

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
MARCH 28, 2024

2136-2154 San Pablo Avenue

Use Permit #ZP2021-0046 to demolish an existing one-story, non-residential building and construct a six-story (69 feet, 6 inches), 82,824-square-foot, mixed-use building with 122 dwelling units (including 10 Very Low-Income, Density Bonus qualifying units), three live/work units (2,490 square feet of commercial space) and a ground-floor parking garage with 50 spaces.¹

I. Background

A. Land Use Designations:

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

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential building or structure
- Use Permit pursuant to BMC Section 23.204.140(B)(2)(a) to construct a mixed-use development over 20,000 square feet
- Use Permit pursuant to BMC Section 23.204.020(A) for construction of dwelling units
- Use Permit pursuant to BMC Section 23.204.030(B) to construct new gross floor area of 5,000 square feet or more

¹ Live/work units are considered commercial uses that can contain no more than 50% living area, but for density bonus calculations, counts as one dwelling unit.

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- Administrative Use Permit pursuant to BMC Section 23.304.050(A) to construct architectural elements that exceed the Zoning District's height limit
- Administrative Use Permit pursuant to BMC Section 23.312.030(C)(3)(a) to establish live/work units
- Use Permit pursuant to BMC Section 23.312.040(A)(3) to allow customer visits to live/work units

C. Concessions and Waivers and Pursuant to State Density Bonus Law (CA Gov't. Code Section 65915):²

- Concessions – none requested
- Waiver of BMC Section 23.204.140(E)(1) for maximum height to be 69 feet, 6 inches, where 50 feet is the maximum, and six stories, where four stories is the maximum
- Waiver of BMC Section 23.204.140(E)(1) to have 3.6 floor to area ratio (FAR), where 3.0 is the maximum

D. CEQA Recommendation:

Staff recommends certification of the Final Environmental Impact Report (EIR) and adoption of the Mitigation, Monitoring and Reporting Program (MMRP) prepared pursuant to Article 7 of the CEQA Guidelines. Environmental documents for this project are available online at:

<https://aca.cityofberkeley.info/CitizenAccess/Default.aspx>

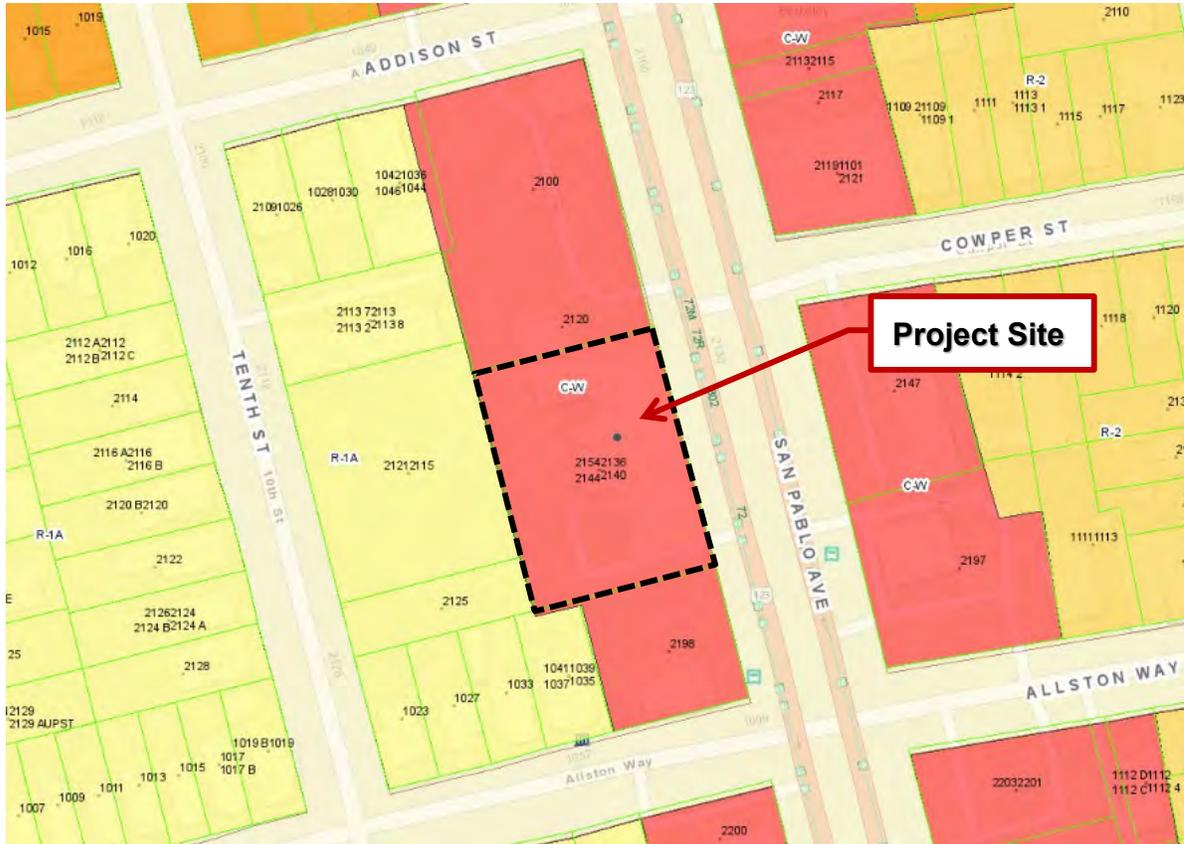
Click on Zoning tab; enter permit number #ZP2021-0046; click on the "Record Info" drop down menu; click on Attachments for a list of all application materials.

