and Dwight Crescent in the Limited Two-Family Residential District (R-1A). The west side of Sixth Street is zoned as a Mixed-Use Residential District (M-UR). The area is predominantly residential, consists of one and two-story single-family dwellings, multi-family dwellings, and one manufacturing business across the street.

B. Site Conditions:

The project site is a flat, rectangular, east-west oriented lot. The lot is currently undeveloped. Previous to this proposal, a single-family dwelling was demolished on the parcel without a permit. The parcel is non-conforming to current zoning standards in terms of minimum lot size. The single-family dwelling that was demolished had nonconforming front and side setbacks (See Figure 2: Existing Site Plan, and Table 4: Development Standards). An Accessory Dwelling Unit (ADU), which is allowed by-right with a Zoning Certificate, was approved at the location under a building permit (B2022-05925).

III. Project Description**Proposed Project Details:**

A. The project proposal would permit the demolition of a 975 square-foot single-family dwelling unit with a non-conforming front and side setbacks and, construct a 2,058 square foot, two-story dwelling that is 21 feet, 11 inches in average height and conforms to all development standards for the R1-A, including the minimum front and side setbacks.

B. Additional Background: Administrative Use Permit (AUP) was previously approved to construct a 1,076 square-foot second-story addition to alter and expand an existing 975 square foot single-story single-family dwelling by adding a second story within a non-conforming front and side setback, resulting in a 2,051 square foot, two-story single-family dwelling. (ZP2020-0067). The proposed project did not obtain use permit approval to demolish the unit.

The work that was done during construction of the addition approved under the AUP and subsequent building permit (B2022-02435) went beyond the selective removal of portions of the structure that were outlined in the plans, and the building was technically demolished. Per BMC 23.502.020(D) (Glossary), removal of 50 percent or more of the enclosing exterior walls and 50 percent or more of the roof constitutes a demolition, which requires a use permit. As a result, applicant is required to obtain use permits for the demolition and construction of a new single-family dwelling, and the new construction must meet all development standards and cannot maintain the previous nonconformities.

IV. Community Discussion**A. Neighbor/Community Concerns:**

Prior to submitting this application to the city, the applicant installed a pre-application poster at the site in July, 2023. On September 28, 2023, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations. The City also posted notices within the

neighborhood at nearby three locations. At the time of writing this report, staff had not received any communications regarding the project.

Landmark Preservation Commission / Design Review Committee Review:

This project is not subject to review by the Design Review Committee or the Landmarks Preservation Commission because it is located in a residential district that is not subject to design review and does not involve the demolition of a nonresidential building, respectively.

V. Issues and Analysis

A. Housing Accountability Act Analysis

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

1. The development would have a specific adverse impact on public health or safety⁶ 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 one single-family dwelling unit and an accessory dwelling unit (ADU). The ADU is allowed by-right per State law. Construction of a new single-family dwelling requires a Use Permit. The proposal would comply with applicable, objective general plan and zoning standards. Therefore, the City may not deny the Project without basing its decision on the written findings under Section 65589.5(j), above.

As shown in Table 4 above, the project complies with R1-A District zoning standards. While the project requires a Use Permit to construct a new unit, there are no objective criteria in the findings therefore the project complies with the HAA. The ZAB 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.

⁶ 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.”

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

B. Senate Bill (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. A “housing development project” can include any of the following: 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 October 12, 2023 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

2. **Government Code 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 in an historic resource evaluation prepared by Caitlin Himba from the Left Coast Architectural firm for the project in February, 2021, the property does not appear to be historically significant and therefore is not eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmark or Structure of Merit.

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 the CEQA. Should ZAB determine the application is categorically exempt from

CEQA at the October 12, 2023 public hearing, the application must be approved or disapproved by December 11, 2023.

C. Elimination of Dwelling Units through Demolition:

1. BMC Section 23.326.020(B) allows the ZAB to approve a Use Permit to eliminate or demolish a dwelling unit only if the elimination of the dwelling unit would not be materially detrimental to the housing needs and public interest of any affected neighborhood or the City. The dwelling unit that was demolished without the benefit of a use permit was vacant and had a non-conforming front and side setbacks. The project would replace the vacant and non-conforming demolished unit with one single-family dwelling that would conform with all development standards for the R1-A. Because the project will not result in a net loss of units and would be adding an additional unit to the market which would comply with all development standards, the project would contribute to the housing needs and public interest of the neighborhood and city, and thus the Finding under BMC Section 23.326.020(B) would be met.
2. BMC Section 23.326.030(B) allows the ZAB to approve the demolition of a single dwelling unit provided that the building was not removed from the rental market under the Ellis Act during the proceeding five years and there have been no verified cases of harassment, or threatened or actual eviction during the immediately preceding three years.

Staff from the Rent Board verified that the building was not removed under the Ellis Act in the preceding five years, nor were verified cases of harassment or illegal evictions during the preceding three years.

Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished; prohibits the demolition of occupied or vacant protected units, unless replaced according to replacement provisions therein; and does not supersede any local ordinance that reserves greater protections/provisions for lower income households or displaced households. The project proposes replacing one demolished dwelling with one single-family dwelling unit, and the existing unit is not considered a "protected" unit as defined in Section 66300(d) and is not subject to tenant displacement provisions pursuant to Section 66300(d).

VI. Other Considerations (Zoning and Land Use Considerations)

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

A. General Non-Detriment Finding:

BMC Section 23.406.040(E) 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.

1. Sunlight/Shadow: Shadow studies submitted by the applicant document the existing and proposed shadow effects at three times each day at the winter and summer solstices. The studies reveal that new shadow effects on neighboring properties would be minimal. The most significant potential effects would be the lot itself on the summer solstice.
2. Privacy: The proposed dwelling would have first, second, floor windows on both sides. However, the project site is located in low-medium density neighborhood that contains both single-family and multi-family properties. 2417 Sixth Street is a two-story multi-family building and is the tallest building on the eastern side of the block and has windows on the north elevation. Due to its height, these windows can be viewed by 2409 Sixth Street, the property directly abutting 2411 Sixth to the north. The proposed dwelling would be shorter than the existing adjacent multi-family property, and would not exceed height limits for this residential district.
3. Air: The proposed structure would be outside all required setbacks and comply with minimum requirements for lot coverage and exceed the minimum requirement for open space.
4. 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.

- B.** Pursuant to BMC Section 23.202.060, a new single-family dwelling is allowed in the R-1A with a Use Permit, provided that its siting meets applicable development standards. Though the lot size is substandard for the R1-A district, the replacement single-family dwelling unit will be outside of all required setbacks, meets the minimum open space requirements and is within allowable height limits, and does not exceed lot coverage. The proposed project meets all development standards and would not be detrimental.

B. General Plan Consistency:

The 2002 General Plan contains several policies applicable to the project, including the following:

1. **Policy LU-3 Infill Development:** Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. **Policy LU-7 Neighborhood Quality of Life, Action A:** Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. **Policy UD-16 Context:** The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. **Policy UD-24 Area Character:** Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
5. **Policy UD-32 Shadows:** New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
6. **Policy H-19 Regional Housing Needs:** Encourage adequate housing production to meet City needs and the City's share of regional housing needs.

Staff Analysis: The proposed single-family dwelling would be located in a low to medium density residential neighborhood and would continue to provide a housing unit in the region. It would replace a nonconforming building with one that adheres to the applicable development standards. Its design is compatible with the surrounding houses in the neighborhood, and its effects on light and significant views would be minimal.

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:

- C. APPROVE** #ZP2023-0101 pursuant to Section 23.406.040(D) and subject to the attached Findings and Conditions (see Attachment #1

Attachments:

1. Findings and Conditions
2. Project Plans, July 11, 2023

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2411 SIXTH STREET

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3. Notice of Public Hearing

Staff Planner: Cecelia Mariscal, cmariscal@berkeleyca.gov, (510) 981-7439

ATTACHMENT 1

FINDINGS AND CONDITIONS

OCTOBER 12, 2023

2411 Sixth Street

Use Permit #ZP2023-0101 to legalize the demolition of a non-conforming single-family dwelling and construct a 2,058 square-foot, two-story (22 feet) conforming single-family dwelling.

