



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 26, 2023

2403-07 San Pablo Avenue Berkeley Moshav

Use Permit Modification # ZP2023-0103 to modify the project originally approved under # ZP2021-0220 to add five additional off-street parking spaces where the parking maximum is 19 automobile parking spaces. This project will comply with all conditions of approval applicable to #ZP2021-0220.

I. Background

A. Land Use Designations:

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

B. Zoning Permits Required¹:

- **Use Permit** (Modification) to modify an approved discretionary permit, under Berkeley Municipal Code (BMC) Section 23.404.070(B)
- **Administrative Use Permit** to exceed the off-street parking maximum by five parking spaces as a Reasonable Accommodations Request, under BMC Section 23.322.070(D)

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"). The determination is made by ZAB.

D. Parties Involved:

- Applicant Buddy Williams, Studio KDA, Berkeley, CA
- Property Owner Robert Studley, Albany, CA

¹ See Attachment 4 (ZAB Staff Report 2403-07, March 3, 2023) for zoning permits approved with Use Permit #ZP2021-0220

Figure 1: Vicinity Map



**map not to scale*

Zoning Districts

- C-W: West Berkeley Commercial
- R-1A: Limited Two-Family Residential
- R-2: Restricted Two-Family Residential

Figure 2: Site Plan
Five additional off- street parking spaces located on the ground floor

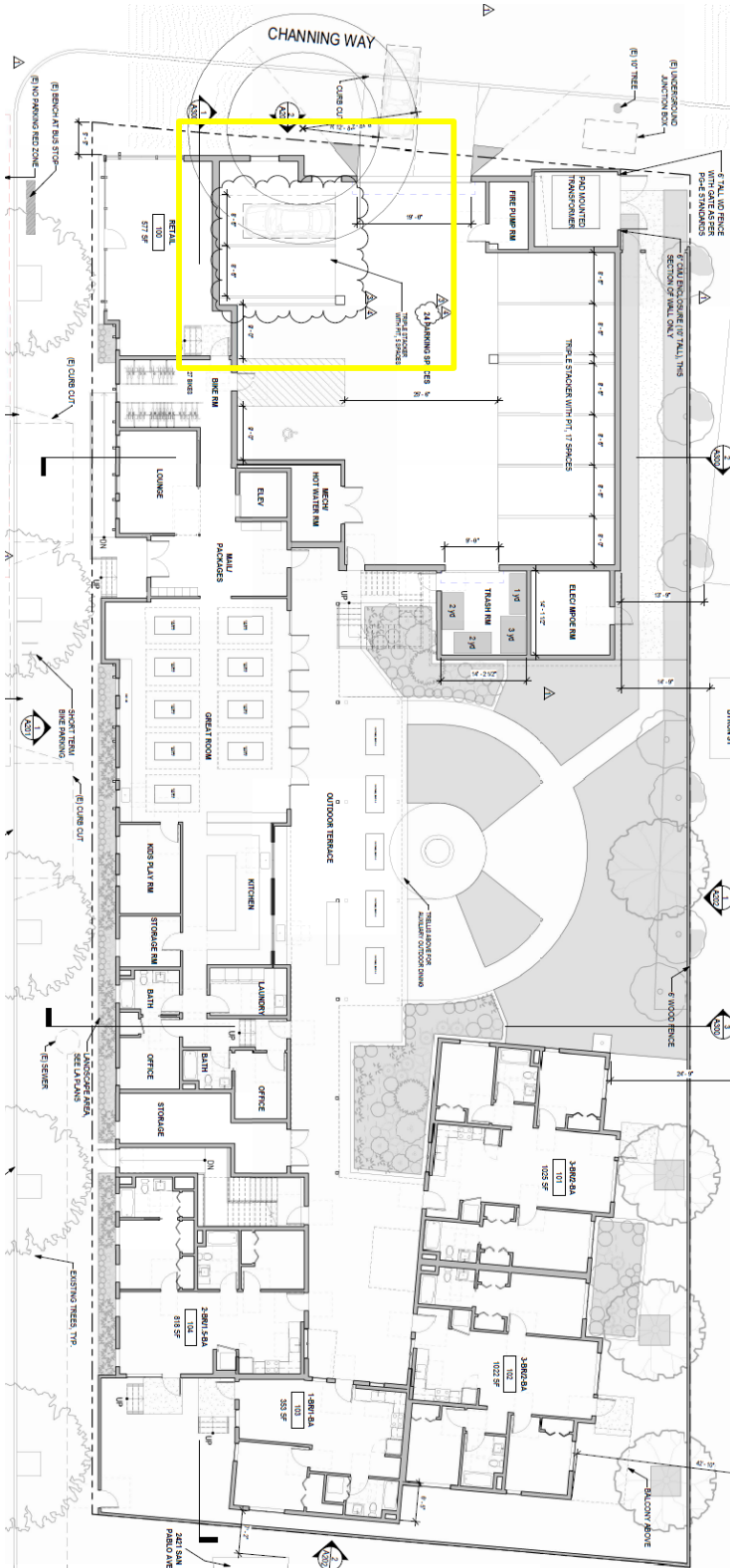


Table 1: Land Use Information

| Location | | Existing Use | Zoning District | General Plan Designation |
|------------------------|-------|---|-----------------|-----------------------------------|
| Subject Property | | Vacant – commercial building and accessory structures | C-W | Avenue Commercial |
| Surrounding Properties | North | Commercial (furniture store) | | |
| | South | Multifamily building | | |
| | East | Single-family dwelling | R-2 | Restricted Two-Family Residential |
| | West | Commercial (salvage store) | C-W | Avenue Commercial |

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 | This fee applies to net new nonresidential floor area over 7,500 square feet. The proposed project adds five parking spaces and does not modify the previously approved commercial floor area (603 square feet) and is not subject to this requirement. |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.) | No | |
| Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065) | No | The project would not modify the previously approved number of Below Market Rate (BMR) units at the Very Low-Income (VLI) rate available on site is therefore not subject to requirements of BMC Section 22.20.065. |
| Creeks | No | The site is not located near a mapped creek or a creek culvert. |
| Density Bonus | No | The project is not a density bonus project. |
| Natural Gas Prohibition (Per BMC 12.80.020) | Yes | This project is an application for new construction and was submitted after January 1, 2020; therefore, it is subject to the Natural Gas Prohibition. |
| Historic Resources | No | The project site is not designated as a Landmark by the City and has not previously been surveyed individually for historical significance under local, state, or federal historic significance criteria. |
| Housing Accountability Act (Gov't Code Section 65589.5(j)) | No | The project would add five off-street parking spaces to an approved "Housing Development Project" per Government Code Section 65589.5(h) ² and would not change the number of dwelling units in the development. The Housing Accountability Act does not apply to the proposed project modification. |

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.

| | | |
|-------------------------------------|-----|--|
| Housing Crisis Act of 2019 (SB330) | No | The project does not meet the definition of a "Housing Development Project" per Government Code Section 65589.5(h). Therefore, SB 330 does not apply. |
| Oak Trees | No | There are no oak trees on the project site. |
| Rent Controlled Units | No | There are no dwelling units on site. |
| Residential Preferred Parking (RPP) | No | The project is not eligible for RPP permits per BMC Section 14.72.080(C)(1), no permits shall be issued to residents in newly constructed residential units. |
| Seismic Hazards (SHMA) | Yes | The site is located within an Environmental Management Area and Liquefaction Zone; therefore, it is subject to standard conditions of approval. |
| Soil/Groundwater Contamination | No | The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites pursuant to Government Code Section 65962.5). Per Section 15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List. |
| Transit | Yes | The site is located at the corner of San Pablo Avenue and Channing Way. The site is served by Alameda County (AC) transit lines 72, 72M, and 802. The site is also proximate to cross-town AC transit line 36. Parallel to the site, across San Pablo Avenue, is a Bay Wheels bike share location. |

Table 3: Project Chronology

| Date | Action |
|------------------|--|
| March 30, 2023 | Use permit #ZP2021-0220 approved by ZAB |
| July 11, 2023 | Use permit (#ZP2023-0103) modification application submitted |
| July 27, 2023 | Application deemed incomplete |
| August 14, 2023 | Application resubmitted and deemed complete |
| October 3, 2023 | Plans resubmitted |
| October 26, 2023 | ZAB hearing |

Table 4: Development Standards

| Standard | | Original Project | Proposed | Permitted/ |
|---|----------------------|------------------------|--------------|---------------|
| BMC Sections 23.204.140 | | ZAB Approved | Modification | Required |
| | | #ZP2021-0220 | #ZP2023-0103 | |
| Lot Area (sq. ft.) | | No change | No change | N/A |
| Gross Floor Area (sq. ft.) | | 53,013 | No change | N/A |
| Floor Area Ratio | | 2.29 | No change | 3 max |
| Dwelling Units | Total | N/A | N/A | 36 |
| | Affordable | N/A | N/A | 0 |
| Building Height | Average (ft.) | 50 max | No change | 50 |
| | Maximum (ft.) | 50 max | No change | 50 |
| | Stories | 4 max | No change | 4 |
| Building Setbacks (ft.) | Front | N/A | N/A | No change |
| | Rear | 10 or 10% of lot depth | No change | No change |
| | Left Side (interior) | 0 min | No change | 3 |
| | Right Side (street) | 0 min | No change | No change |
| Lot Coverage (%) | | 56 | No change | 100 max |
| Usable Open Space (sq. ft.) | | 10,199 | No change | 1,440min |
| Parking | Automobile | 19 max | 24 | 19 max |
| | Bicycle | 27 min | 27 min | 36 |
| Abbreviations: sq. ft. = square feet; ft. = feet; max. = maximum; min. = minimum; N/A = not applicable; % = percent | | | | |

II. Project Setting

A. Neighborhood/Area Description: The project site is located along the San Pablo Avenue commercial corridor, within the West Berkeley Plan Area and is situated at the intersection of Channing Way and San Pablo Avenue. The commercial block on which the site is located, between Channing and Dwight Way, is characterized by two-story multifamily buildings, automotive and retail uses. Several sites along this section of San Pablo Avenue have current applications for redevelopment in progress. The majority of these projects are infill, mixed-use developments, that propose residential and commercial floor area. The rear of the project site (east) abuts a residential zoning district comprised of single-family dwelling units and duplex units. The project site is proximate to several parks (Strawberry Creek, San Pablo, and Aquatic), multimodal transit routes, and commercial areas (Fourth Street and University Avenue).

B. Site Conditions: The project site spans two lots, is rectangular, relatively flat, with about 232 feet of frontage along San Pablo Avenue and about 100 feet of frontage along Channing Way. The site is currently developed with a one-story commercial building and several accessory structures. The lot is accessed by two curb cuts fronting San Pablo Avenue and one curb cut along Channing way.

III. Project Description

A. Proposed project: The proposed modification would establish five additional off-street parking spaces above the parking maximum (19 spaces), for a total of 24 parking spaces. The additional off-street parking spaces would be located on the ground floor of the development within the previously approved building envelope under #ZP2021-0220. The additional parking would be for five anticipated residents of the development that require reasonable accommodations. This project will comply with all conditions of approval applicable to #ZP2021-0220.

IV. Community Discussion

A. Neighbor/Community Concerns: On October 12, 2023, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any communications regarding the proposed modifications to the originally approved project.

B. Design Review Committee: There are no proposed modifications to the exterior of the project, and therefore does not require additional review by the Design Review Committee (DRC). On August 18, 2022, the DRC gave a favorable recommendation for the previously approved under #ZP2021-0220 and provided conditions and recommendations for Final Design Review in ZAB Staff Report (Attachment 3).

C. Landmarks Preservation Commission: There are no proposed modifications the demolition of the existing non-residential structures. Pursuant to BMC Section 23.326.070(C)(1), the demolition associated with the previously approved development was brought before the Landmarks Preservation Commission (LPC) for review. At the August 4, 2022, LPC Meeting, the LPC took no action to initiate these properties for local register consideration (i.e., Landmark or Structure of Merit designation). The project does not require additional review by the LPC.

V. Issues and Analysis

A. Excess Off-Street Parking: As required by BMC Section 23.322.070(D), the ZAB must find that the apparent demand for additional parking cannot be satisfied by the amount parking permitted and or that the anticipated residents of the proposed project have special needs or require reasonable accommodation that relate to disability, health, or safety that require the provision of additional off-street parking available in the area. The multifamily development will be a co-housing project where all of the future tenants are confirmed. The applicant provided confidential

information confirming that five of the tenants maintain active disabled person (DP) parking placards, and require reasonable accommodation. According to the State of California Department of Motor Vehicles³, in order to qualify for a DP parking placard, persons must have impaired mobility for the following reasons:

- They have lost the use of one or more lower extremities, or both hands
- They have a diagnosed disease that substantially impairs or interferes with mobility
- They are unable to move without the aid of an assistive device
- They have specific, documented visual problems, including lower-vision or partial-sightedness

The request for additional off-street parking on the basis of future tenant disability is reasonable and is consistent with City requirements to grant excess parking.

To accommodate the additional off-street parking request, staff has prepared the following condition of approval reflecting the relationship between tenant disability and accessible parking:

COA13. Excess Parking. Prior to the submittal of any building permit for this project, the applicant shall revise plans submitted on July 11, 2023, to include a total of 24 off-street parking spaces. In addition to the minimum number of accessible parking spaces permitted, all five of the additional parking spaces shall be maintained as accessible parking spaces and comply with accessible parking standards, subject to the review of the City's Traffic Engineer.

- B. Non-Detriment Findings:** As required by BMC Section 23.406.040(E), the ZAB must find that the proposed structure will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons and adjacent properties for any Use Permit in the C-W. The proposed modification would not be detrimental, as it would add five off-street parking spaces to 36- unit multifamily development within the approved building envelope under #ZP2021-0220, and would not increase any perceivable detrimental impacts.