E. Parties Involved:

- Applicant/Owner: San Pablo Investors Two LLC, 200 Spectrum Center Drive, Suite 1450, Irvine, CA 92618

² The public hearing notice included a waiver of BMC Section 23.304.090(B)(7)(a) to provide 37 percent of the usable open space as landscaped area, where 40 percent is required. The waiver was added as a result of changes in the plan set submitted on March 7, 2024. The applicant confirmed that this was a calculation mistake and corrected the calculation in the March 12, 2024 plan set. Subsequently, staff determined that the waiver was no longer needed and removed it from the permit.

Figure 1: Vicinity and Zoning Districts Map



Legend

-  AC Transit Bus Route
- C-W: West Berkeley Commercial District
- R-1A: Limited Two-Family Residential District
- R-2: Restricted Two-Family Residential District

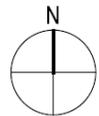


Figure 2: Aerial View



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Figure 3: Rear (West) Elevation



Figure 4: Front (East) Elevation (San Pablo Avenue)



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Figure 5: Right Side (North) Elevation



Figure 6: Left Side (South) Elevation



Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Multiple commercial tenants	West Berkeley Commercial (C-W)	Avenue Commercial (AC)
Surrounding Properties	North	Four-story, mixed-use senior residential care facility		
	South	One-story, commercial liquor store		
	East	One-story, commercial auto-repair shop		
	West	Two- and three-story, residential dwellings	Limited Two-Family Residential District (R-1A)	

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 demolish 9,281 square feet and construct 2,490 square feet of nonresidential gross floor area. Therefore, the project will result in no net new nonresidential gross floor area and the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328)	No	The project vested with a Preliminary Application pursuant to Senate Bill (SB) 330 on September 30, 2020. Therefore, it is not subject to this BMC section. (See Affordable Housing Mitigation Fee in the table row below.)
Affordable Housing Mitigation Fee for rental housing projects (BMC Section 22.20.065) ^b	Yes	The project vested policies in place at the time of submittal of an SB 330 Preliminary Application on September 29, 2020 and is therefore subject to this section.
Alcohol Sales/Service	No	The project does not propose alcohol sales or service.
Coast Live Oak Trees (BMC Chapter 6.52)	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 site.
Density Bonus	Yes	The project would provide 10 Very Low Income (VLI) units, or 10 percent of the base project, and this qualifies the project for a 32.5 percent density bonus or 31 bonus units (30 utilized), under Government Code Section 65915. See Section III.B for discussion.
Historic Resources	Yes	The existing building is more than 40 years old, and was forwarded to the Landmarks Preservation Commission (LPC) for review pursuant to BMC