ZONING PERMITS REQUIRED

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.020(B) to demolish a dwelling unit.
- Use Permit pursuant to BMC Section 23.202.020(A) to construct a dwelling unit.

I. CEQA FINDINGS

- 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 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).
- 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 cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. 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: (1) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and (2) there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.
- B.** The project includes construction of a single-family dwelling on a lot that also has a permitted accessory dwelling unit. 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. FINDINGS FOR APPROVAL

- A. As required by Section BMC 23.326.020(B), the demolition of the dwelling will not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley because:
1. The proposed demolition of the existing dwelling unit will be replaced with a single-family dwelling unit resulting in no net loss of housing; and
 2. The proposed dwelling unit will replace a nonconforming building with one that conforms to all development standards under 23.202.060(D) for the R-1A zoning district and will not be materially detrimental to the housing need and public interest of the affected neighborhood and city.
- B. As required by Section BMC 23.326.030(B), the demolition is not being proposed for a for a building removed from the rental market under the Ellis Act during the preceding five years, nor have there been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.
- C. As required by Section 23.406.040(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
1. The project will replace a nonconforming building with a building that meets all development standards for the district;
 2. Shadow studies submitted by the applicant show minimal increases in shadows that will largely be cast on the subject property itself and therefore not detrimental;
 3. The proposed dwelling unit will be shorter than the existing multi-family building on the neighboring to the north and not directly align with windows on the property to the south, and as a result will not be detrimental to privacy;
 4. The proposed structure will be outside of all setbacks and meet all other development standards and therefore will not be detrimental to air; and
 5. 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.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions 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.

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 re-establish 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 comply with the approved plans and any conditions of approval.

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

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

- 6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D))** Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.
- 7. Permit Modifications (BMC Section 23.404.070)**
No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.
- 8. Permit Revocation (BMC Section 23.404.080)**
The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.
- 9. Indemnification Agreement**
The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. 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:

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

☐ **Project Liaison** _____
Name Phone #

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

11. 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.
12. Construction and Demolition Diversion. Applicant shall submit a that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
13. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed-use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third-party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

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

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

14. 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.

15. 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.
16. 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. (Project required to meet applicable code at time of building permit application, if different from above.)
17. Electric Vehicle (EV) Charging. Each dwelling unit shall install a listed raceway, wiring, and load capacity to allow for future Level 2 (40 amp) plug-in electric vehicle (EV) charging system installation, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Readiness for EV charging and EV charging station installations shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)
18. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
19. 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.
20. 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).

During Construction:

21. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
22. 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 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.
- 23. 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.
- 24. 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 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 25. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) may be required, 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.
- Please contact the Office of Transportation at (510) 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.

- 26. 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.
- 27. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

- 28. 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.
- 29. 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.
- 30. 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.
- 31. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to

the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

- C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- 32. 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.
- 33. Public Works.** The applicant shall ensure that all excavation accounts for surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 34. 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.
- 35. 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.

36. 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.
37. 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.

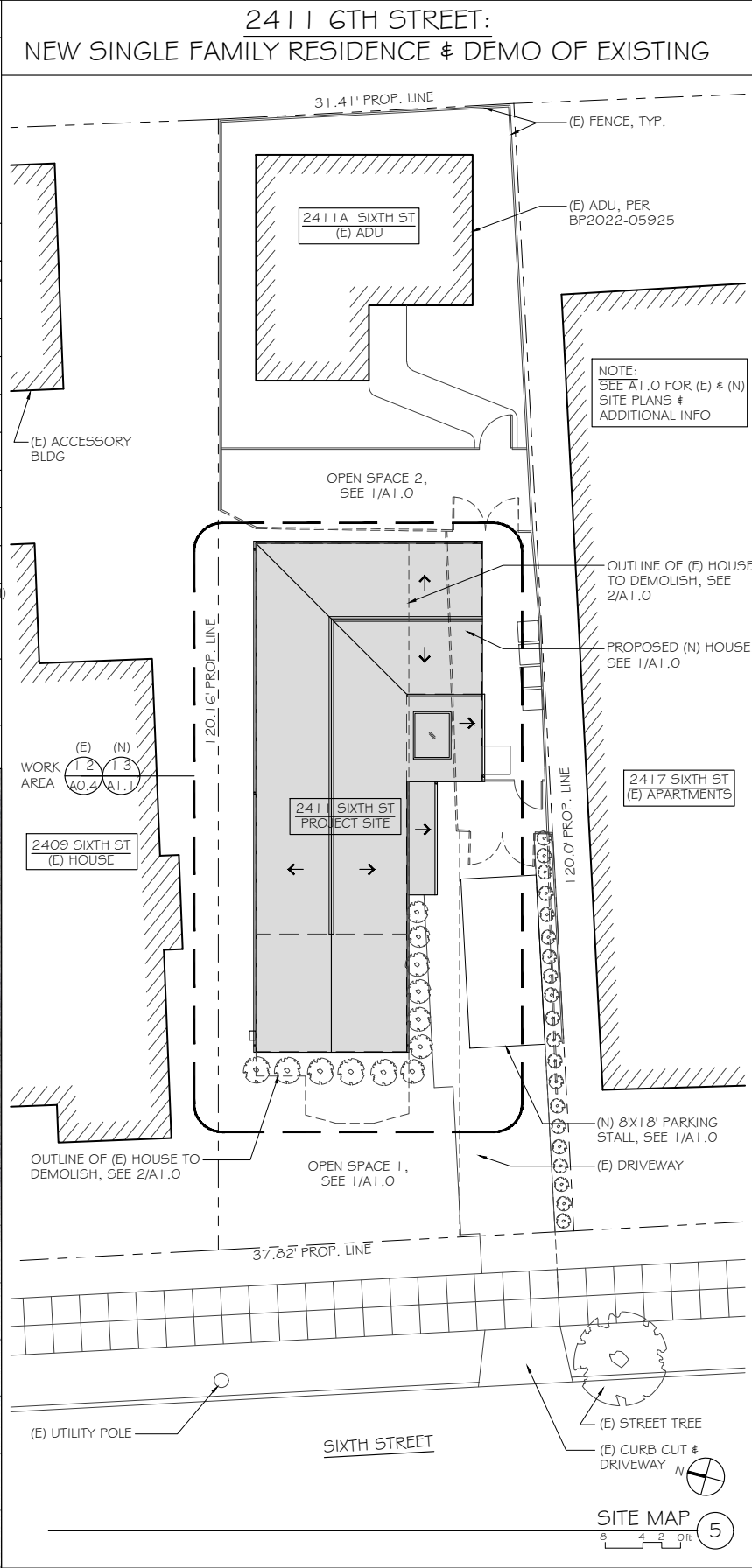
Prior to Final Inspection or Issuance of Occupancy Permit:

38. 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.
39. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated July 11, 2023.

At All Times:

40. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit.
41. 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.
42. 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.
43. 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.
44. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
45. 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.
46. 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.

- 47. Residential 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.
-

[illegible]

STREET ELEVATION:

2411 SIXTH STREET
PROJECT SITE

PROJECT DESCRIPTION:

THESE DRAWINGS ARE FOR A NEW RESIDENCE AND THE DEMOLITION OF AN EXISTING ABANDONED HOUSE. THERE ARE TWO USE PERMITS BEING SOUGHT. WE PROPOSE TO ACQUIRE ONE USE PERMIT (UP) TO DEMOLISH THE ONE STORY, 975 SF HOUSE, AND A SECOND UP TO BUILD A NEW TWO STORY, 2,058 SF HOUSE. THE PROPERTY ALSO CONTAINS AN ACCESSORY DWELLING UNIT (ADU) THAT HAS BEEN PERMITTED (B2022-05925) AND IS PRESENTLY UNDER CONSTRUCTION AT THE REAR OF THE SITE.