The proposed modification would not be detrimental to the health, safety, p The project is also 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.

- C. District Purposes Consistency:** In addition to the general non-detriment findings, per BMC Section 23.204.140(F), the ZAB must determine that several findings specific

³ [Disabled Person Parking Placards and Plates](#). State of California Department of Motor Vehicles.

to the C-W zoning district can be made. The proposed project would add five off-street parking spaces within the building envelope of an approved infill development and will not change the residential and commercial programming of the approved mixed-use building. Further, the proposed modification would not change the overall the bulk and mass of the development, and as such would not unreasonably obstruct light or air from abutting residential and commercial properties approved under #ZP2021-0220. Therefore, the project is consistent with the purposes of C-W commercial zoning district.

VI. Other Considerations

The following analyses of conformance with policies and goals included in the 2002 General Plan and West Berkeley Plan, are provided for informational purposes only, to provide context.

A. General Plan Consistency: The project is consistent with the following 2002 General Plan policy:

1. Policy T -33: Disabled Parking and Passenger Zones Ensure adequate disabled parking and passenger drop-off zones.

Staff Analysis: The proposed modification does not change the number of dwelling units of the approved under #ZP2021-0220. The proposed project would add five off-street parking spaces for future tenants of the development who maintain disabilities. The provision of these parking spaces is consistent with the policy to provide adequate disabled parking.

B. West Berkeley Plan Consistency: The West Berkeley Area Plan, adopted in 1993, contains several policies applicable to the project, including the following:

1. Develop incentives to encourage new construction to be 2-4 stories in height (and to incorporate residential and office uses above the ground floor) along these corridors, especially at nodes.
2. Encourage infill buildings on vacant and low intensity use sites along these corridors. Residential and/ or office uses should be encouraged where appropriate.
3. Develop incentives to encourage housing along these corridors, such as reduction in parking and other site developments.

Staff Analysis: The proposed project modification does not change the number of dwelling units of the approved under #ZP2021-0220. The proposed project would add five off-street parking spaces for future tenants with disabilities within the approved building foot print. As such, the project is consistent with the above West Berkeley Plan and policies as the modification does not modify the development programming, which is a higher density infill development that proposes 36 new dwelling units that will count towards the City's share of regional housing needs.

V. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the ZAB:

- A. **APPROVE** Use Permit ZP2023-0103 pursuant to Section 23.406.040.D and subject to the attached Findings and Conditions (see Attachment 1).

Attachments and Links:

1. Findings and Conditions
2. Project Plans, received October 3, 2023
3. [Link to ZAB Staff Report \(#ZP2021-0220\)](#) – March 30, 2023
4. Notice of Public Hearing

Staff Planner: Katrina Lapira, klapira@berkeleyca.gov, (510) 981-7488

ATTACHMENT 1

FINDINGS AND CONDITIONS

OCTOBER 26, 2023

2403-07 San Pablo Avenue Berkeley Moshav

Use Permit Modification # ZP2023-0103 to modify the project originally approved under # ZP2021-0220 to add five additional off-street parking spaces where the parking maximum is 19 automobile parking spaces. This project will comply with all conditions of approval applicable to #ZP2021-0220.

PERMITS REQUIRED

- Use Permit (Modification) to modify an approved discretionary permit, under Berkeley Municipal Code (BMC) Section 23.404.070(B)
- Administrative Use Permit to exceed the off-street parking maximum by five parking spaces as a Reasonable Accommodations Request, under BMC Section 23.322.070(D)

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23.322.070(D) of the BMC, the Zoning Adjustments Board finds that the anticipated residents of the proposed project have special needs or require reasonable accommodation that relate to disability, health, or safety that require the provision of additional off-street parking available in the area. Five of the confirmed tenants maintain active disabled person (DP) parking placards issued by State of California Department of Motor Vehicles and therefore require reasonable accommodation. The request for additional off-street parking on the basis of future tenant disability is reasonable and is consistent requirements to grant excess parking.
2. 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 the proposed project modification will not be detrimental, as it would add five off-street parking spaces to 36- unit multifamily development within the approved building envelope and would not increase any perceivable detrimental impacts.

III. OTHER FINDINGS FOR APPROVAL

3. As required by BMC Section 23.204.140(F), the Zoning Adjustments Board finds that the proposed project is consistent with the West Berkeley Area Plan and the purposes of the West Berkeley Commercial Zoning District.
 - A. The proposed project will add five off-street parking spaces within the previously approved building envelope, and will not change the residential and commercial programming of the infill development that is located on a low intensity site; and
 - B. Further, the project will not unreasonably obstruct light or air from abutting residential and commercial properties, as the project adds parking within the building envelope.

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; 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, 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 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison _____
Name Phone #

11. Excess Parking. Prior to the submittal of any building permit for this project, the applicant shall revise plans submitted on October 3, 2023, to include a total of 24 off-street parking spaces. In addition to the minimum number of accessible parking spaces permitted, all five of the additional parking spaces shall be maintained as accessible parking spaces and comply with accessible parking standards, subject to the review of the City's Traffic Engineer.

During Construction:

12. 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.

13. 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.

14. 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.

Prior to Final Inspection or Issuance of Occupancy Permit:

15. 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.
16. 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 received October 3, 2023, except as modified by conditions of approval.

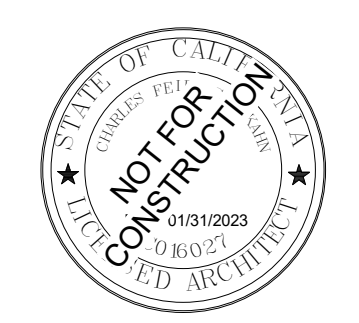
At All Times:

17. 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.
18. 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.
19. 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.



510.841.3555 | studiokda.com

BERKELEY MOSHAV
2403 - 2407 SAN PABLO AVE
BERKELEY, CA



ENTITLEMENT SET

BERKELEY MOSHAV

2403 - 2407 SAN PABLO AVE
BERKELEY, CA

MOS01 - ENTITLEMENT SET - 06/13/23

| ZONING CODE INFORMATION | | | | |
|---------------------------------|-------------------------|----------------------|---|---|
| SITE INFORMATION | | | | |
| ADDRESS | 2403-2407 SAN PABLO AVE | | | |
| APN | 056-192800-100 | | | |
| ZONING DISTRICT | C-W | | | |
| GENERAL PLAN AREA | AC | | | |
| SEISMIC SAFETY | | | | |
| ALQUIST PRIORLO | NO | LIQUEFACTION ZONE | YES | |
| LANDSLIDE ZONE | NO | UNREINFORCED MASONRY | NO | |
| HISTORIC INFO | | | | |
| HISTORIC PRESERVATION | NO | | | |
| LANDMARK / STRUCTURE OF MERIT | NO | | | |
| ENVIRONMENTAL SAFETY | | | | |
| CREEK BUFFER | NONE | FIRE ZONE | 1 | |
| ENVIRONMENTAL MGMT AREA | NO | FLOOD ZONE | NO | |
| BUILDING DATA PER PLANNING CODE | | | | |
| | EXISTING | PROPOSED | PERMITTED / REQUIRED | NOTES / CODE REFERENCE |
| BUILDING / LOT INFO | | | | |
| LOT AREA | 23,122 SF | 23,122 SF | - | NO CHANGE |
| BUILDING FOOTPRINT | 8,252 SF | 12,982 SF | - | |
| LOT COVERAGE | 36% | 56% | - | |
| MAX FLOOR AREA RATIO | 0.36 | 2.29 | 3 | 23E.64.070.A |
| AREAS | | | | |
| COMMERCIAL FLOOR AREA | 8,252 SF | 603 SF | | |
| RESIDENTIAL FLOOR AREA | - | 52,362 SF | | |
| GROSS FLOOR AREA | 8,252 SF | 53,013 SF | - | |
| USABLE OPEN SPACE | - | 10,199 SF | 1560 SF | 23E.64.070.D - 40 SF/ DWELLING UNIT |
| IMPERVIOUS SURFACE AREA | 23,122 SF | 12,982 SF | | |
| HEIGHT | | | | |
| # STORIES | 1 | 4 | 4 | 23E.64.070.B |
| AVERAGE BLDG HEIGHT | 15' - 0" | 50' - 0" | 50' - 0" | 23E.64.070.B |
| MAX BLDG HEIGHT | 15' - 0" | 50' - 0" | | |
| PROJECTIONS | N/A | 55'-0" | NO MAX. LESS THAN 15% OF AVERAGE FLOOR AREA | TABLE 23.304-5 |
| SETBACKS | | | | |
| FRONT YARD SETBACK | 0' - 0" | 0' - 0" | - | |
| SIDE YARD SETBACKS | | | | |
| INTERIOR STREET | 5' - 0" | 3' - 0" | - | |
| REAR YARD SETBACK | 10' - 0" | 10' - 0" | 10' - 0" | 23E.04.050.C |
| UNITS | | | | |
| | UNIT COUNT | | | |
| 1 BED / 1 BATH | 4 | | | |
| 2 BED / 1 BATH | 5 | | | |
| 2 BED / 2 BATH | 6 | | | |
| 2 BED / 1.5 BATH | 7 | | | |
| 3 BD / 2 BATH | 14 | | | |
| TOTAL | 36 | | | |
| PARKING | | | | |
| RESIDENTIAL CAR PARKING SPACES | 0 | 24 | 19 MAX | 23.322.070 - 0.5 SPACES PER UNIT + 1 COMMERCIAL |
| COMMERCIAL PARKING SPACES | 0 | 1 | 1 MIN | 23.322.030.B.1 - 2 SPACES PER 1,000 SF |
| TOTAL PARKING REQUIRED | | | 19 | |
| BIKE PARKING (SHORT TERM) | 0 | 2 | 2 | 23.322.090 |
| BIKE PARKING (LONG TERM) | 0 | 27 | 27 | 23.322.090 |

| AREA SCHEDULE (GROSS SF) | | |
|--------------------------|-----------|--|
| NAME | AREA | |
| 1st Flr GFA | 12,962 SF | |
| 2nd Flr GFA | 13,453 SF | |
| 3rd Flr GFA | 13,296 SF | |
| 4th Flr GFA | 13,301 SF | |
| | 53,013 SF | |

| UNIT SCHEDULE (GROSS SF) | | | |
|--------------------------|-------|----------|--|
| LEVEL | NAME | AREA | |
| 1B/1b | | | |
| 01 - 1st Floor | 1B/1b | 665 SF | |
| 02 - 2nd Floor | 1B/1b | 663 SF | |
| 03 - 3rd Floor | 1B/1b | 663 SF | |
| 04 - 4th Floor | 1B/1b | 663 SF | |
| 4 | | 2,655 SF | |
| 2B/1b | | | |
| 02 - 2nd Floor | 2B/1b | 796 SF | |
| 02 - 2nd Floor | 2B/1b | 804 SF | |
| 03 - 3rd Floor | 2B/1b | 796 SF | |
| 03 - 3rd Floor | 2B/1b | 804 SF | |
| 04 - 4th Floor | 2B/1b | 795 SF | |
| 5 | | 3,995 SF | |
| 2B/2b | | | |
| 02 - 2nd Floor | 2B/2b | 969 SF | |
| 02 - 2nd Floor | 2B/2b | 986 SF | |
| 03 - 3rd Floor | 2B/2b | 969 SF | |
| 03 - 3rd Floor | 2B/2b | 985 SF | |
| 04 - 4th Floor | 2B/2b | 968 SF | |
| 04 - 4th Floor | 2B/2b | 987 SF | |
| 6 | | 5,864 SF | |