Characteristic	Applicability	Explanation
		Section 23.326.070(C). On October 1, 2020, the LPC designated the site a Landmark or Structure of Merit designation. However, the project's SB 330 Preliminary Application serves to vest the site's historical resource status (not a City Landmark) at the time of application completeness, on September 30, 2020. See Section IV.B for discussion.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). ^a The base project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section VI.A of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB 330)	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). See Section VI.B of this report for additional discussion on the sections of SB 330 that apply to the project.
Rent Controlled Units	No	There are no existing residential units on-site; therefore, the project would not demolish 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 liquefaction as shown on the State Seismic Hazard Zones map. ^c The project is subject to seismic design recommendations in accordance with the building code indicated in the site specific geotechnical report prepared for the project. (See Section VII of the Initial Study, Appendix A to Attachment 3, Draft EIR for details).
Soil/Groundwater Contamination	Yes	The project site is not listed on the Cortese List. ^d However, the project site is located within the City's Environmental Management Area. The applicant submitted a Phase I report and a Phase II report. Standard Conditions of Approval related to hazardous materials and soil and groundwater management would apply (see Section IX of the Initial Study, Appendix A to Attachment 3, Draft EIR for details).
Transit	Yes	The project site is approximately 0.8 miles southwest of the North Berkeley Bay Area Rapid Transit (BART) station and approximately ½-mile east of the Berkeley Amtrak Station. The project

Characteristic	Applicability	Explanation
		site is served by multiple Alameda-Contra Costa County (AC) Transit District bus lines that operate along San Pablo Avenue.
<p>Notes:</p> <p>a. 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.</p> <p>b. Project vested under SB 330 on/before April 1, 2023, prior to effective date of new inclusionary housing requirements and is therefore subject to the Affordable Housing Mitigations in BMC 22.20.065 that was in effect at the time of vesting.</p> <p>c. California Department of Conservation. DOC Maps: Geologic Hazards. Available: https://maps.conservation.ca.gov/geologic Hazards/</p> <p>d. The Cortese List is an annually updated list of hazardous materials sites compiled pursuant Government Code Section 65962.5.</p>		

Table 3: Project Chronology

Date	Action
October 29, 2019	Use Permit application #ZP2019-0179 submitted
August 13, 2020	Landmark initiation application #LMIN2020-0004 for 2136 San Pablo Avenue site submitted
September 30, 2020	SB 330 Preliminary Application deemed complete; site determined not a local historic resource (City Landmark) for the pendency of the housing development project
October 1, 2020	LPC reviewed demolition referral and landmark initiation application #LMIN2020-0004 and designated the project site as a City Landmark. The Notice of Decision LMSAP2020-0004 was issued November 16, 2020.
March 30, 2021	SB 330 Use Permit Application #ZP2021-0046 submitted
May 20, 2021	Design Review Committee (DRC) Project Preview
August 27, 2021	Application deemed complete; level of CEQA review determined by staff – Initial Study and Focused EIR
August 17, 2022	Notice of Preparation of EIR (NOP) issued / Initial Study published / public comment period begins
September 8, 2022	ZAB EIR Scoping Session and Project Preview meeting
September 19, 2022	NOP public comment period ended
October 20, 2023	Notice of Availability (NOA) of Draft EIR issued / Draft EIR published / public comment period begins

Date	Action
October 26, 2023	Informational item at ZAB for public comment period and scoping session
December 19, 2023	NOA Public comment period ended
February 15, 2024	DRC Preliminary Design Review
March 28, 2024	ZAB decision / EIR certification hearing

Table 4: (C-W) Development Standards BMC Sections 23.204.140 and 23.322 Parking and Loading

C-W Standards		Existing	Proposed Total	Permitted/Required
Lot Area (sq. ft.)		23,301	No change	No minimum
Number of Parcels		1	No change	N/A
Gross Floor Area (sq. ft.)		9,281	82,824	N/A
Dwelling Units		0	122	N/A
Commercial Floor Area		9,281	2,490	
Live/Work Units		0	3 ¹	N/A
Bedrooms		0	127	N/A
Building height	Maximum	20'-4"	69'-6"	50' max. (for mixed-use projects)
	Stories	1	6	4 (for mixed-use projects)
Building Setbacks	Front (San Pablo Avenue)	0'	0'-0"	No minimum
	Rear	38'-9"	13'-4"	10' min. ²
	Left Side	18'	0'-0"	No minimum
	Right Side	5'	8'-0"	No minimum
Lot Coverage (%)		40	83	100 max.
Usable Open Space (sq. ft.)		N/A	5,404	5,000 min. (40 sq. ft./du or live/work unit)
Floor Area Ratio (FAR)		0.27	3.6	3.0 max.
= Waiver or Concession requested to modify the district standard.				
Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches ("); du = dwelling unit				
Notes:				
1 Live/work units are considered commercial uses that can contain no more than 50% living area, but for density bonus calculations, counts as one dwelling unit.				
2 The minimum rear lot line setback when lot line abuts or confronts a lot in a Residential District is 10 feet or 10% of the lot depth, whichever is less.				