OUR FIRST REQUEST IS FOR A UP TO DEMOLISH THE EXISTING SINGLE FAMILY HOUSE. THE ORIGINAL HOUSE HAD BEEN IN POOR CONDITION AND NEEDED SIGNIFICANT IMPROVEMENTS INCLUDING NEW FOUNDATIONS. THE OWNER'S INTENT WAS TO MAINTAIN PORTIONS OF THE EXISTING HOUSE AND BUILD A SECOND FLOOR ADDITION. HOWEVER IT WAS LATER DETERMINED THAT THE WALLS AND FOUNDATION HAD EXTENSIVE DRY ROT, IRREGULAR FRAMING AND WERE STRUCTURALLY UNSOUND FOR SUPPORTING AN ADDITION. THE WORK WOULD HAVE BEEN IMPRACTICAL, REQUIRING EXTENSIVE UPGRADES TO ITS FOUNDATIONS, FRAMING, FIREPROOFING AND ENERGY IMPROVEMENTS. THEREFORE NO PART OF THE EXISTING BUILDING COULD BE SAVED AS ORIGINALLY INTENDED.

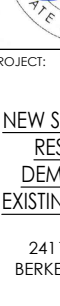
OUR SECOND UP REQUEST IS FOR A NEW 2,058 SF SINGLE FAMILY HOUSE CONTAINING THREE BEDROOMS. LIVING SPACE WILL BE ON THE GROUND FLOOR WITH BEDROOMS UPSTAIRS. THERE WILL BE 2 FULL BATHROOMS UPSTAIRS AND 1 FULL BATHROOM DOWNSTAIRS. ONE PARKING STALL WILL BE PROVIDED.

DRAWING LIST:

A0.1 COVER SHEET	A1.0 SITE PLANS
A0.2 SHADOW STUDIES	A1.1 PROPOSED FLOOR PLANS
A0.3 SHADOW STUDIES	A2.1 PROPOSED ELEVATIONS
A0.4 EXISTING / DEMO FLOOR PLANS	A2.2 PROPOSED SECTIONS
A0.5 EXISTING / DEMO ELEVATIONS & STREET STRIP ELEVATION	SU1 SURVEY

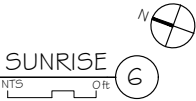
SITE

VICINITY MAP

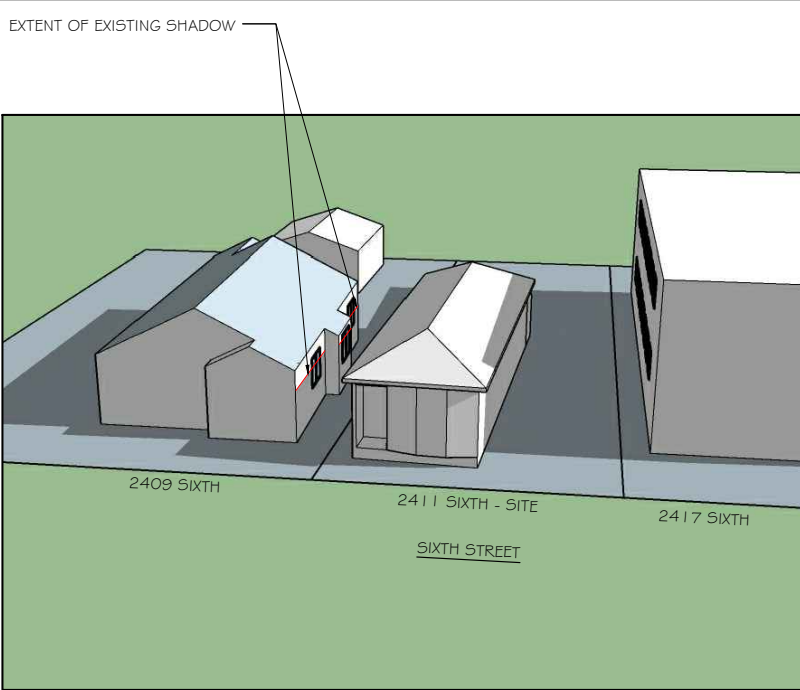
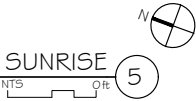
	
PROJECT:	
<u>NEW SINGLE FAMILY</u> <u>RESIDENCE &</u> <u>DEMOLITION OF</u> <u>EXISTING RESIDENCE</u>	
2411 SIXTH STREET BERKELEY, CA 94710	
 ARCHITECT OF RECORD: JAMES NOVOSEL the bay architects 1840b alcatraz ave berkeley, ca 94703 510.420.1484 fax 510.420.1165 www.bayarch.com bayarch@pacbell.net COPYRIGHT: JUL 2023 THE BAY ARCHITECTS	
CLIENT:	
TOM JOZINOVIC 1619 HEIDELBERG DRIVE LIVERMORE, CA 94550 (408) 398-6570	
COVER SHEET	
AO. I	
DRAWING SHEET	



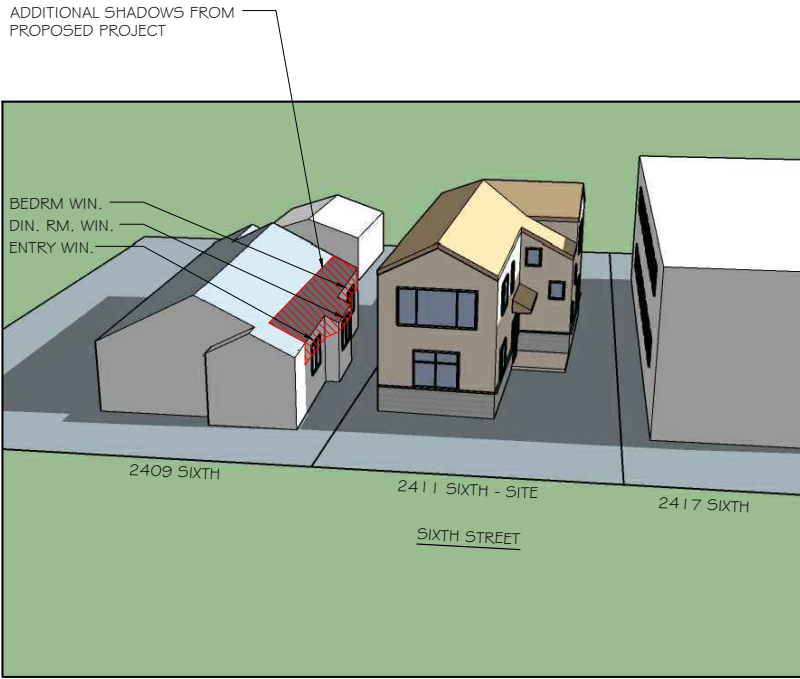
(E) SHADOWS: DECEMBER 21 - 2 HOURS AFTER SUNRISE