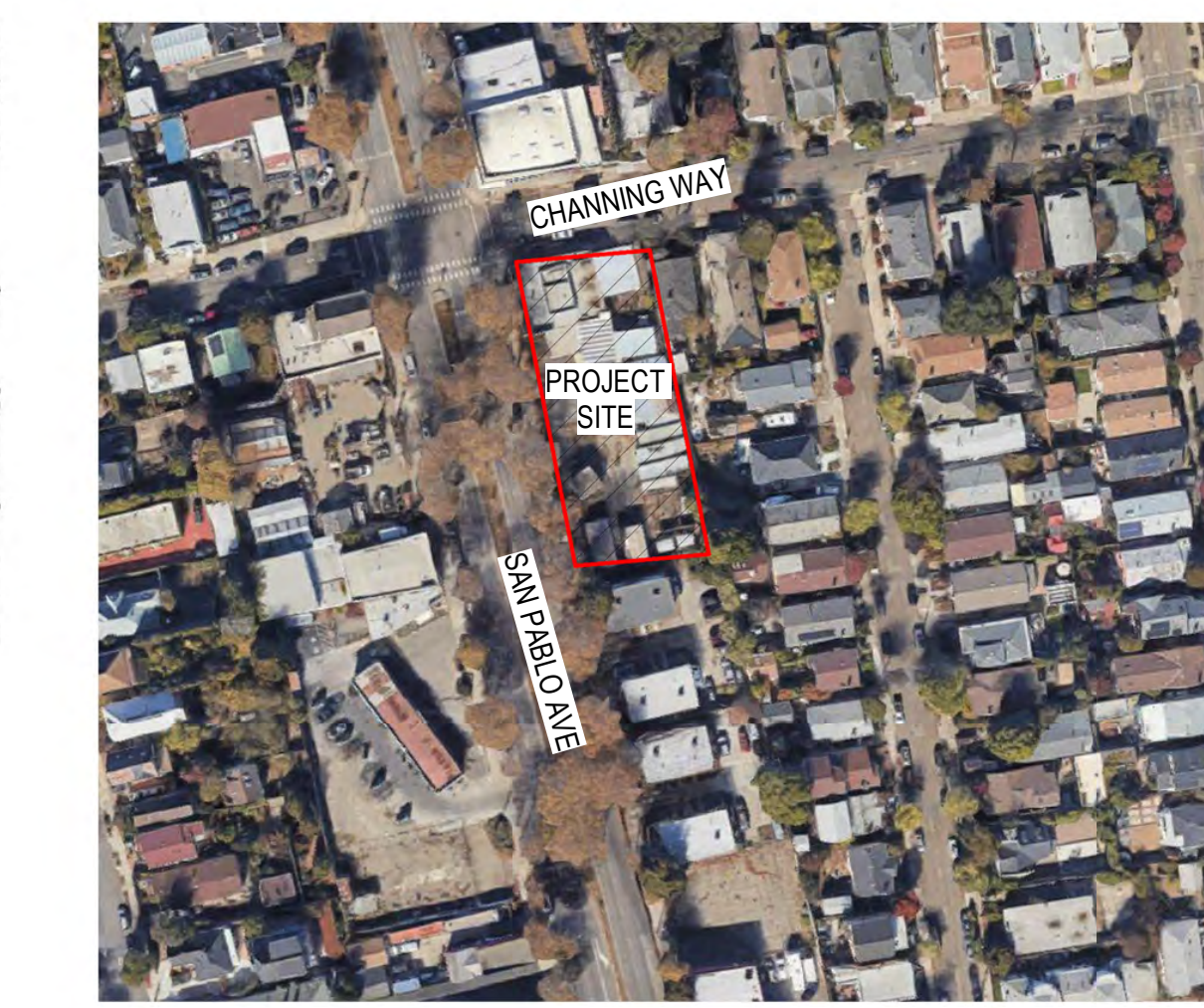
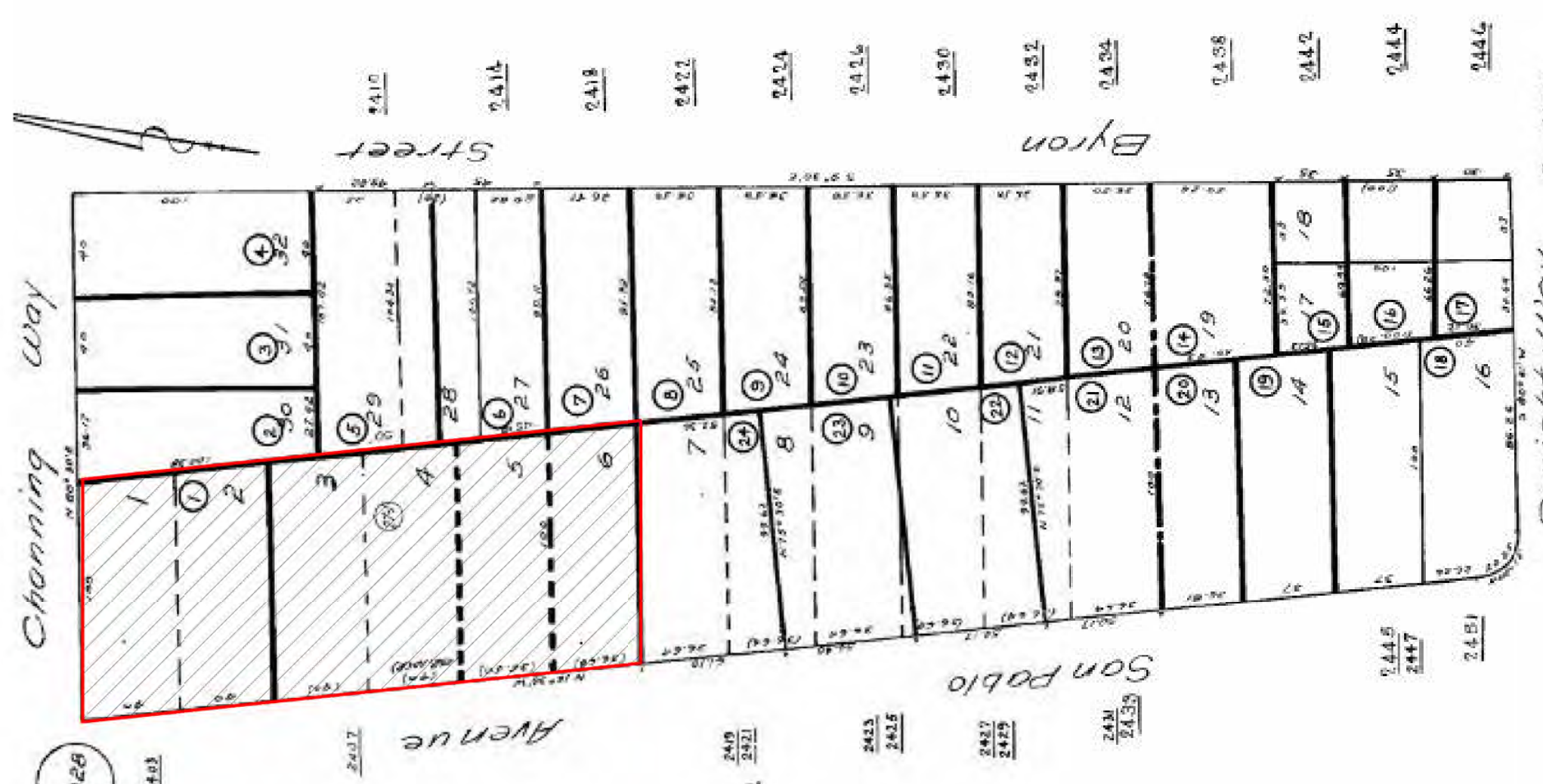
| UNIT SCHEDULE (GROSS SF) | | | |
|--------------------------|---------|-----------|--|
| LEVEL | NAME | AREA | |
| 2B/1.5b | | | |
| 01 - 1st Floor | 2B/1.5b | 914 SF | |
| 02 - 2nd Floor | 2B/1.5b | 958 SF | |
| 02 - 2nd Floor | 2B/1.5b | 912 SF | |
| 03 - 3rd Floor | 2B/1.5b | 958 SF | |
| 03 - 3rd Floor | 2B/1.5b | 912 SF | |
| 04 - 4th Floor | 2B/1.5b | 912 SF | |
| 04 - 4th Floor | 2B/1.5b | 959 SF | |
| 7 | | 6,525 SF | |
| 3B/2b | | | |
| 01 - 1st Floor | 3B/2b | 1,138 SF | |
| 01 - 1st Floor | 3B/2b | 1,100 SF | |
| 02 - 2nd Floor | 3B/2b | 1,453 SF | |
| 02 - 2nd Floor | 3B/2b | 1,124 SF | |
| 02 - 2nd Floor | 3B/2b | 1,113 SF | |
| 02 - 2nd Floor | 3B/2b | 1,149 SF | |
| 03 - 3rd Floor | 3B/2b | 1,452 SF | |
| 03 - 3rd Floor | 3B/2b | 1,124 SF | |
| 03 - 3rd Floor | 3B/2b | 1,113 SF | |
| 03 - 3rd Floor | 3B/2b | 1,149 SF | |
| 04 - 4th Floor | 3B/2b | 1,453 SF | |
| 04 - 4th Floor | 3B/2b | 1,124 SF | |
| 04 - 4th Floor | 3B/2b | 1,113 SF | |
| 04 - 4th Floor | 3B/2b | 1,149 SF | |
| 14 | | 16,753 SF | |
| Grand total: | 36 | 35,793 SF | |



VIEW AT NORTHWEST CORNER

| SHEET LIST | | | |
|--------------|---------------------------|----------|--|
| SHEET # | SHEET NAME | 03/11/22 | |
| GENERAL | | | |
| G000 | PROJECT INFORMATION | • | |
| G002 | EXISTING SITE PHOTOGRAPHS | • | |
| G003 | SHADOW STUDY - DEC. 21 | • | |
| G004 | SHADOW STUDY - JUNE 21 | • | |
| G005 | SHADOW STUDY - NOV. 21 | • | |
| G006 | STREET STRIP ELEVATION | • | |
| CIVIL | | | |
| C0.0 | BOUNDARY SURVEY | • | |
| C1.0 | EXISTING CONDITIONS | • | |
| C2.0 | GRADING AND UTILITY PLAN | • | |
| C3.0 | STORMWATER CONTROL PLAN | • | |
| JOINT TRENCH | | | |
| JT-1 | JOINT TRENCH TITLE SHEET | • | |
| JT-2 | JOINT TRENCH NOTES | • | |
| JT-3 | JOINT TRENCH DETAILS | • | |
| JT-4 | JOINT TRENCH COMPOSITE | • | |

| SHEET LIST | | | |
|---------------|-------------------------------|----------|--|
| SHEET # | SHEET NAME | 03/11/22 | |
| LANDSCAPE | | | |
| L1 | PRELIMINARY LANDSCAPE PLAN | • | |
| L2 | PRELIMINARY LANDSCAPE PLAN | • | |
| ARCHITECTURAL | | | |
| A100 | SITE PLAN | • | |
| A101 | SITE PLAN & GROUND FLOOR PLAN | • | |
| A102 | SECOND & THIRD FLOOR PLAN | • | |
| A103 | 4TH FLOOR PLAN | • | |
| A104 | ROOF PLAN | • | |
| A201 | BUILDING ELEVATIONS | • | |
| A202 | BUILDING ELEVATIONS | • | |
| A300 | SECTIONS | • | |
| A302 | PERSPECTIVE VIEWS | • | |
| A303 | PERSPECTIVE VIEWS | • | |
| A500 | KEY DETAILS | • | |



OWNER:
BERKELEY URBAN MOSHAV
953 STANNAGE AVE
ALBANY, CA 94706
ROGER STUDLEY
roger@urbanmoshav.org

ARCHITECT:
STUDIO KDA
1810 6TH ST.
BERKELEY, CA 94710
TEL: (510) 841-3555
BUDDY WILLIAMS
buddy@studiokda.com
LAYLA TAHAN
ltahan@studiokda.com

JOINT TRENCH:
VIZION UTILITY PARTNERS
7901 STONERIDGE DRIVE
SUITE 200
PLEASANTON, CA 94588
KEVIN ARATA
karata@vizonutility.com
JOR-EL MOORE
jmoore@vizonutility.com

DELVELOPMENT MANAGER:
UD+P
116 NORTHEAST 6TH AVENUE
SUITE 400
PORTLAND, OR 97232
DANNY MILMAN
danny.milman@udplp.com

CIVIL & SURVEYOR:
BKF ENGINEERS
1646 N. CALIFORNIA BLVD
SUITE 400
WALNUT CREEK, CA 94596
MELINDA THOMAS
melindathomas@bkf.com

LANDSCAPE:
KARIN KAUFMAN
110 BOULDER STREET
NEVADA CITY, CA 95959
KARIN KAUFMAN
karin@karinkauffman.net

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

THE PROPOSED PROJECT IS A PRIVATELY FUNDED CONDOMINIUM PROJECT WITH 36 UNITS. THE GROUND FLOOR CONTAINS A RETAIL SPACE ALONG SAN PABLO AVE, WITH GARAGE PARKING OFF OF CHANNING WAY. ONE ELEVATOR IS PROVIDED FOR CIRCULATION AND THERE IS A ROOF DECK @ 4TH FLR.

THE EXISTING RETAIL BUILDING WILL BE DEMOLISHED.

| PROJECT ISSUE RECORD: | | | |
|-----------------------|----------|-------------------------------------|--|
| 2 | 08/23/22 | RESPONSE TO COMMENTS #1 | |
| 3 | 12/08/22 | RESPONSE TO COMMENTS #5 | |
| 4 | 06/08/23 | ADMINISTRATIVE USE PERMIT AMENDMENT | |
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PROJECT #: MOS01
ISSUE DATE: 06/09/23

PROJECT INFORMATION

3 PARCEL MAP
12" = 1'-0"

5 LOCATION MAP
NOT TO SCALE

2 PROJECT TEAM
1" = 1'-0"

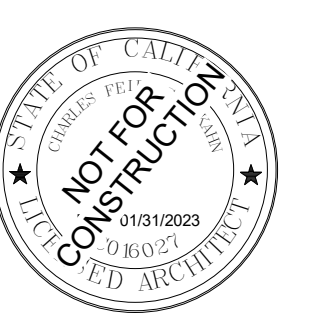
1 PROJECT DESCRIPTION
1" = 1'-0"

G000



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 AND AS SUCH, REMAINS THE PROPERTY OF
 STUDIO KDA. PERMISSION FOR USE OF THIS
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 ONLY BY WRITTEN AGREEMENT WITH STUDIO KDA.