Table 4 (Continued): (C-W) Development Standards BMC Sections 23.204.140 and 23.322 Parking and Loading

C-W Standards		Existing	Proposed Total	Permitted/Required
Parking	Commercial (Live/work units)	0	3	0 min. ³
	Clients in l/w units	N/A	2	0 min.
	Residential ³	N/A	45	0 min./61 max. (max.0.5 spaces/du)
	Total	0	50	0 min./61 max.
Bicycle Parking	Commercial - Short Term (live/work units - 2,490 s.f.)	N/A	2	1 (1 space/2000 s.f.)
	Residential - Long Term	N/A	64	42 (1 space/3 bedrooms)
	Residential - Short Term	N/A	6	3 (1 space/40 bedrooms, or 2)
	Total	0	64/8 (long term/short term)	42/4 (long term/short term)
Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches ("); du = dwelling unit				
Notes: ³ The project previously requested a parking reduction under Government Code, Section 65915(p)(2). However, Assembly Bill 2097 (effective January 1, 2023) prohibits local jurisdictions from requiring minimum parking requirements for both residential and most non-residential uses if located within 1/2 mile of public transit, and supersedes district parking standards and SB 330 vesting of standards. Consequently, the parking minimums were reduced to zero for the project, and the parking reduction request was removed from the permit.				

II. Project Setting

A. Neighborhood/Area Description:

The project site is located on the west side of San Pablo Avenue, mid-block between Addison Street to the north and Allston Way to the south. The site has a 175-foot, frontage along San Pablo Avenue, and is adjacent to a four-story, senior residential care facility to the north; a single-story, auto glass repair shop across San Pablo Avenue to the east; a commercial liquor store to the south; and George Florence Park to the west. Other properties along Allston Way, south of the project site include two- and three-story residential buildings. The project site is served by multiple AC Transit District bus lines that operate along San Pablo Avenue, and is approximately 0.8-mile from the North Berkeley BART station. (See Figure 1: Zoning Map and Figure 2: Aerial View.)

B. Site Conditions:

The project site is associated with the addresses 2136-54 San Pablo Avenue, and with Assessor's Parcel Number 56-1977-11-1. The 23,301-square-foot (0.53-acre) project site is a rectangular parcel that is developed with an approximately 9,000-square-foot, single-story commercial building, and its associated parking lot behind the building. The building most recently contained four separate addresses and commercial

spaces, all of which are currently vacant. The building is a potential historic resource that is eligible for listing on the California Register of Historical Resources (CRHR), and was designated a City of Berkeley Landmark in 2020; therefore, the proposed development is subject to environmental review.

III. Project Description

A. Proposed Project Details:

The project proposes to demolish the existing commercial building and construct a mixed-use building that utilizes the State density bonus, with the following main components:

- Six stories and 69 feet, 6 inches in height
- 122 dwelling units – 41 studios; 5 two-level, loft-style, one-bedroom; 71 single-level, one-bedroom, and 5 two-bedroom
- 3 live/work units (one-bedroom) – 2,490 square feet of commercial space
- 127 bedrooms total
- 10 Very Low-Income (VLI) units
- 5,404 square feet of usable open space – ground-floor, common area; private patios; level two, podium courtyard; roof decks on levels four and six
- 50 stacking automobile parking spaces in a ground-level, parking garage
- 64-space bike room

B. Base Project and Density Bonus:

The applicant has requested a density bonus under the State Density Bonus Law. By committing to provide 10 VLI units, the project is eligible for a density bonus under Government Code Section 65915. Under the City's density bonus procedures, the Base Project was calculated to have 95 units, as the maximum allowable density for the site.³ The Base Project has an average unit size of 646 square feet in a four-story building. Ten VLI units, or ten percent of the Base Project, qualifies the project for a 32.5 percent density bonus or 31 bonus units of which the project is utilizing 30. The resulting proposed project would be a six-story building with 125 units (126 maximum potential), with an average unit size of 646 square feet (see Table 5: Density Bonus).