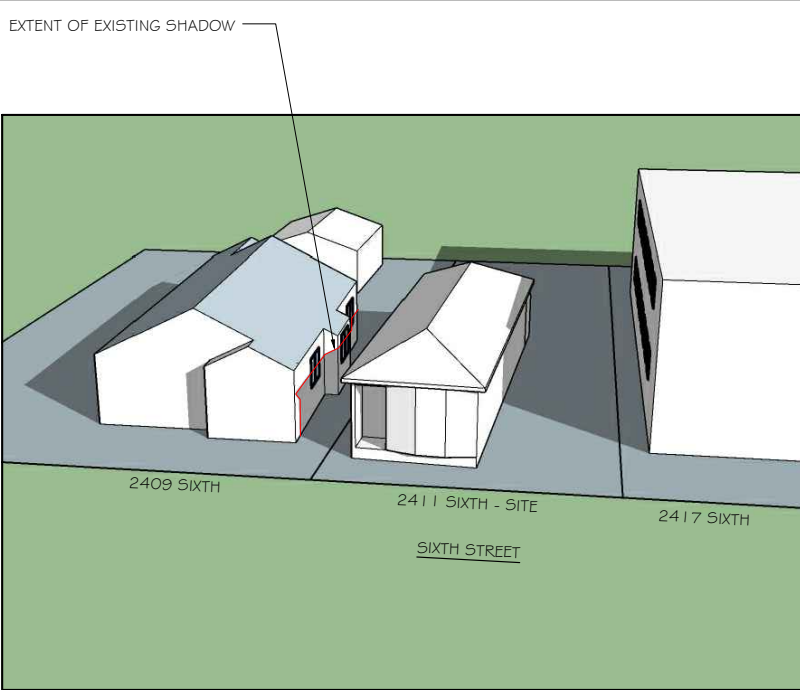
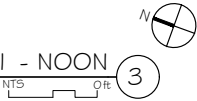
(N) SHADOWS: DECEMBER 21 - 2 HOURS AFTER SUNRISE



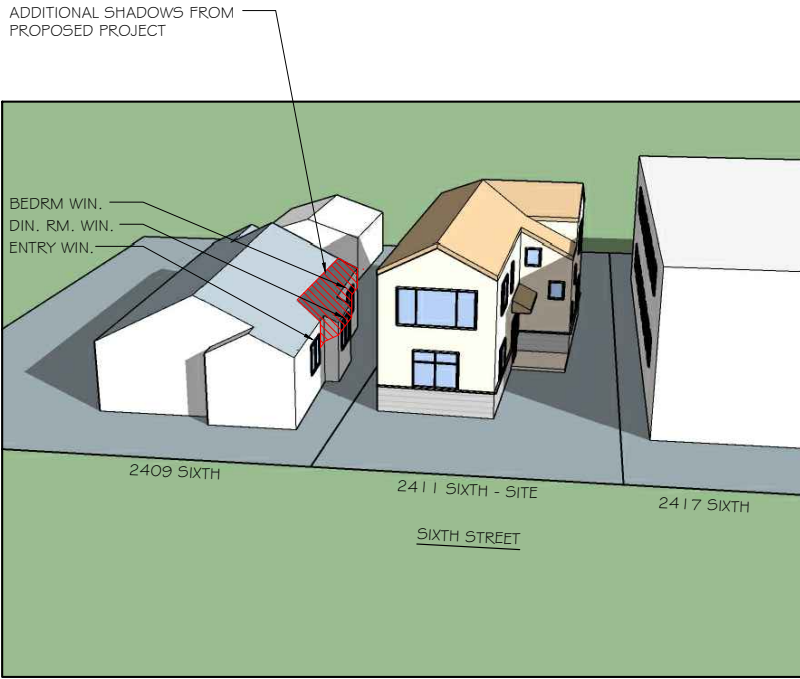
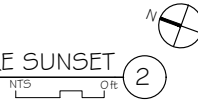
(E) SHADOWS: DECEMBER 21 - NOON



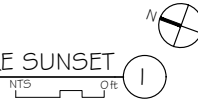
(N) SHADOWS: DECEMBER 21 - NOON



(E) SHADOWS: DECEMBER 21 - 2 HOURS BEFORE SUNSET



(N) SHADOWS: DECEMBER 21 - 2 HOURS BEFORE SUNSET



PROJECT:

**NEW SINGLE FAMILY
RESIDENCE &
DEMOLITION OF
EXISTING RESIDENCE**

2411 SIXTH STREET
BERKELEY, CA 94710

ARCHITECT OF RECORD:
JAMES NOVOSSEL

the bay architects

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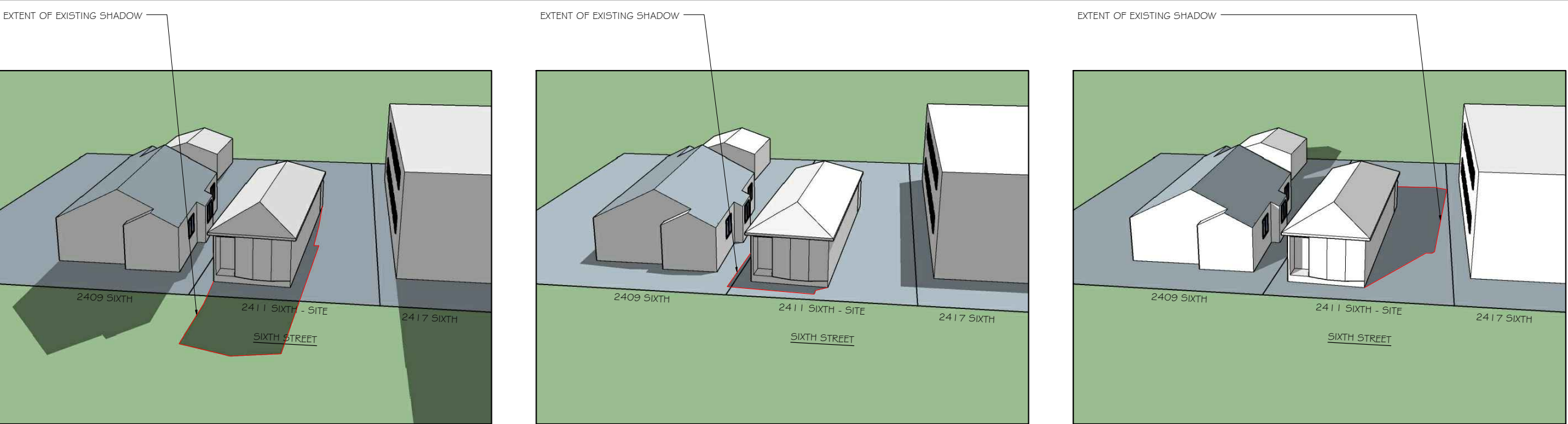
CLIENT:
TOM JOZINOVIC
1619 HEIDELBERG DRIVE
LIVERMORE, CA 94550
(408) 398-6570

PRINT DATE / PURPOSE
07/11/23 ZONING APPLICATION

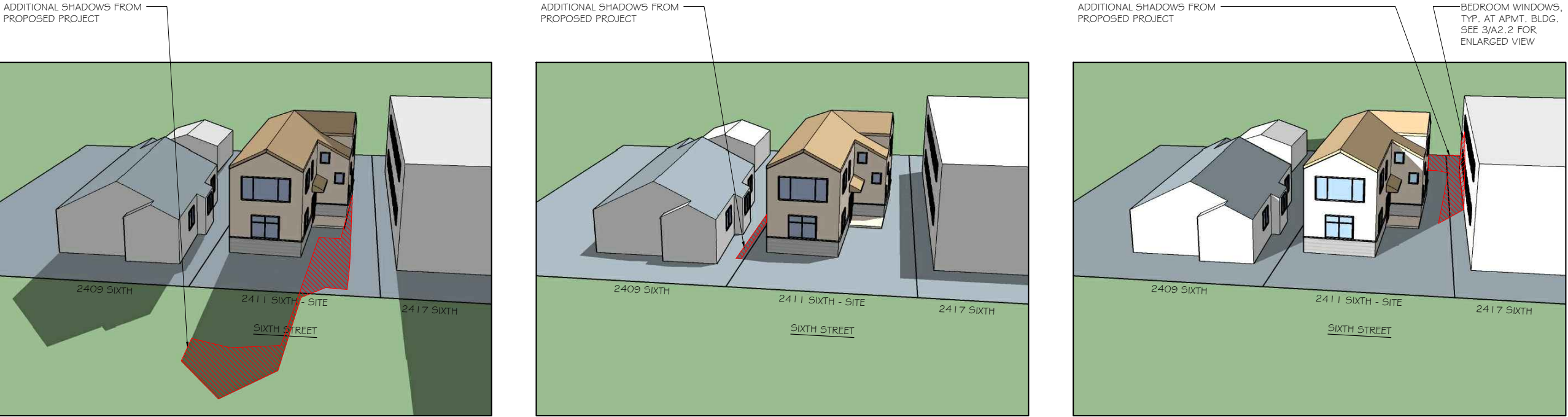
SHADOW STUDIES

AO.2

DRAWING SHEET



(E) SHADOWS: JUNE 21 - 2 HOURS AFTER SUNRISE (6) (E) SHADOWS: JUNE 21 - NOON (4) (E) SHADOWS: JUNE 21 - 2 HOURS BEFORE SUNSET (2)