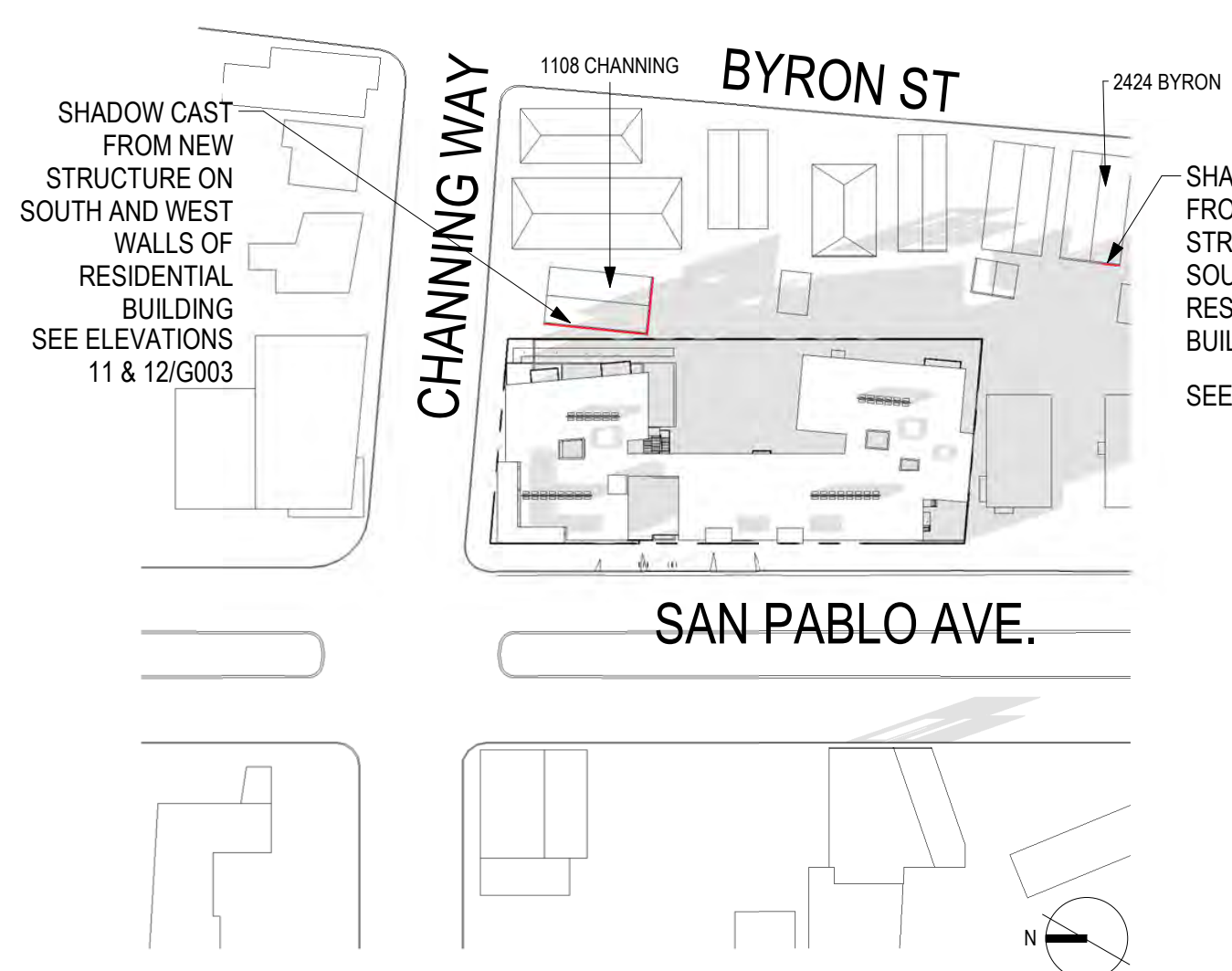
**BERKELEY
 MOSHAV**
 2403 - 2407 SAN PABLO AVE
 BERKELEY, CA



**ENTITLEMENT
 SET**

SHADOW STUDY LEGEND

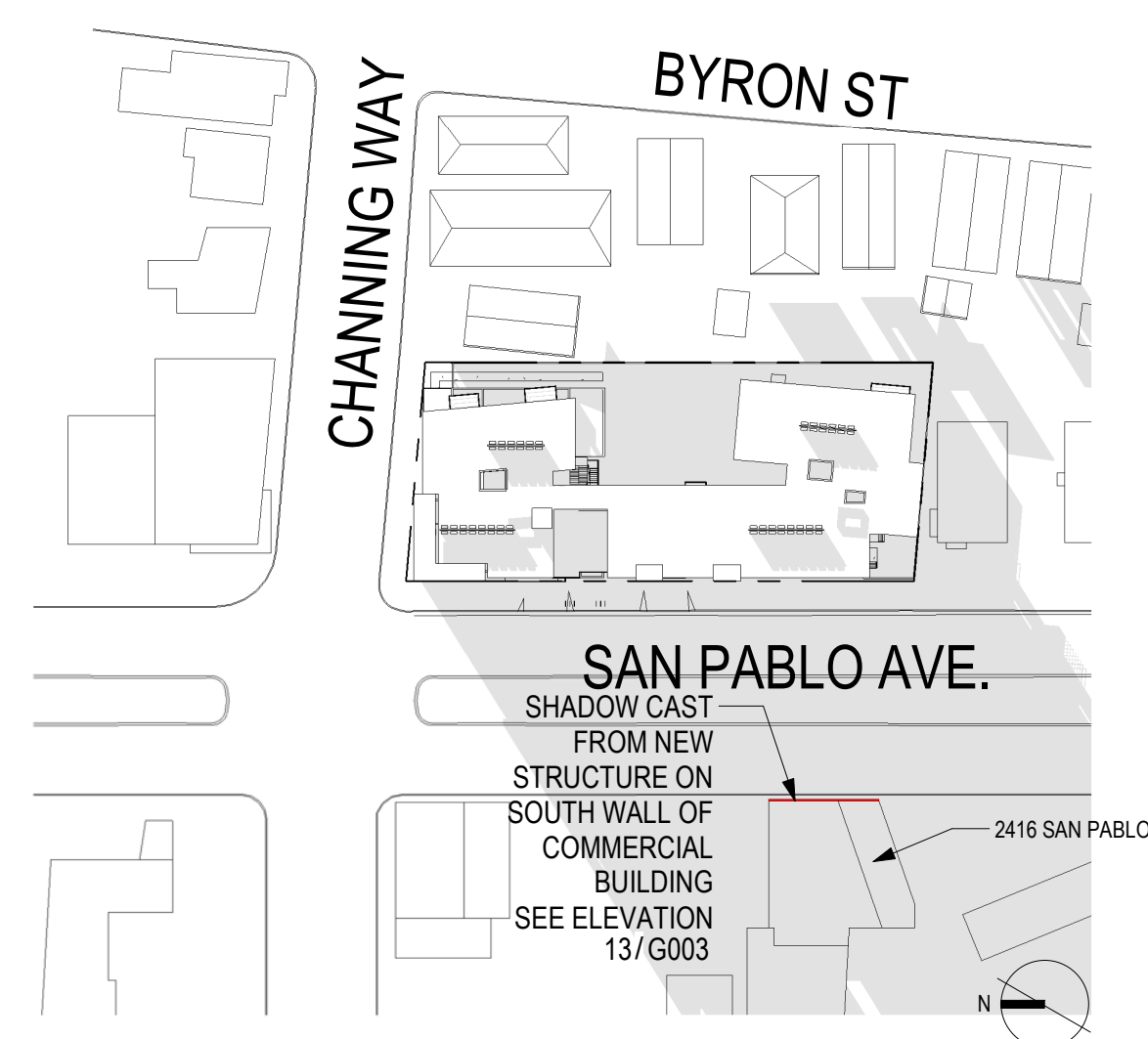
- NEW PROPOSED SHADOW
- NEW SHADOW AT RESIDENTIAL BUILDING



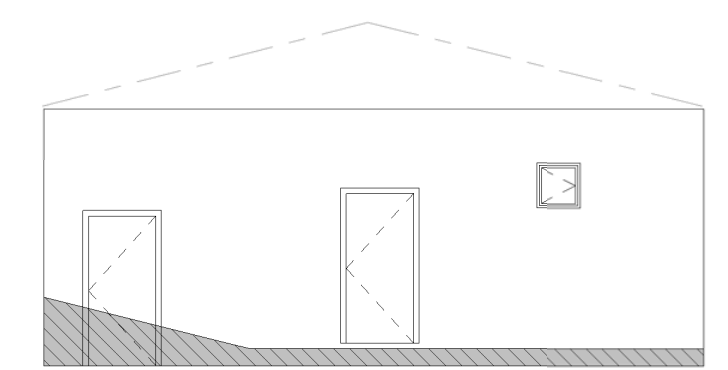
1 SHADOW STUDY PROPOSED 12/21 9:21AM
 G003 1" = 80'-0"



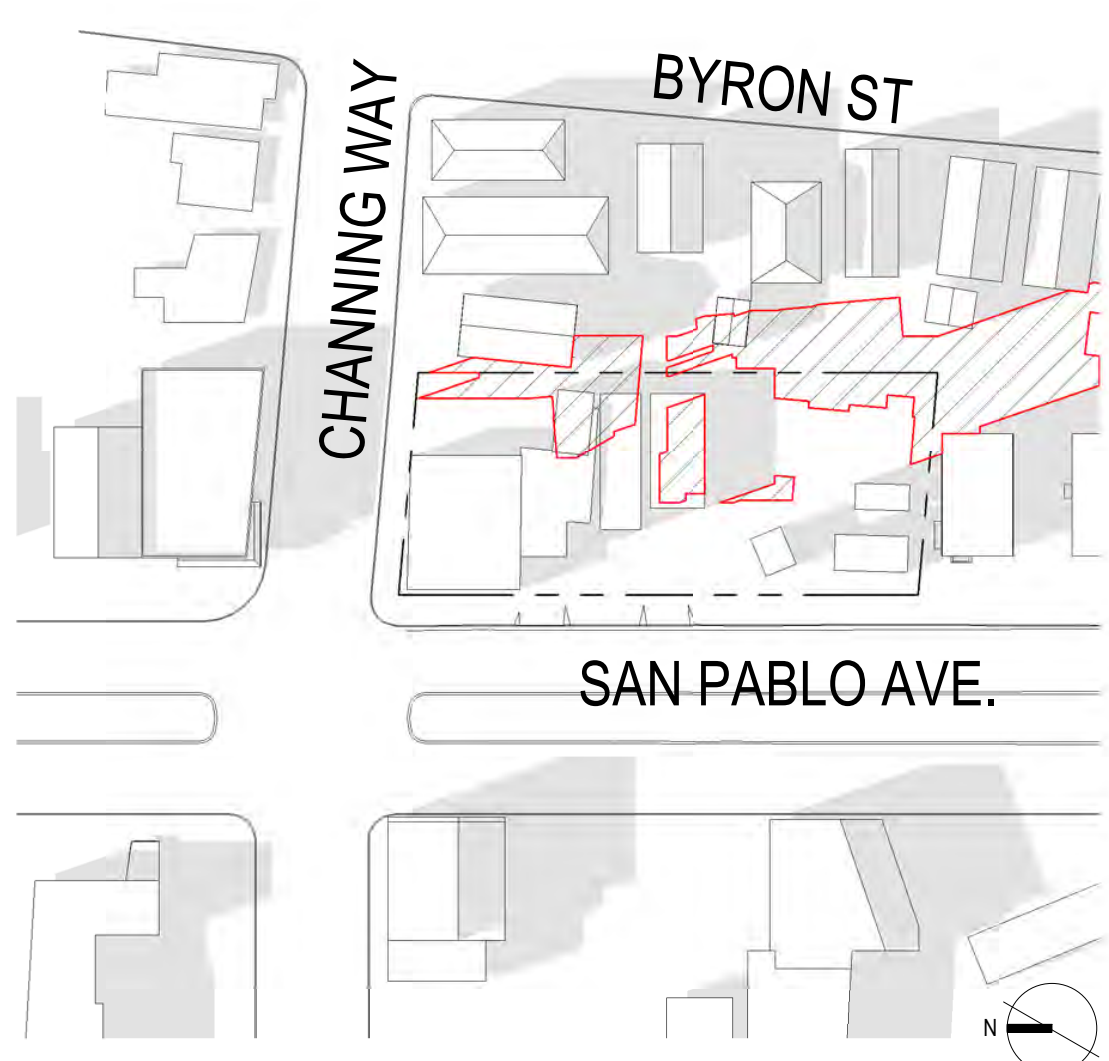
2 SHADOW STUDY PROPOSED 12/21 12PM
 G003 1" = 80'-0"



3 SHADOW STUDY PROPOSED 12/21 2:53PM
 G003 1" = 80'-0"



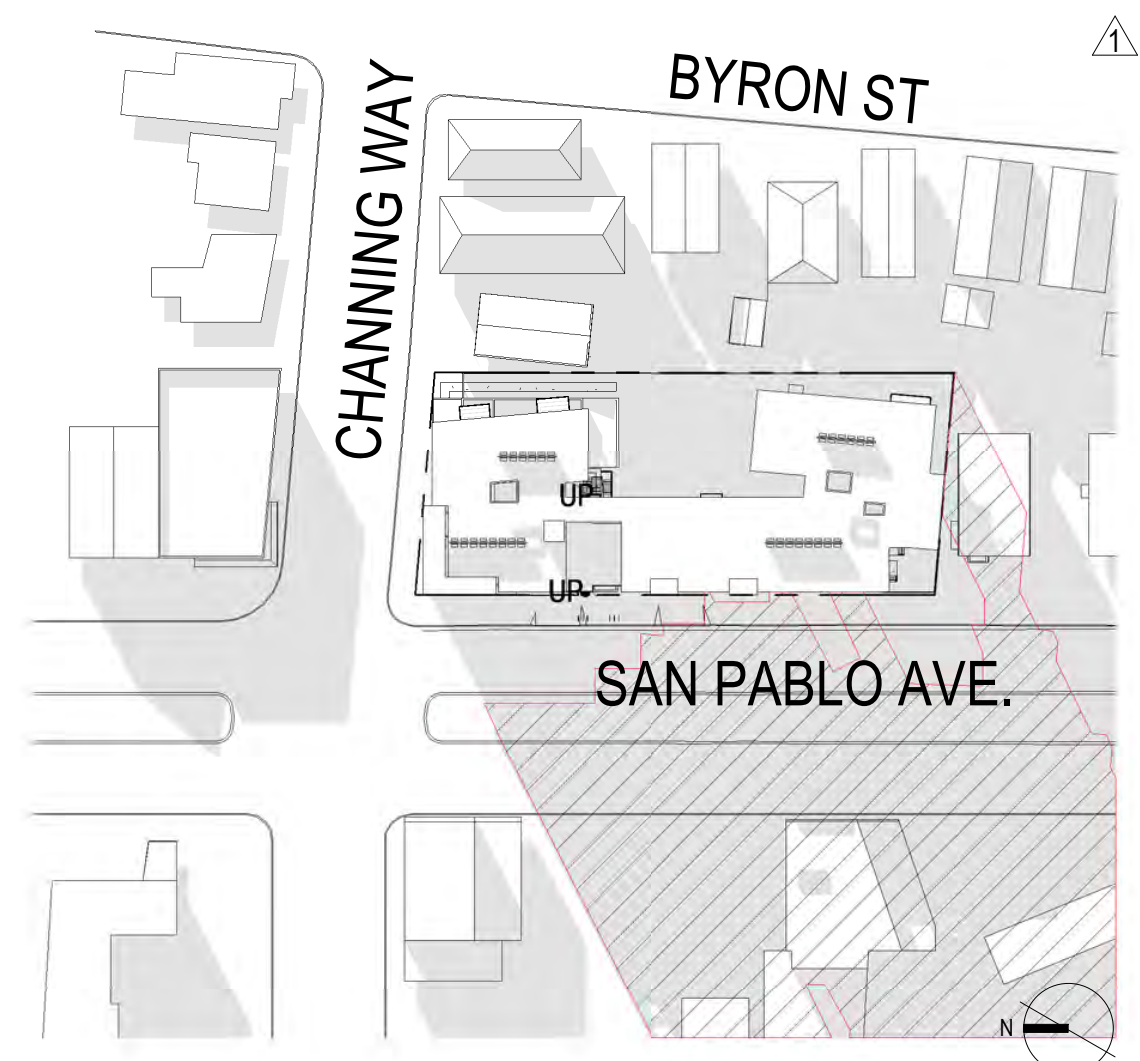
10 SHADOW STUDIES CAST ON 2424 BYRON ST. 12/21 9.21AM
 G003 1/8" = 1'-0"