³ Per the [City's Density Bonus Procedures \(DBP\)](#), the base project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the proposed project, which is the number of base project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, Section 65915(f).

Table 5: Density Bonus

Base Project Units ¹	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units ¹	Proposed Project Units ¹
95	10 VLI (10% of BP)	32.5	30 (31 max.) (32.5% x 95)	125 (126 max.)
<p>Notes:</p> <p>1 Per Government Code 65915(q), all unit calculations are rounded up to the nearest whole number.</p> <p>2 The three live/work units in the project counts as one dwelling unit for density bonus calculation, but are considered commercial uses that can contain no more than 50% living area (per building code).</p> <p>Abbreviations: % = percent, max. = maximum</p>				

IV. Community Discussion

A. Neighbor/Community Concerns:

After receiving the application on March 30, 2021, the City mailed a Notice of Received Application to property owners and occupants located within a 300-foot radius of the project site, and to interested neighborhood organizations.⁴

Staff has received numerous comment letters as well as comments at public hearings (LPC demolition referral, DRC Preview, and ZAB EIR scoping meeting) throughout the application review process from neighbors and organizations. The public comments received included concerns over:

- Excessive height
- Building massing, scale, and design incompatibility with the neighborhood
- Building design not honoring the existing city-landmarked building and commercial corridor
- Close proximity of the parking garage entrance to neighboring building parking entrance and Cowper Street intersection, reducing pedestrian safety on Cowper Street and the block on San Pablo Avenue
- Reduction of available street parking
- Increased traffic in neighborhood due to parking garage entry/exit circulation
- Operational noise
- Not enough landscaping and streetscape amenities
- Dark colors and materials contributing to heat in the vicinity
- Lack of bird safe features
- Shading impacts to neighbors

⁴ The Pre-Application Yellow Poster and Neighborhood Outreach components of the land use application submittal requirements were temporarily suspended at the time of the application submittal due to City emergency health orders. The suspension was lifted on July 1, 2021.

- Street tree removal
- Private units having access to George Florence Park
- Cumulative impact of recently approved development in the vicinity (i.e., 2198 San Pablo Avenue)

On March 20, 2024, staff received a letter from the Parks, Recreation and Waterfront (PRW) Commission, expressing concerns over project impacts to the adjacent George Florence Park and on wildlife, and recommending further meetings with the PRW Department Director and the community, and the inclusion of bird safe glass in the project design.

B. Landmarks Preservation Commission:

The project involves demolition of a commercial building over 40 years in age. Pursuant to BMC Section 23.326.070(C)(1), the proposed demolition was brought before the LPC for review on October 1, 2020. The project's SB 330 Preliminary Application vested the site's historical resource status on September, 30 2020.⁵ On that date, the site was not a local historic resource (City Landmark). At the same meeting, the LPC reviewed a Landmark Initiation Application (LMIN2020-0004, submitted on August 13, 2020), and designated the building a City Landmark, with the following distinguishing features to be preserved and restored: the building façade, including the clerestory windows,⁶ vertical and horizontal details on the façade, entry way mosaic tile work, and four storefronts. The Notice of Decision (NOD) was issued on November 16, 2020. (See Attachment 4, LMSAP2020-0004 NOD.)

The City assessed project impact on the historic resource under the Cultural Resources section of the EIR, is requiring measures to mitigate the project's impact to the resource, and is issuing a Statement of Overriding Considerations (Attachment 1, Exhibit C) in support of the project's approval. (See Section V for Environmental Review.)

C. Design Review Committee:

This project proposes development in a non-residential zoning district; therefore, it is subject to review by Design Review Committee (DRC) per BMC Section 23.406.070(B)(1). The project was referred to the DRC for a Project Preview on May 20, 2021, and for Preliminary Design Review on February 15, 2024.

The DRC provided a summary of advisory comments to the ZAB. DRC's comments generally related to neighborhood context, building design, colors and materials, and streetscape/landscape plan, and gave a *favorable* recommendation on the design as presented, and provided the following direction for Final Design Review (FDR) [VOTE (6-1-0-0) Finacom – no]:

⁵ The SB 330 Preliminary Application serves to vest for the project the policies, standards, and fees that are in effect at the time that it is deemed complete. This includes any determination of whether the site is an historic site, pursuant to *Impact of SB 330 on Landmarks Preservation Commission Review of Housing Development Projects Memorandum*, July 8, 2020, City of Berkeley. The LPC and the City are prohibited by state law from denying or imposing conditions on a housing development project based on any cultural or historic resources protections imposed after that date. The City's obligation to assess project impact on cultural resources under CEQA is not affected by this determination.