(N) SHADOWS: JUNE 21 - 2 HOURS AFTER SUNRISE (5) (N) SHADOWS: JUNE 21 - NOON (3) (N) SHADOWS: JUNE 21 - 2 HOURS BEFORE SUNSET (1)

LICENSED ARCHITECT
JAMES NOVOSSEL
No. CA 11401
RENEWAL DATE
FEBRUARY 2025
STATE OF CALIFORNIA

PROJECT:

NEW SINGLE FAMILY
RESIDENCE &
DEMOLITION OF
EXISTING RESIDENCE

2411 SIXTH STREET
BERKELEY, CA 94710

ARCHITECT OF RECORD:
JAMES NOVOSSEL

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(408) 398-6570

PRINT DATE / PURPOSE
07/10/23 ZONING APPLICATION

SHADOW STUDIES

A0.3

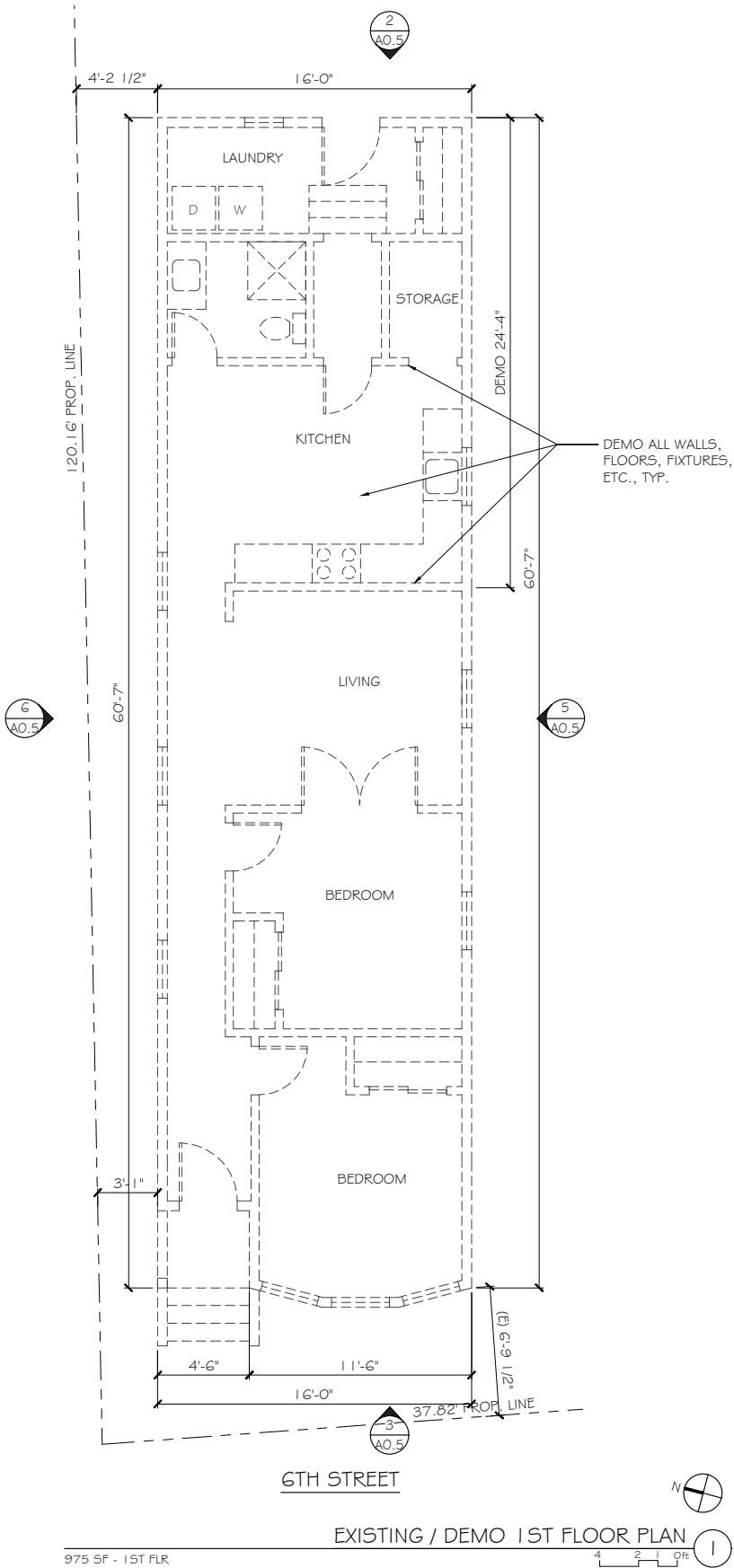
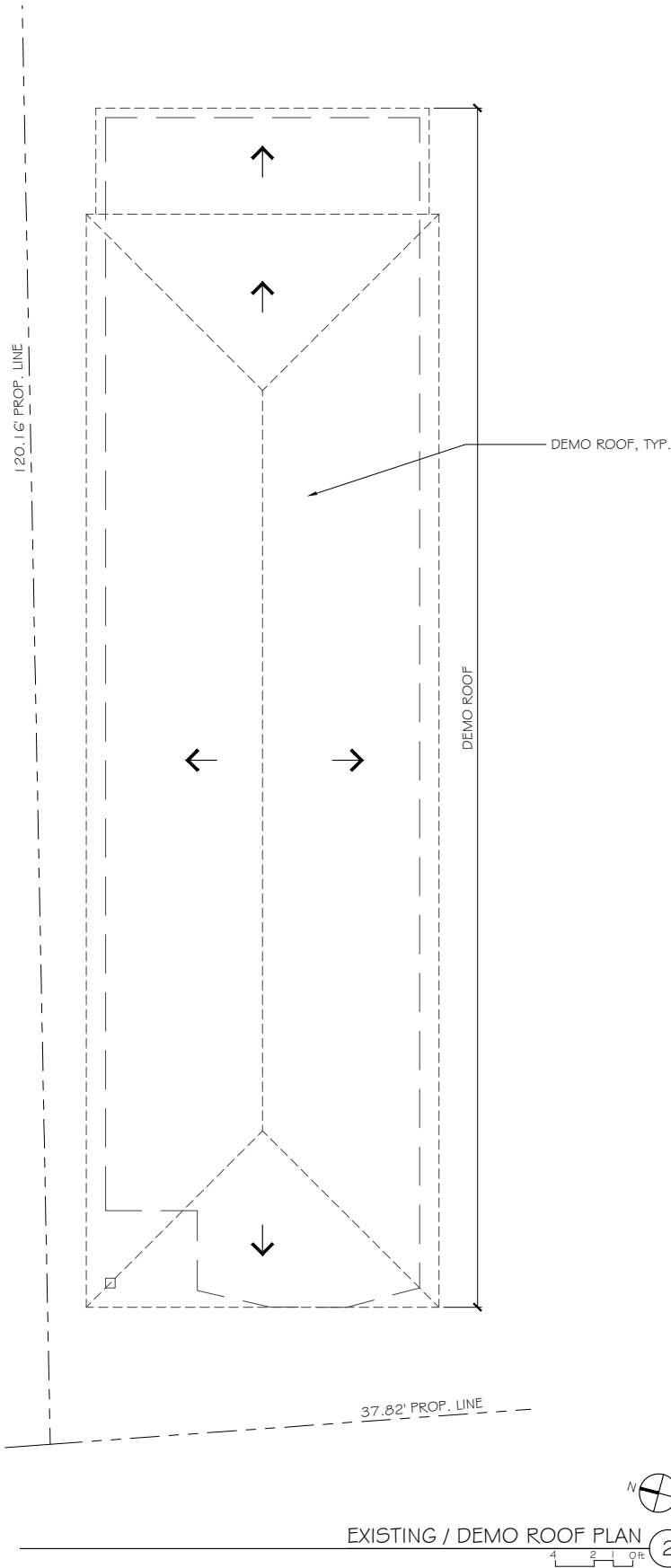
DRAWING SHEET