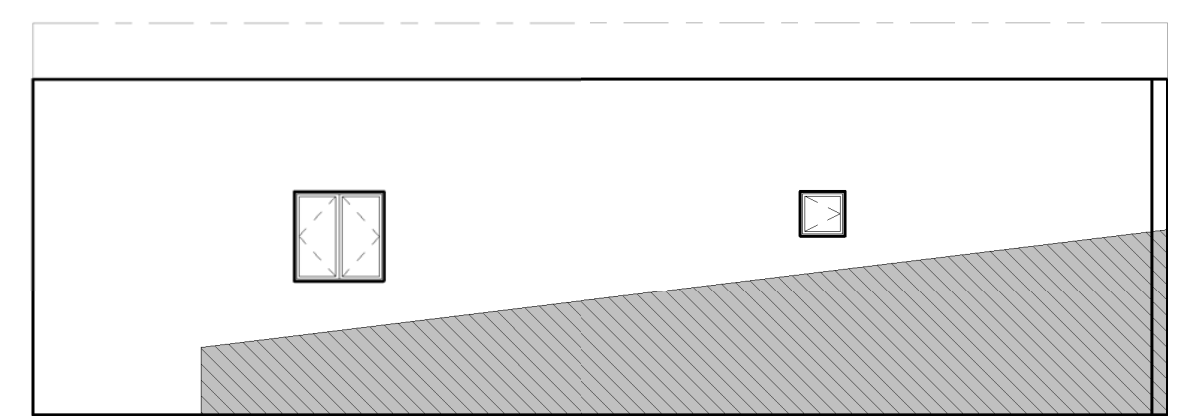
7 SHADOW STUDY COMBINED 12/21 9:21AM
 G003 1" = 80'-0"



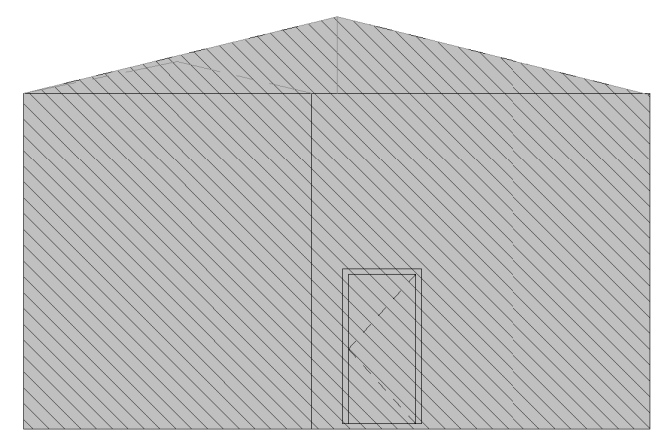
8 SHADOW STUDY COMBINED 12/21 12PM
 G003 1" = 80'-0"



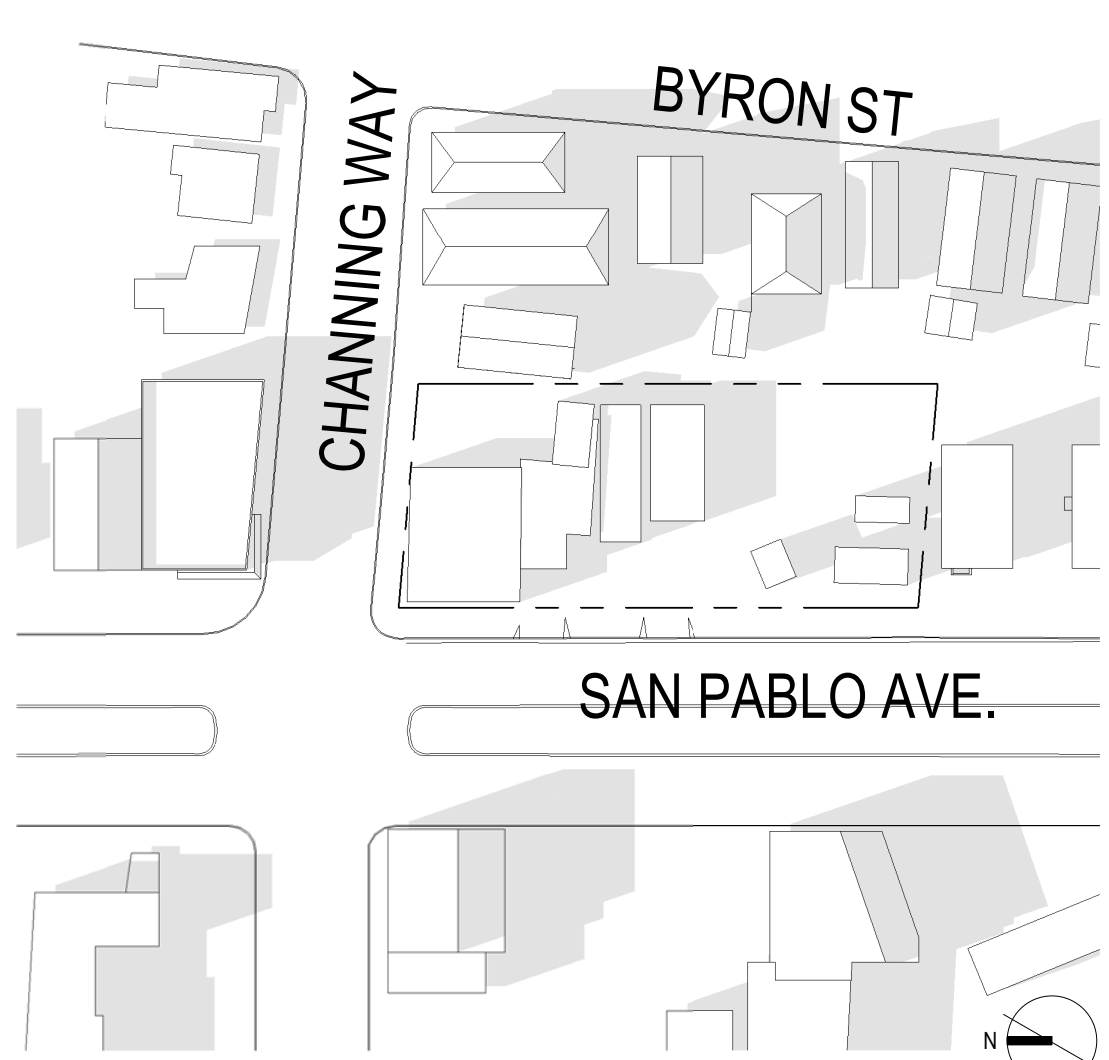
9 SHADOW STUDY COMBINED 12/21 2:53PM
 G003 1" = 80'-0"



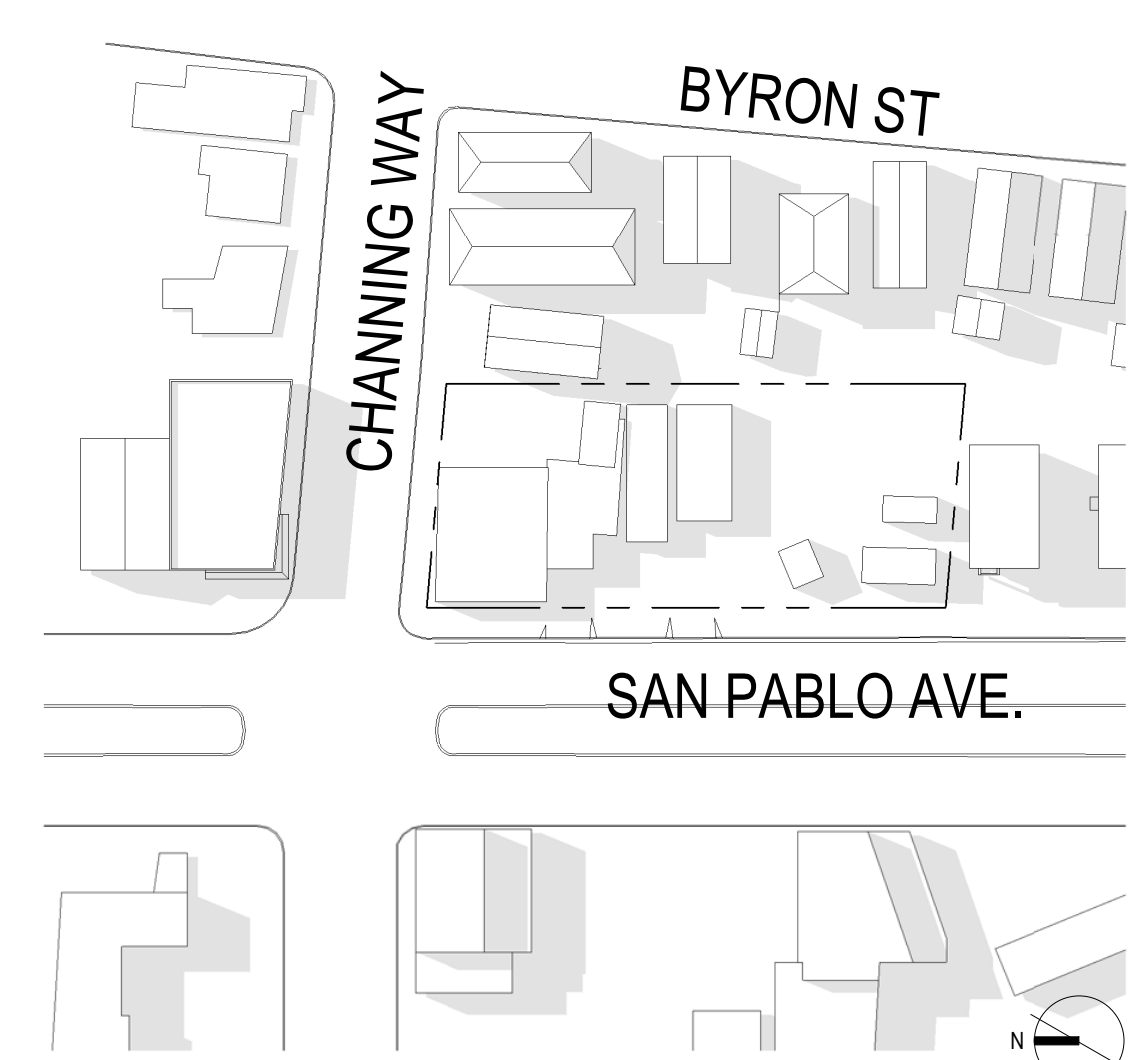
11 SHADOWS CAST ON WEST OF 1108 CHANNING 12/21 9.21AM
 G003 1/8" = 1'-0"



12 SHADOWS CAST ON SOUTH OF 1108 CHANNING 12/21 9.21AM
 G003 1/8" = 1'-0"



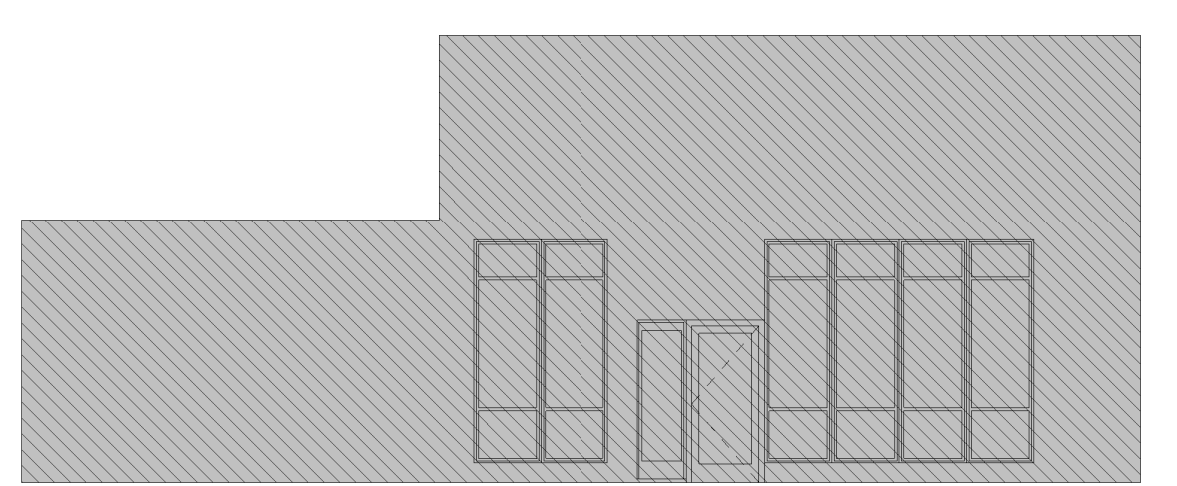
6 SHADOW STUDY EXISTING 12/21 9:21AM
 G003 1" = 80'-0"