⁶ A clerestory window is a large window or series of small windows along the top of a structure's wall, usually at or near the roof line.

Conditions

- Continue to refine the ground floor design for review at FDR. Consider more pattern and relief in the concrete in a decorative nature that recalls the original building for a more pedestrian feel, especially between the lobby entrance and the garage opening.
- Applicant shall conduct further collaborative meetings with Parks and Recreation and the neighborhood to further develop the connection between the park and the building. Alternate treatments of the fence at the West edge of the property shall be provided at FDR.
- Plant palette should include at least 75% of native plants and should work with the existing pollinator garden in the adjacent park.
- Remove Bradford Pear species from the plant palette.

Recommendations

- Consider an alternate to the repetitive window surrounds, either a different material or a recess instead of a frame. Provide construction details and renderings at FDR.
- Enhance the color and material palette to further emphasize a smaller scale in the massing on the San Pablo façade.

Minor revisions to the project were made as a result of comments received from the DRC at these meetings. The revisions did not affect the conclusion of the EIR (discussed in section V).

V. Environmental Review

A. CEQA Approach and Recommendation:

Pursuant to CEQA Guidelines Section 15367, the City of Berkeley (City) is the lead agency for the project. The CEQA lead agency has the principal responsibility for carrying out or approving a project. The City has the authority for environmental review in accordance with CEQA and certification of the environmental documentation. Any responsible agency may elect to use this environmental analysis for discretionary actions associated with the implementation of the project.

In accordance with the CEQA (California Public Resources Code [PRC] §21000 et seq.) and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, §15000 et seq.), an Initial Study (IS) was prepared to evaluate the potential environmental effects associated with the construction and operation of the project. The IS included a description of the proposed project, evaluated each of the environmental issue areas identified in the environmental checklist form. Based on the impact determinations in the IS, impacts related to Cultural Resources and Hydrology and Water Quality were found to be potentially significant and required further analysis in an Environmental Impact Report (EIR).

B. EIR Process

In accordance with CEQA Guidelines Section 15105(b), the project Draft EIR was posted for public review for a period of 30 days, from October 20, 2023 to December 4, 2023, and

was extended for another 15 days to December 19, 2023, by a request from the public for a total period of 60 days. The City filed a Notice of Completion and Notice of Availability (NOA) for the Draft EIR with the California State Clearinghouse (SCH#2022080445). The City also posted the NOA with the County Clerk and mailed the notice to all property owners within a 300-foot radius and to individuals who have requested notification.

C. Environmental Impacts, Mitigation Measures and Alternatives:

As discussed in the IS (Appendix A to Attachment 3, Draft EIR), the proposed project would have no impact, less than significant impacts, or less than significant impacts with mitigation incorporated for all other environmental topic areas. The Draft EIR evaluated impacts related to the Cultural Resources and Hydrology and Water Quality. Impacts related to Cultural Resources (unidentified subsurface archaeological resources – Impact CUL-2a) were found to be less than significant with Mitigation Measures CUL-2a and 2b. Impacts related to Hydrology and Water Quality (surface runoff, Impact HYDRO-1 and stormwater drainage system capacity, Impact HYDRO-2) were found to be less than significant with Mitigation Measures HYDRO-1 and HYDRO-2. See Section IV, Settings, Impacts and Mitigation Measures of the Draft EIR for details.

Impacts related to the historic resource and cumulative impacts related to historic resources were found to be significant and unavoidable (see Section IV.A Cultural Resources of Attachment 3, EIR) The proposed project would demolish the historical resource, a 1923 storefront commercial building, which is eligible for listing on the CRHR under Criterion 3, Design/Construction, and was designated a City Landmark, with the building façade being the main distinguishing feature to be preserved and restored.

Pursuant to Section 15126.4(a)(1) of the CEQA Guidelines, an EIR must describe feasible measures which could minimize significant adverse impacts. The Draft EIR identifies the mitigation measures that would reduce impacts on the historical resource. However, since the project would involve demolition of an historical resource, impacts would remain significant and unavoidable after implementation of required mitigation. The mitigation measure and submeasures identified in the Draft EIR are listed below.