LEGEND

(E) WALL

(E) WALL TO DEMOLISH

SOFFIT LINE ABOVE



LICENSED ARCHITECT

JAMES NOVOSSEL

NO. CA 11401

RENEWAL DATE

FEBRUARY 2025

STATE OF CALIFORNIA

PROJECT:

NEW SINGLE FAMILY
RESIDENCE &
DEMOLITION OF
EXISTING RESIDENCE

2411 SIXTH STREET
BERKELEY, CA 94710

ARCHITECT OF RECORD:
JAMES NOVOSSEL

the bay architects

1840b alcatraz ave
berkeley, ca 94703
510.420.1484
fax 510.420.1165
www.bayarch.com
bayarch@pacbell.net

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THE BAY ARCHITECTS

CLIENT:

TOM JOZINOVIC
1619 HEIDELBERG DRIVE
LIVERMORE, CA 94550
(408) 398-6570

PRINT DATE / PURPOSE

07/11/23 ZONING APPLICATION

EXISTING / DEMO
FLOOR PLANS

A0.4

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2411 SIXTH STREET
BERKELEY, CA 94710



ARCHITECT OF RECORD
JAMES NOVOSEL

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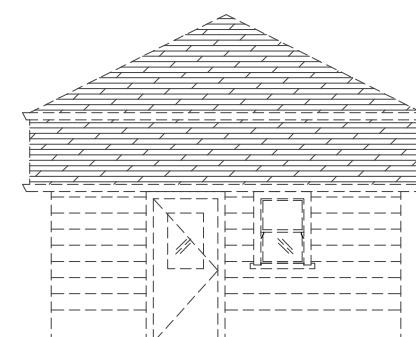
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(408) 398-6570

AO.5



EXISTING / DEMO WEST (STREET) ELEVATION 3



EXISTING / DEMO EAST ELEVATION (2)



2411 SIXTH STREET
BERKELEY, CA 94710

ARCHITECT OF RECORD
JAMES NOVOSIEL



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bay
architects**

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PRINT DATE / PURPOSE	
07/10/23	ZONING APPLICATION

SITE PLANS

Al.O

DRAWING SHEET





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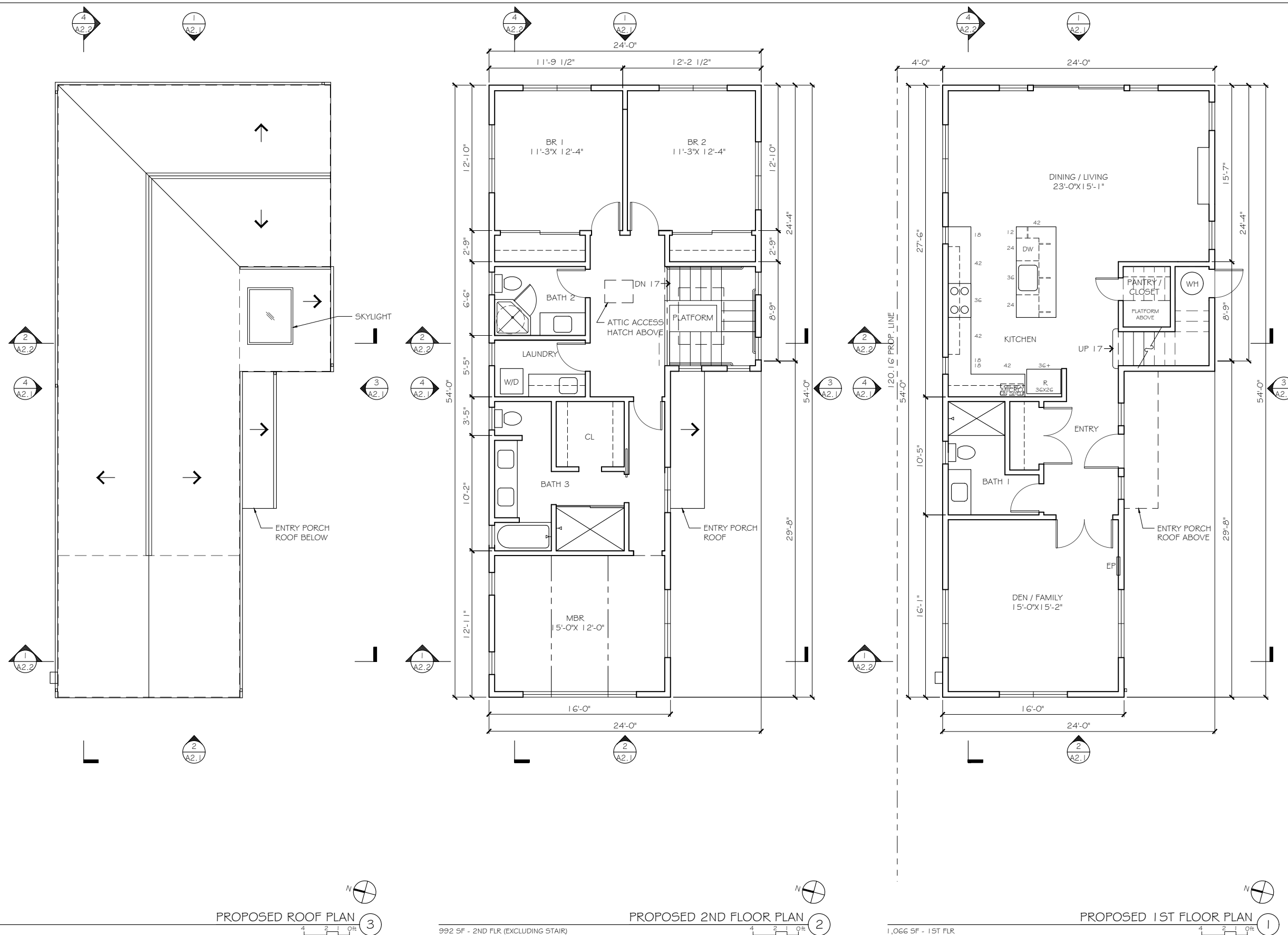
CLIENT:
TOM JOZINOVIC
1619 HEIDELBERG DRIVE
LIVERMORE, CA 94550
(408) 398-6570

PRINT DATE / PURPOSE	
07/10/23	ZONING APPLICATION

PROPOSED FLOOR
PLANS

A1.1

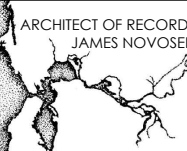
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PROJECT:
**NEW SINGLE FAMILY
RESIDENCE &
DEMOLITION OF
EXISTING RESIDENCE**