5 SHADOW STUDY EXISTING 12/21 12PM
 G003 1" = 80'-0"



4 SHADOW STUDY EXISTING 12/21 2:53PM
 G003 1" = 80'-0"



13 SHADOW CAST ON 2416 SAN PABLO 12/21 2.53PM
 G003 1/8" = 1'-0"

| PROJECT ISSUE RECORD: | | |
|-----------------------|----------|-------------------------|
| NO. | DATE | RESPONSE TO COMMENTS #1 |
| 1 | 04/19/22 | |
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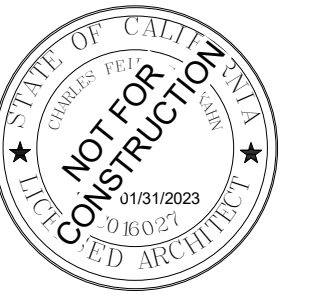
PROJECT #: MOS01
 ISSUE DATE: 03/11/22
 SHADOW STUDY - DEC.
 21

G003



510.841.3555 | studiokda.com

**BERKELEY
 MOSHAV**
 2403 - 2407 SAN PABLO AVE
 BERKELEY, CA

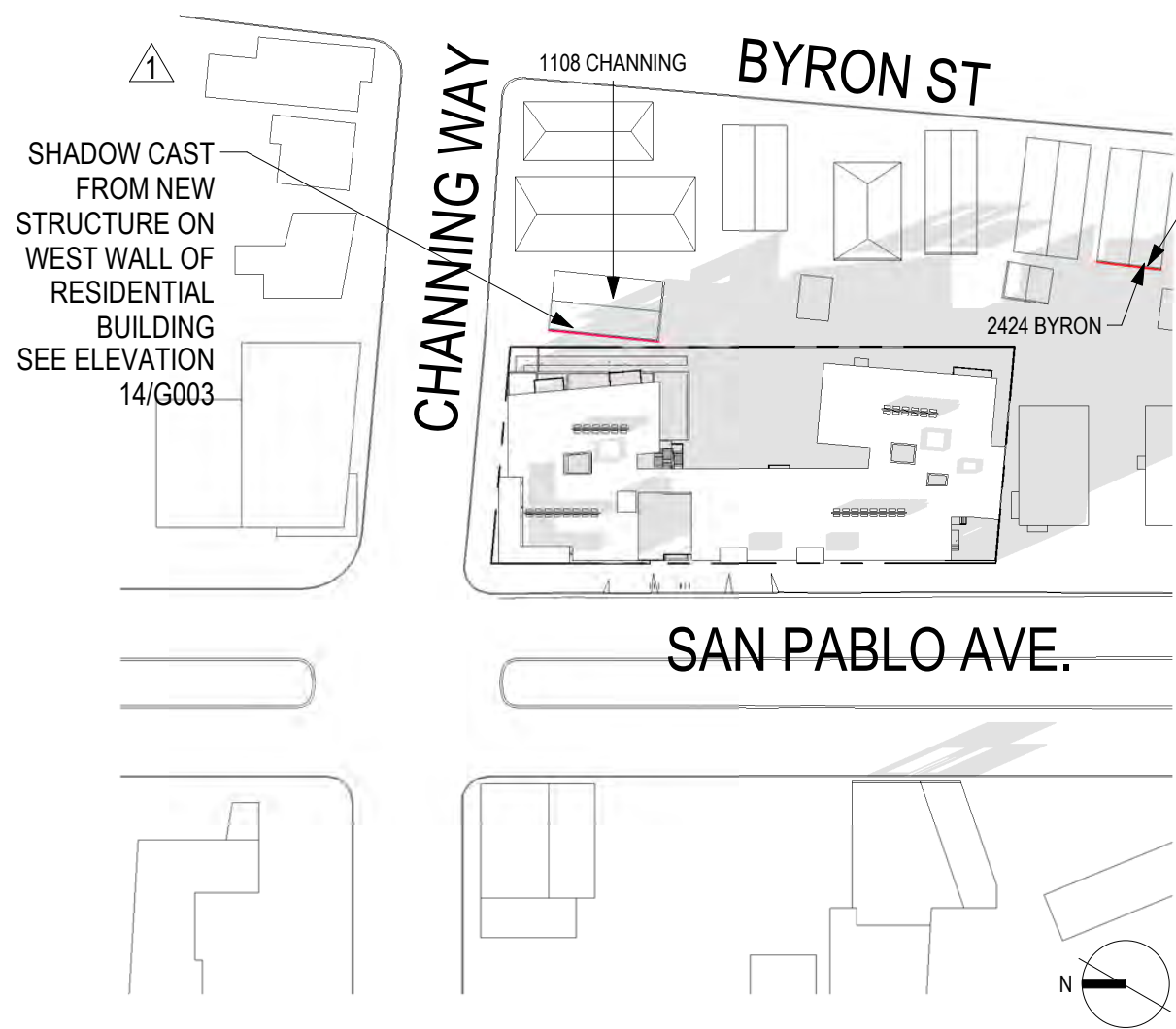


**ENTITLEMENT
 SET**

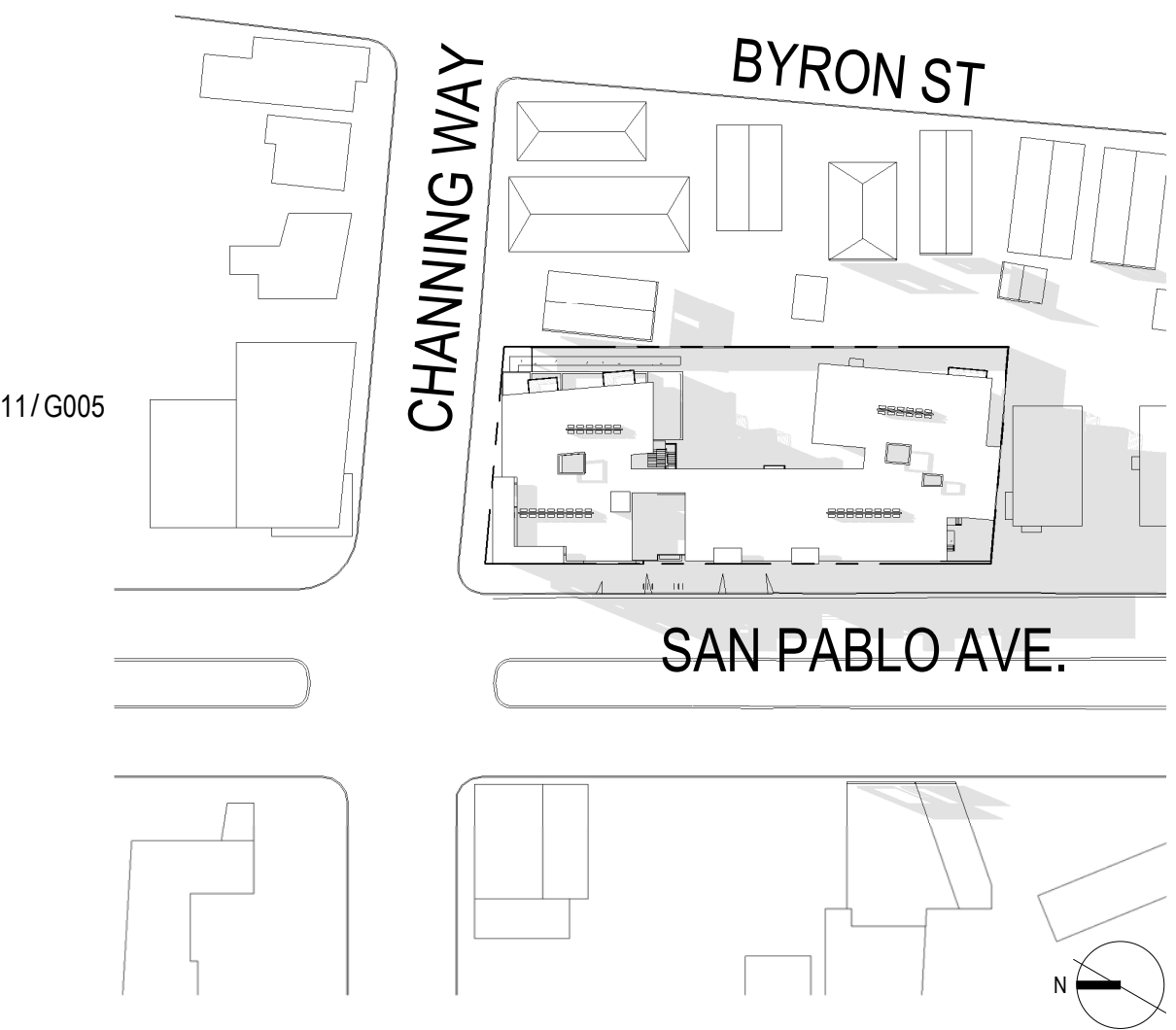
| PROJECT ISSUE RECORD: | | |
|-----------------------|----------|-------------------------|
| NO. | DATE | RESPONSE TO COMMENTS #1 |
| 1 | 04/19/22 | |
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PROJECT #: MOS01
 ISSUE DATE: 03/11/22
 SHADOW STUDY - NOV.
 21