- *Mitigation Measure CUL-1: Documentation*, requiring documentation of the historic storefront commercial building and its setting.
 - *Mitigation Measure CUL-1.1: Photographs*, requiring specific photograph formats.
 - *Mitigation Measure CUL-1.2: Measured Drawings or 3D Laser Scanning “As-Builts”*, requiring drawings or 3D scans to document the existing condition of the building at the time of documentation, including additions, alterations, and demolitions which have occurred since the building was first constructed.
 - *Mitigation Measure CUL-1.3: Historical Background Information*, requiring a Historic American Building Survey (HABS) historical report.
 - *Mitigation Measure CUL-1.4: Public Access to Documentation*, requiring HABS documentation to be prepared using archival materials and processes, and recommending submittal of documentation to Library of Congress or the Berkeley

Architectural Heritage Association (BAHA), and other state and local historical organizations.

Section IV, Settings, Impacts and Mitigation Measures in the Draft EIR includes a complete discussion of project impacts and mitigation measures, including those mitigation measures that would reduce the identified impact to a less-than-significant level.

The CEQA Guidelines also require the analysis of a reasonable range of alternatives to the project. These alternatives should avoid, or substantially lessen, any of the significant effects of the project and should attain most of the project's basic objectives, when feasible. The Draft EIR analyzes the following alternatives:

1. No Project/No Build Alternative
2. Live-Work, Façade Preservation Alternative
3. Commercial Storefront Preservation Alternative

Other than the No Project Alternative, Alternative 3, the Commercial Storefronts Preservation Alternative was found to be environmentally superior to the proposed project and other alternatives, because it would retain the existing façade and preserve the character defining features at the front of the historic building, as well as retain the eight commercial storefronts at the ground floor fronting San Pablo Avenue. While this alternative would still result in significant and unavoidable cultural resource impacts, preservation of the façade and commercial retail stores is incrementally better than demolition of the building and only having written and photographic documentation, thereby reducing the significant and unavoidable impact to historical resources to a greater degree.

Section V Alternatives, of the Draft EIR includes a complete discussion of these alternatives, and of alternatives that were rejected for various reasons.

D. Final EIR and Response to Comments:

The Final EIR consists of the Draft EIR and the Response to Comments (RTC) document. The RTC document typically includes a list of the agencies, organizations, or individuals that submitted written comments on the Draft EIR; reproductions of written comments and summaries of verbal comments, and responses to CEQA-related comments received; and revisions to the Draft EIR in light of public comments received and responses provided.

A total of three comment letters/responses were received during the public review period, all from public agencies: two from the California Department of Transportation (Caltrans), and one from the East Bay Municipal Utility District (EBMUD). No comment letters were received from members of the public. Comments received included: concerns for traffic and pedestrian safety due to northbound San Pablo Avenue, U-turn traffic accessing the site; standard hydrology comments; and standard water agency comments. None of the comments presented substantial evidence of a fair argument that the project may have a significant impact on the environment, and no text revisions were made as a result of any comments. All public comments will be considered by the ZAB prior to making a CEQA determination on the project.

As stated in the Final EIR, potential impacts to the environment (excepting Cultural Resources) would be reduced to a less-than-significant impact with implementation of the City's standard conditions of approval and mitigation measures for the proposed project (see Attachment 1, Exhibit B, Mitigation Monitoring and Reporting Program). CEQA Guidelines Section 15126.4(a)(2) requires mitigation measures to be fully enforceable through permit conditions, agreements, or other legally binding instrument. As the lead agency, the City of Berkeley would adopt the MMRP if the project is approved by ZAB.

As mentioned in Section IV.C, above, minor revisions to the project were made as a result of comments received at the DRC meetings on May 20, 2021 and February 15, 2024, such as those included in the following list. The City reviewed the revised plans and concluded that the revisions did not change the conclusions of the Initial Study and EIR.

- Project Floor Area from 82,824 to 83,034 square feet
- Residential unit count from 123 to 122 units (plus 3 live/work units)
- Live/work commercial floor area data error corrected on the plan set data table
- Shifts in the mix of units as follows:
 - 6 lofts to 5 lofts
 - 36 studios to 41 studios
 - 76 1-bedroom to 71 1-bedroom
 - 126 total units to 125 total units
 - 128 bedrooms to 127 bedrooms
- Total open space provided reduced from 6,319 to 5,404 square feet.