2411 SIXTH STREET
BERKELEY, CA 94710



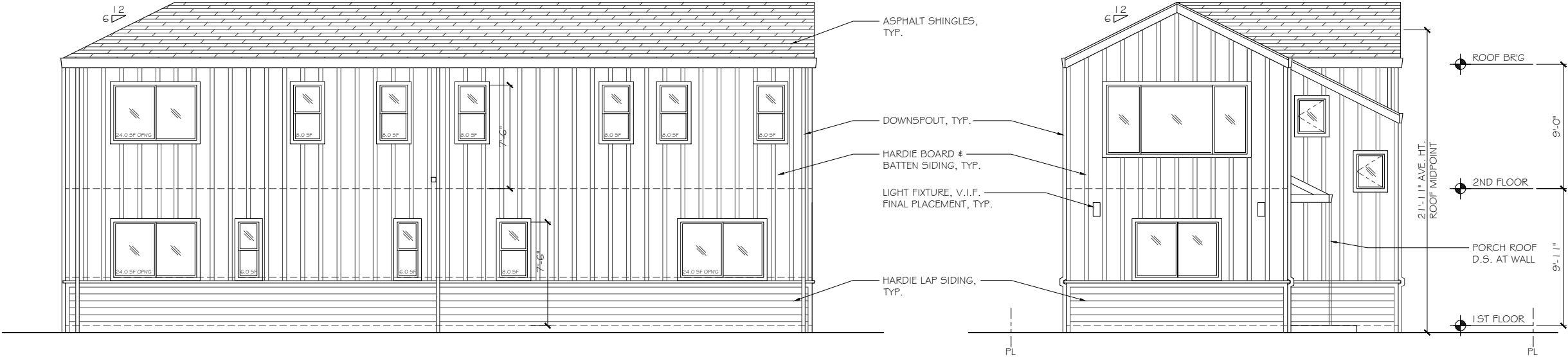
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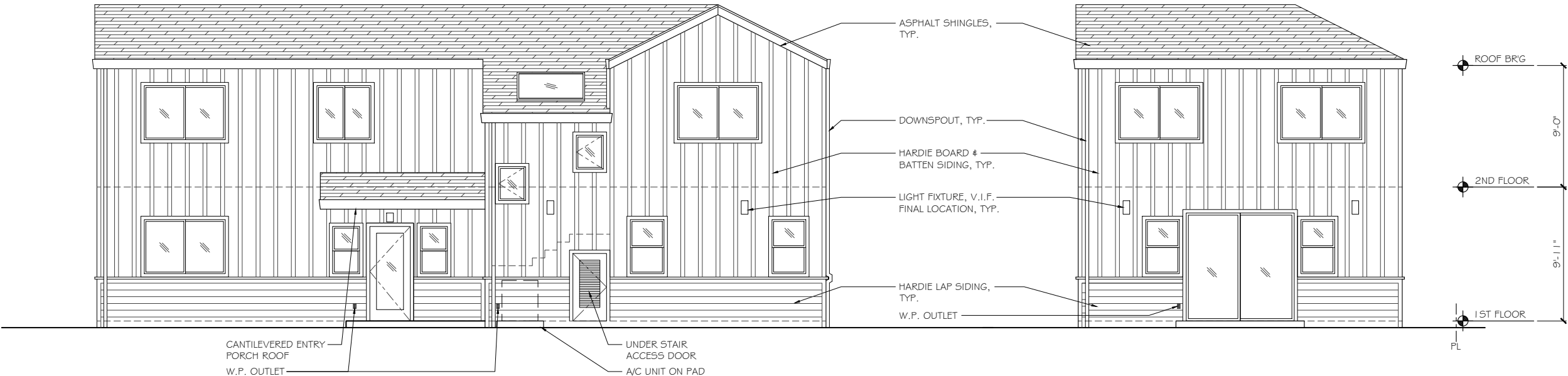
PRINT DATE / PURPOSE	
07/11/23	ZONING APPLICATION

PROPOSED
ELEVATIONS
A2.1
DRAWING SHEET



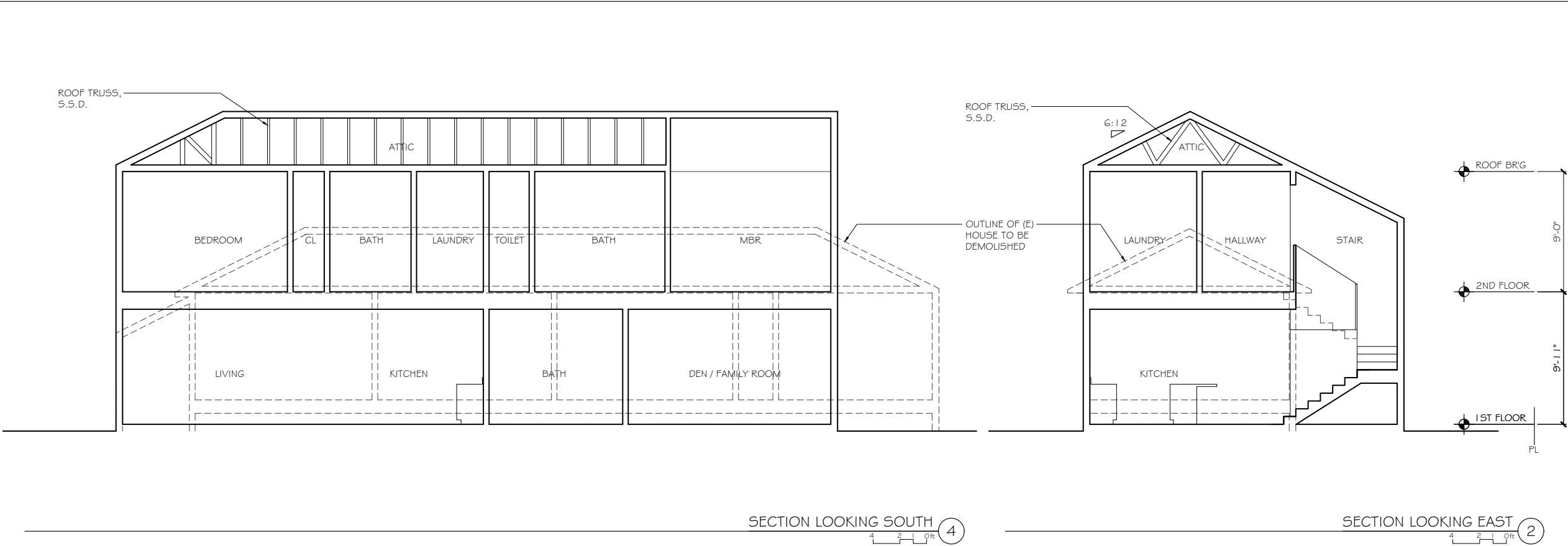
PROPOSED NORTH ELEVATION ④

PROPOSED WEST (FRONT) ELEVATION ②



PROPOSED SOUTH ELEVATION ③

PROPOSED EAST ELEVATION ①



PROJECT:

NEW SINGLE FAMILY RESIDENCE & DEMOLITION OF EXISTING RESIDENCE

2411 SIXTH STREET
BERKELEY, CA 94710

ARCHITECT OF RECORD:
JAMES NOVOSSEL

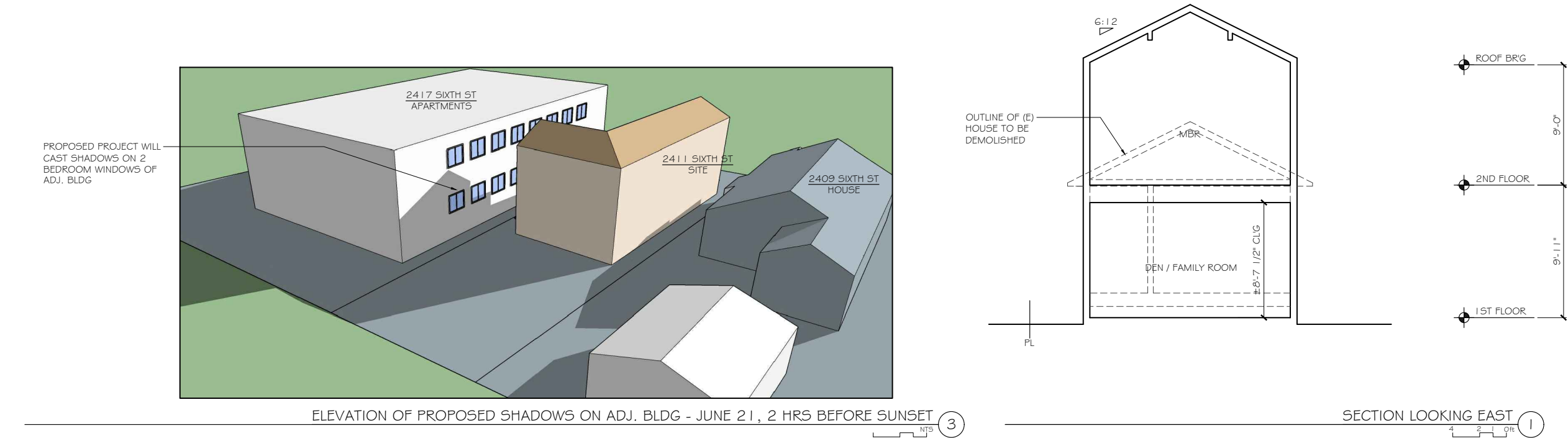
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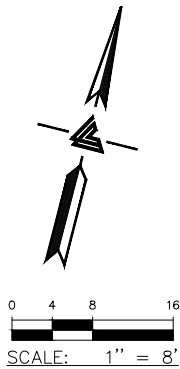
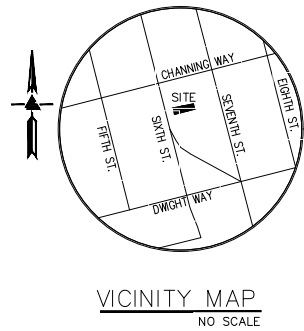
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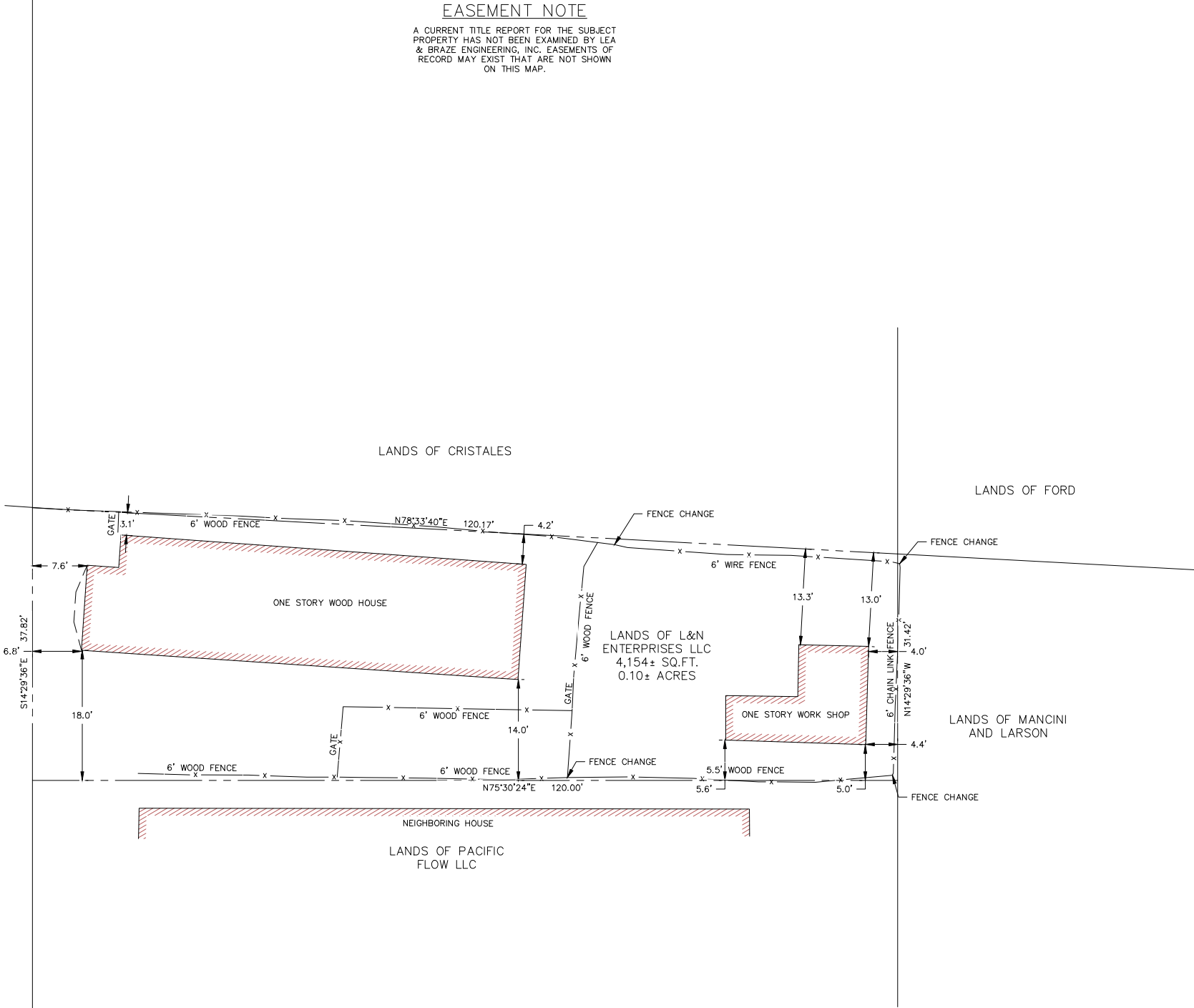
TOM JOZINOVIC
1619 HEIDELBERG DRIVE
LIVERMORE, CA 94550
(408) 398-6570



PRINT DATE / PURPOSE	
07/11/23	ZONING APPLICATION
PROPOSED SECTIONS	
A2.2	
DRAWING SHEET	



6th STREET (80')



EASEMENT NOTE

A CURRENT TITLE REPORT FOR THE SUBJECT PROPERTY HAS NOT BEEN EXAMINED BY LEA & BRAZE ENGINEERING, INC. EASEMENTS OF RECORD MAY EXIST THAT ARE NOT SHOWN ON THIS MAP.



LEA & BRAZE ENGINEERING, INC.
LAND SURVEYORS
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DUBLIN
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2455 INDUSTRIAL PKWY WEST
HAYWARD, CALIFORNIA 94545
(510) 887-4086
WWW.LEABRAZE.COM

2411 6th STREET
BERKELEY
CALIFORNIA

APN: 056-1940-028

ALAMEDA COUNTY

BOUNDARY AND
HOUSE LOCATION
PLAT

REVISIONS	BY
JOB NO: 2200280	
DATE: 06-02-20	
SCALE: 1"=8'	
FIELD BY: AO	
DRAWN BY: RM	
SHEET NO:	
SU1	
1 OF 1 SHEETS	



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

2411 Sixth Street

Use Permit #ZP2023-0101 to legalize the demolition of a non-conforming single-family dwelling and construct a 2,058 square-foot, two-story (22 feet) conforming single-family dwelling.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance, Section [23.404.050 \(Public Hearings and Decisions\)](#)

When: Thursday, October 12, 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: Low Medium-Density Residential (LMDR)
- Zoning: Limited Two-Family District (R1-A)

B. Zoning Permits Required:

- Demolish a dwelling unit, under (BMC) Section 23.326.020(B)
- To construct a new dwelling unit, under BMC Section 23.202.020(A)

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

E. Parties Involved:

- Applicant James Novosel, 1840 Alcatraz Avenue, Berkeley CA 94703
- Property Owner Tom Jozinovic, 1619 Heidelberg Drive, Livermore CA 94550

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, Cecelia Mariscal, at (510) 981-7439 or cmariscal@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.

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@berkeleyca.gov. 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@berkeleyca.gov) 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.