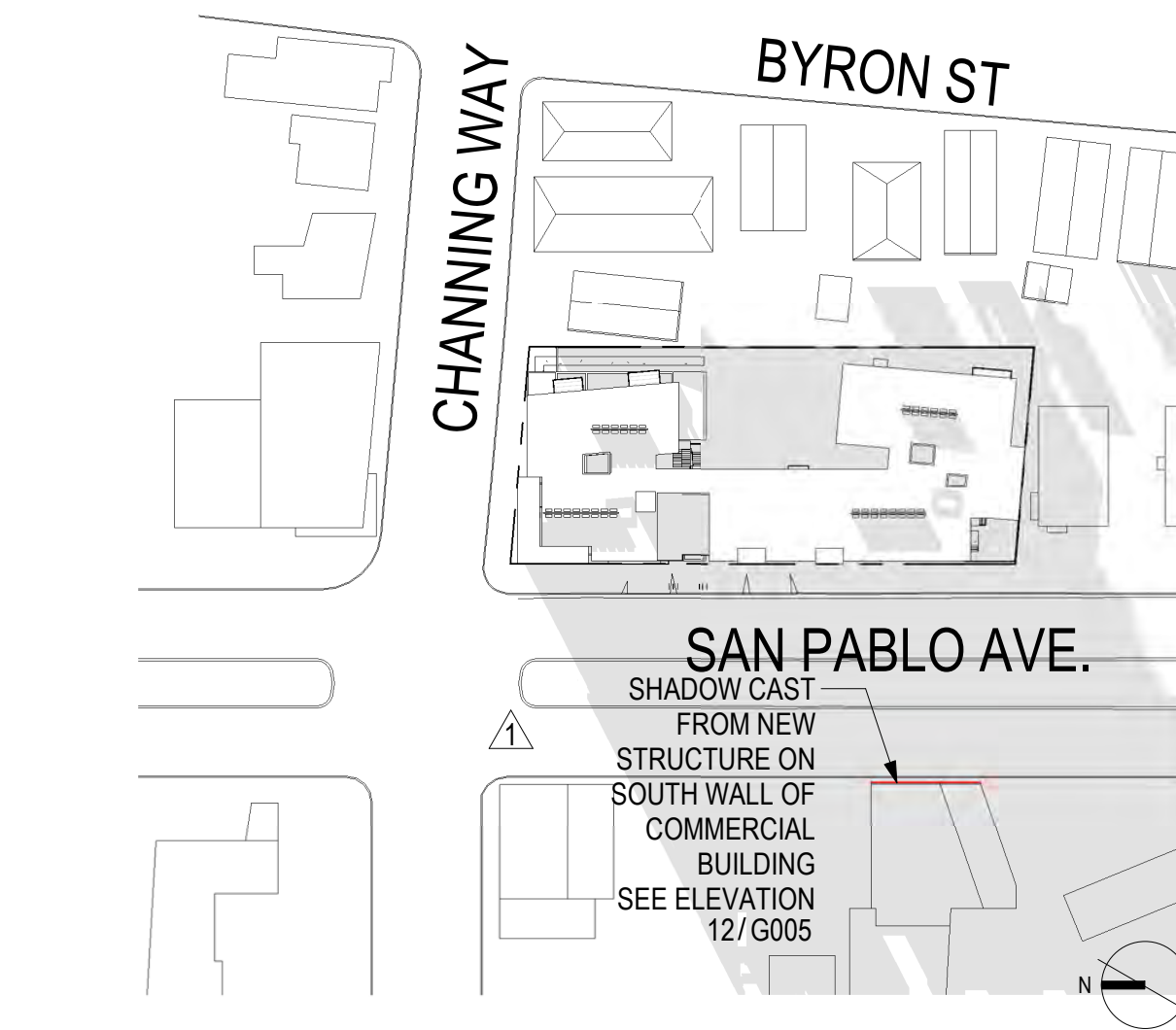
G005



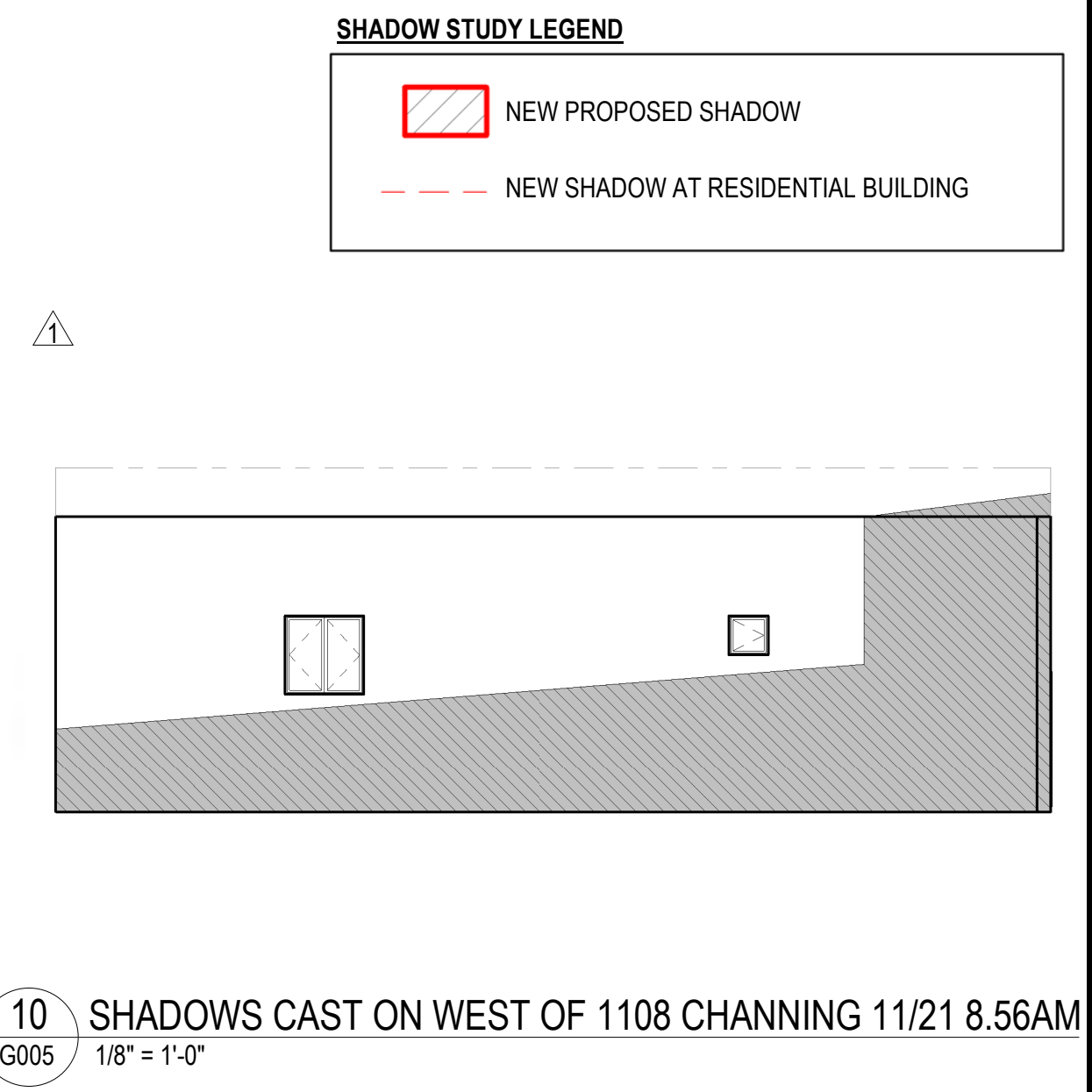
1 SHADOW STUDY PROPOSED 11/21 8:56 AM
 G005 1" = 80'-0"



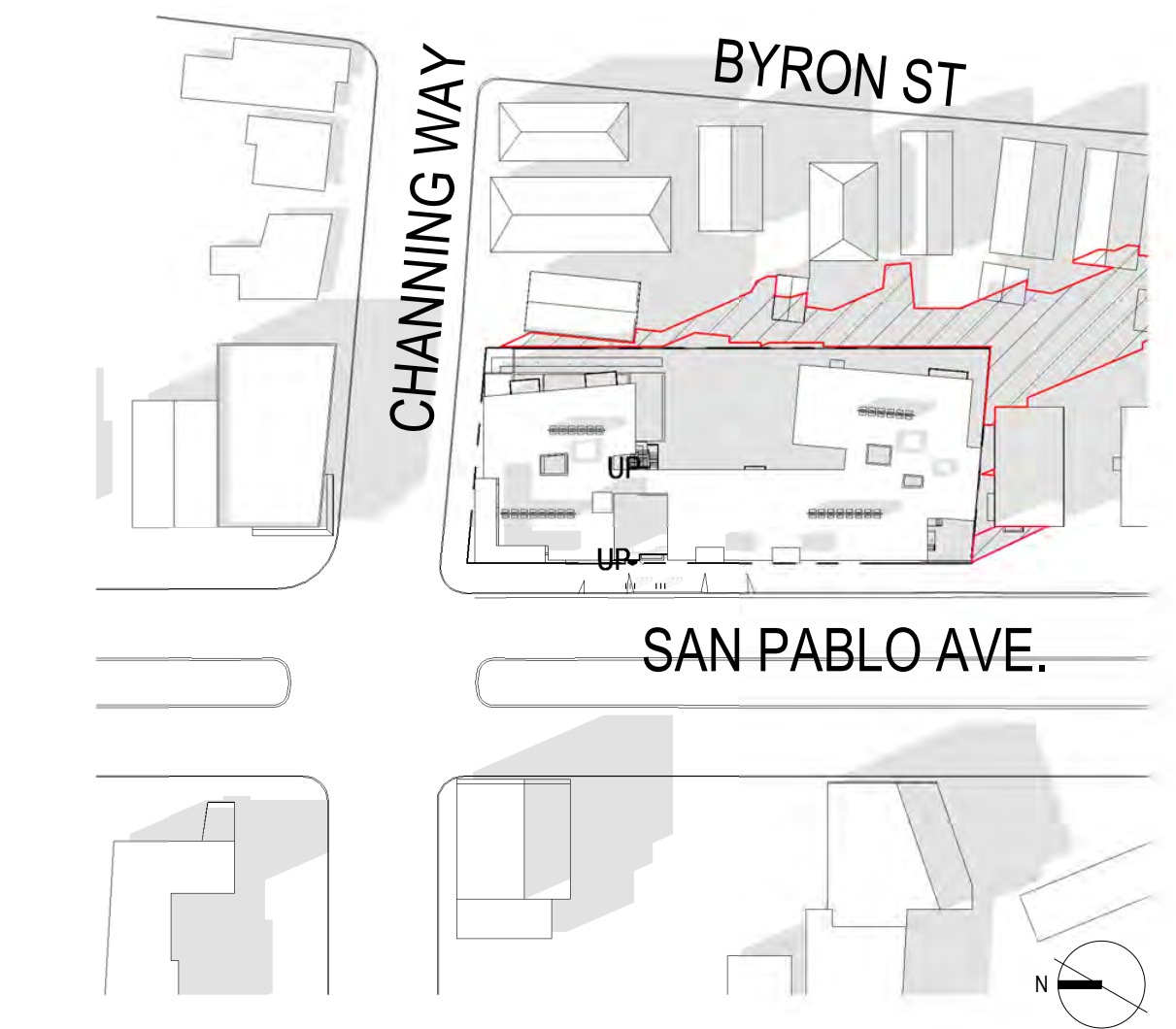
2 SHADOW STUDY PROPOSED 11/21 12PM
 G005 1" = 80'-0"



3 SHADOW STUDY PROPOSED 11/21 2:54PM
 G005 1" = 80'-0"



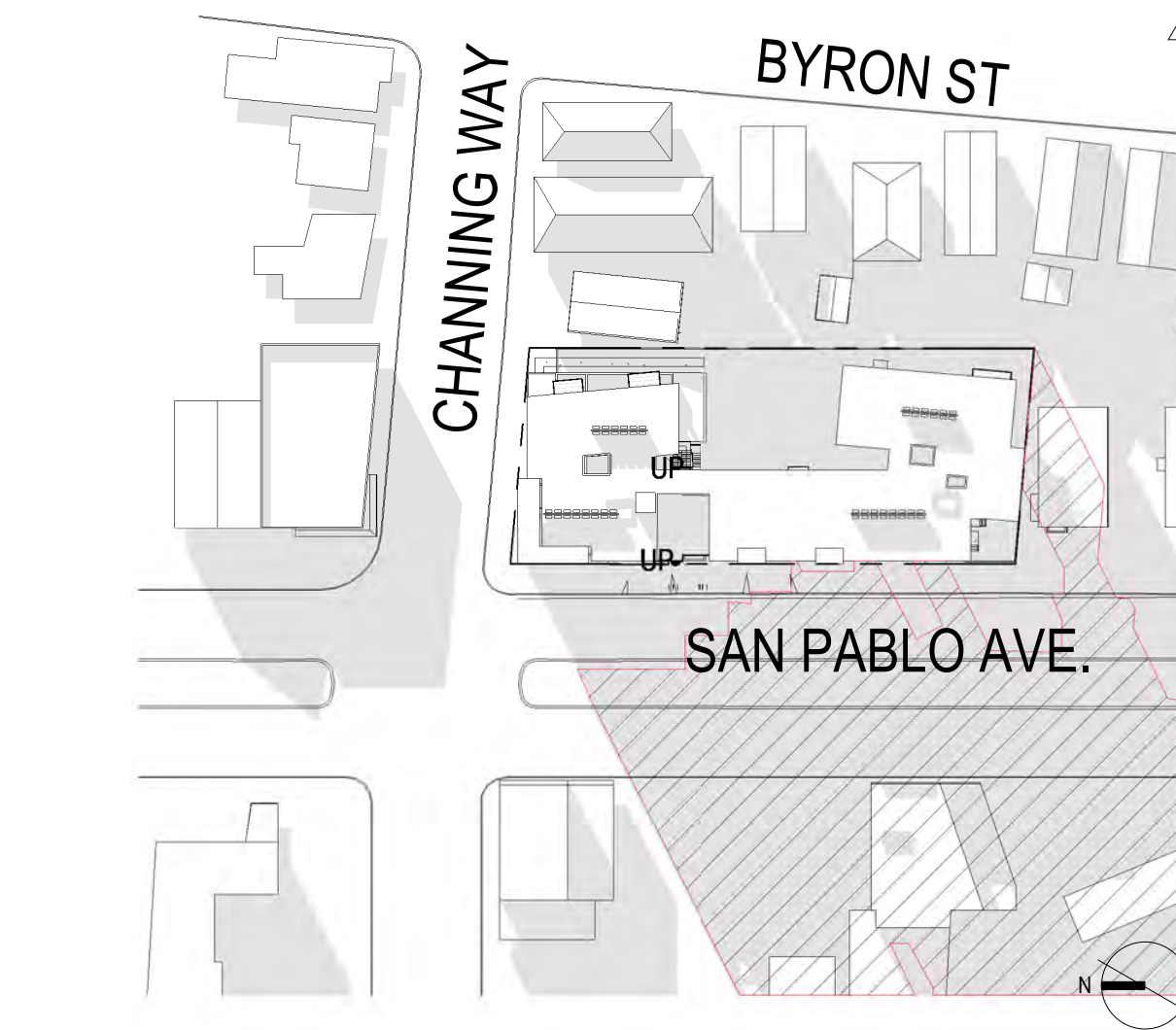
10 SHADOWS CAST ON WEST OF 1108 CHANNING 11/21 8.56AM
 G005 1/8" = 1'-0"



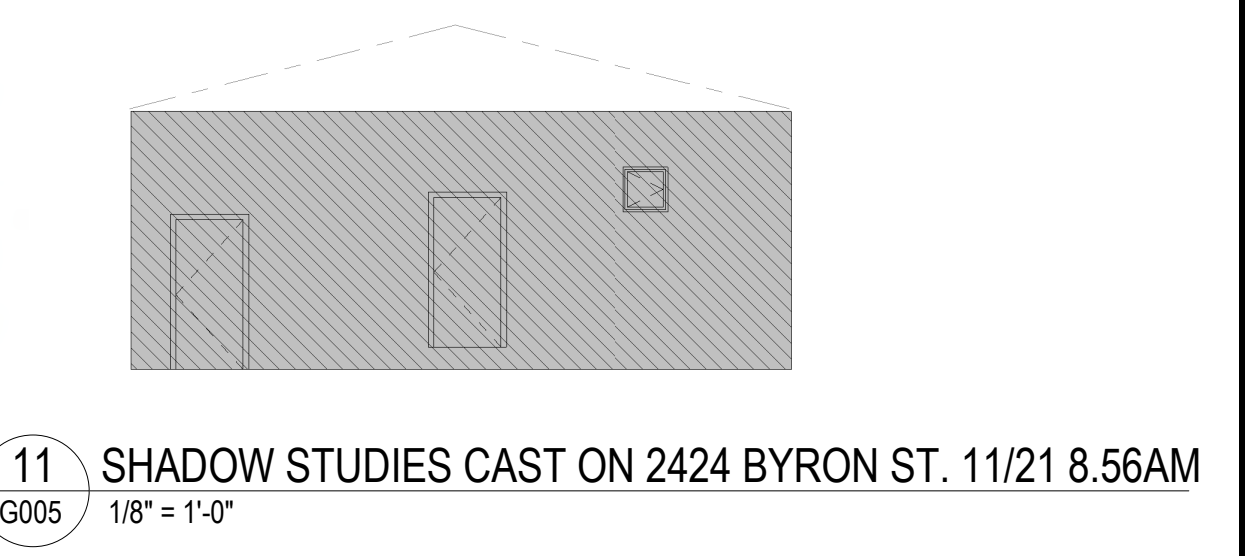
7 SHADOW STUDY COMBINED 11/21 8:56 AM
 G005 1" = 80'-0"



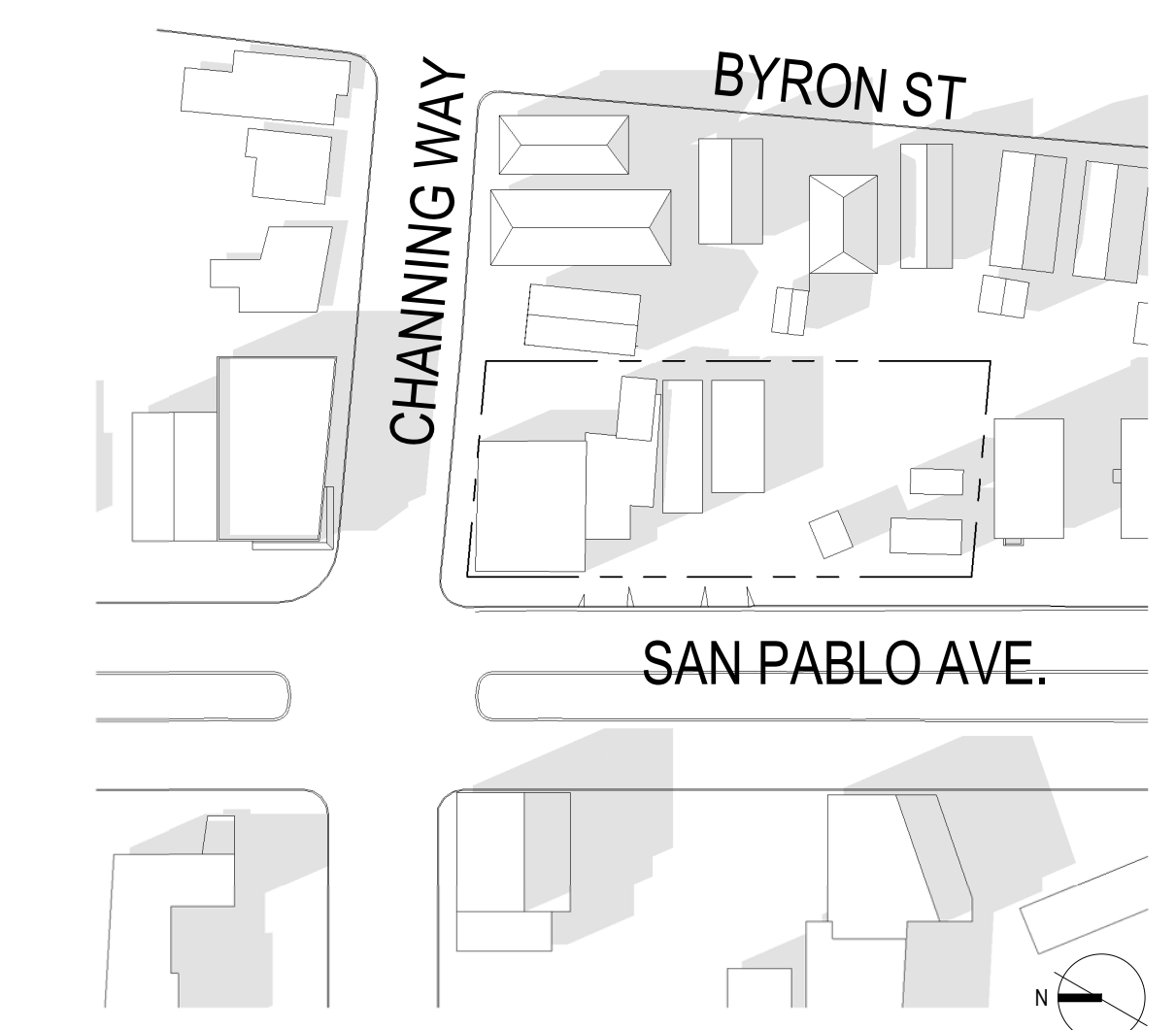
8 SHADOW STUDY COMBINED 11/21 12PM
 G005 1" = 80'-0"



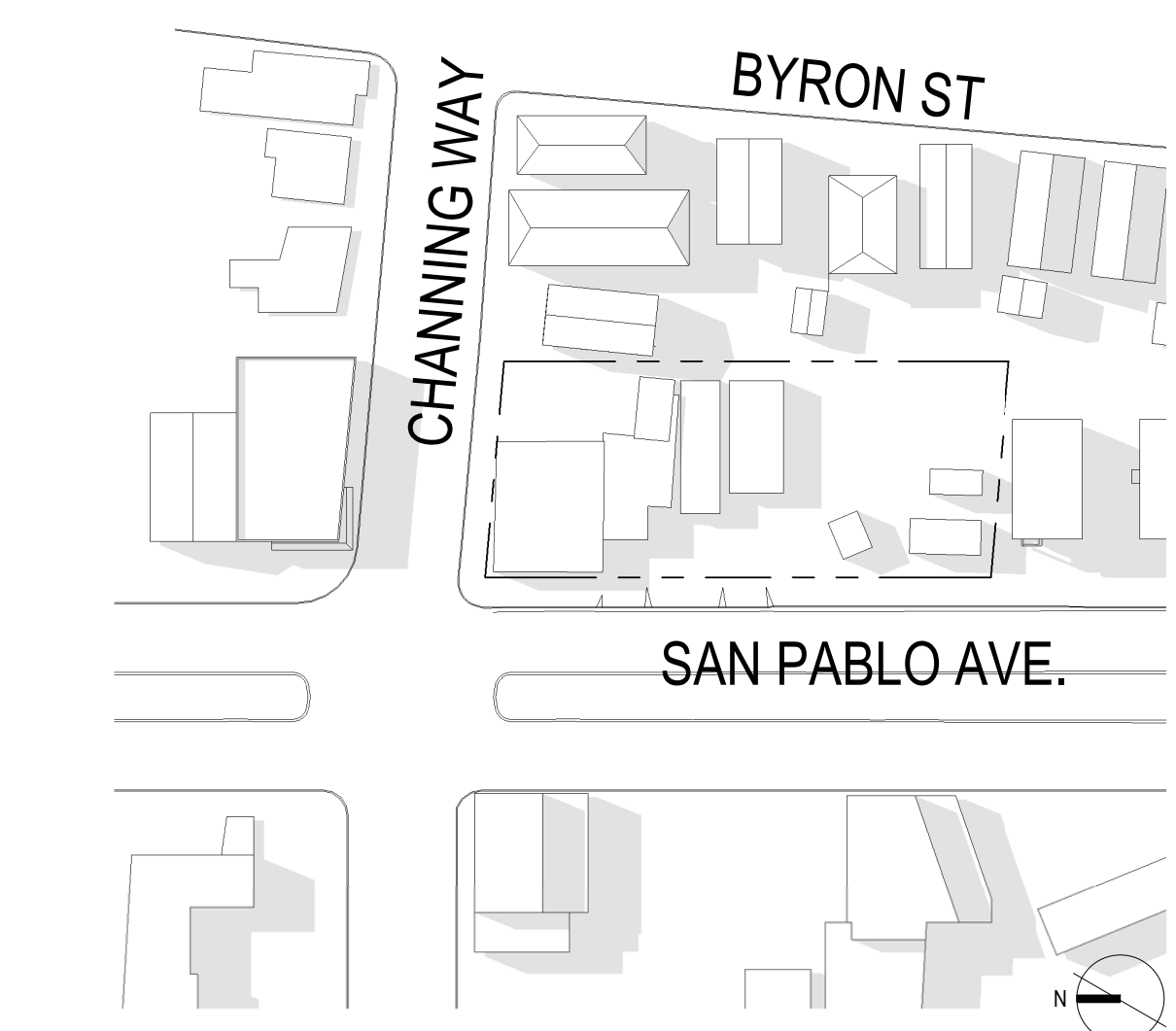
9 SHADOW STUDY COMBINED 11/21 2:54 PM
 G005 1" = 80'-0"



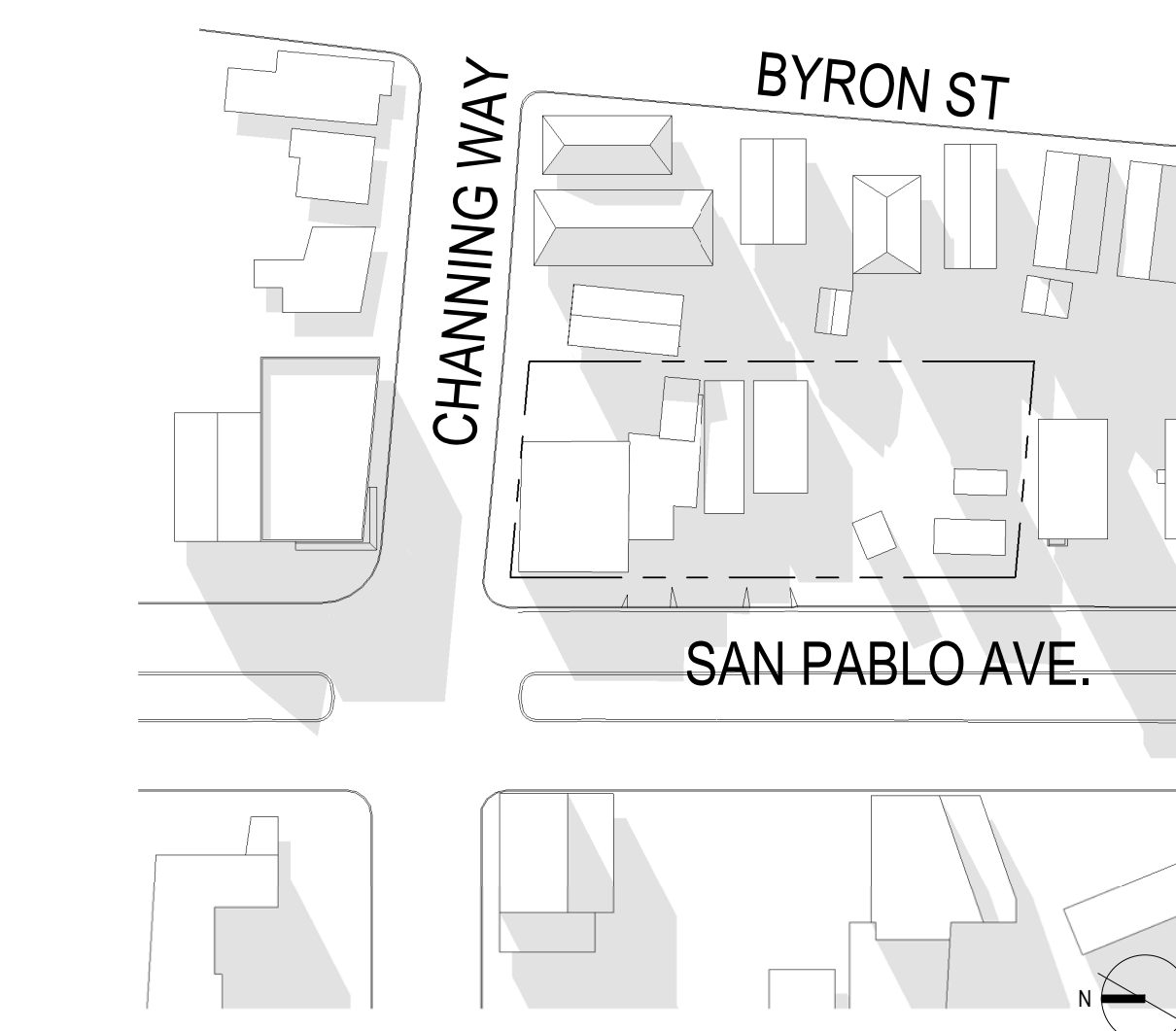
11 SHADOW STUDIES CAST ON 2424 BYRON ST. 11/21 8.56AM
 G005 1/8" = 1'-0"



6 SHADOW STUDY PROPOSED 11/21 8:56AM
 G005 1" = 80'-0"



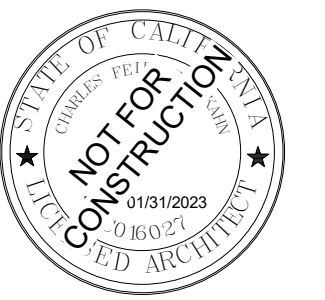
5 SHADOW STUDY PROPOSED 11/21 12PM
 G005 1" = 80'-0"



4 SHADOW STUDY PROPOSED 11/21 2:54PM
 G005 1" = 80'-0"



12 SHADOW CAST ON 2416 SAN PABLO 11/21 2.54PM
 G005 1/8" = 1'-0"



**ENTITLEMENT
 SET**



| PROJECT ISSUE RECORD: | |
|-----------------------|----------------------------------|
| 2 | 08/23/22 RESPONSE TO COMMENTS #1 |
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PROJECT #: MOS01
 ISSUE DATE: 03/11/22

4TH FLOOR PLAN

A103

12/6/2022 12:48:01 PM

1 FOURTH FLOOR PLAN
 A103 1/8" = 1'-0"





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

2403-07 San Pablo Avenue

Berkeley Moshav

Use Permit Modification # ZP2023-0103 to modify the project originally approved under # ZP2021-0220 to add five additional off-street parking spaces where the parking maximum is 19 automobile parking spaces. This project will comply with all conditions of approval applicable to #ZP2021-0220.

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, October 26, 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: AC (Avenue Commercial)
- Zoning: C-W (West Berkeley Commercial District)

B. Zoning Permits Required:

- Use Permit (Modification) to modify an approved discretionary permit, under Berkeley Municipal Code (BMC) Section 23.404.070(B)
- Administrative Use Permit to exceed the off-street parking maximum by five parking spaces as a Reasonable Accommodations Request, under BMC Section 23.322.070(D)

D. CEQA Recommendation: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“Infill Development Project”).

E. Parties Involved:

- Applicant Buddy Williams, Studio KDA, Berkeley, CA
- Property Owner Robert Studley, Albany, CA

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, Katrina Lapira, at (510) 981-7488 or klapira@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.