E. Findings of Fact and Statement of Overriding Considerations:

Section 15091 of the CEQA Guidelines provides that the ZAB may not approve the project unless it makes written findings related to significant effects identified in the EIR. The Findings of Fact and Statement of Overriding Considerations includes the required findings under CEQA, including the following:

- Effects Determined to be Mitigated to Less than Significant Levels: potentially significant effects for which that mitigation identified in the Draft EIR and Initial Study would reduce impacts to less than significant levels
- Significant Effects that Cannot be Mitigated to a Less than Significant Level: the significant unavoidable impact related to historic resources, which cannot be mitigated to a less than significant level
- Feasibility of Project Alternatives: an analysis of why the alternatives identified and described in the Draft EIR were considered and determined to be infeasible for the specific economic, social, or other considerations
- Statement of Overriding Considerations: a statement of why the significant unavoidable impact to historical resources is outweighed by the proposed project's benefits and is acceptable in light of the benefits of the project (CEQA Guidelines Section 15093)

In addition, pursuant to CEQA Guidelines Section 15091, the City may not approve a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more of the following findings:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The CEQA findings and Statement of Overriding Considerations (Attachment 1, Exhibit C) includes the required findings related to significant effects. The document describes why the project alternatives are infeasible. In addition, the document describes why the significant unavoidable impact to historical resources is outweighed by the proposed project's economic, legal, social, technological or other benefits, including but not limited to the following:

- The project site is zoned and designated in the General Plan for high-density residential development. The proposed project will involve replacement of the underutilized commercial and parking uses within the site with new residential buildings that will be consistent with the zoning and land use designation.
- The project will provide infill development that embodies principles of sustainable planning and construction, and will be sufficiently compatible with existing city character, neighboring land uses, and architectural scale and design in support of Policies LU-7, UD-16, UD-24, and UD-32 in the City's General Plan.
- Based on current housing demand, development of the proposed project is necessary for the City to meet current and anticipated Regional Housing Needs Allocation (RHNA) goals by adding 122 multi-family residential units to the City's housing stock.
- The project will include ten units affordable to Very Low Income (VLI) households in support of Policy LU-25 of the City's General Plan to encourage development of affordable housing within transit-oriented corridors.
- The project would increase high density housing and in close proximity to alternative forms of transportation.
- The project will substantially increase the assessed value of the property, which will increase City revenue used to provide services and infrastructure.
- The project will be subject to several development fees, including the affordable housing mitigation fee, which will be used to develop more affordable housing, and the Berkeley Unified School District fee, which will be used to improve school infrastructure and facilities in the city.

- The project will increase the number of residents who patronize businesses in Berkeley.
- The project will increase high density housing on the San Pablo Avenue Corridor in West Berkeley and in close proximity to existing businesses, services, and alternative forms of transportation (the AC Transit routes). Given this access to services and alternative transportation methods, the project will minimize driving demand and reduce greenhouse gas emissions associated with vehicle trips in the region in support of the City's Climate Action Plan and Policy EM-5 and Policy UD-33 in the City's General Plan, which call for environmentally sensitive and sustainable design in new buildings.

VI. 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 safety⁷ unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The project is a "housing development project" consisting of a mixed-use building with at least two-thirds of the floor area in residential use/transitional or supportive housing. The Base Project includes Use Permits and/or Administrative Use Permits⁸ to allow rooftop architectural projections above the height limit, and complies with applicable, objective general plan and zoning standards. Government Code Section 65589.5(j)(3) provides that a request for a density bonus "shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision." Therefore, the City may not deny the Base Project or density bonus request or reduced the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above.

As shown in Table 4, the project complies with the zoning standards. The project includes Use Permits or Administrative Use Permits to modify standards to represent the maximum allowable density on the site. There are no objective criteria in the permit findings; therefore the project still 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

⁷ 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."

⁸ The City has determined that the "protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits."

reduce the project density or effectively deny the project by making it infeasible, unless the ZAB is also able to make the required findings for denial set forth under Section 65589.5(j), above.

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

B. Housing Crisis Act of 2019 – Senate Bill (SB) 330:

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 effect 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 March 28, 2024 ZAB hearing represents the fourth public hearing for the proposed project since the project was deemed complete. The City can hold one additional public hearing on this project, if needed. The last hearing must be reserved for a 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 for the project in October, 2019, the property appears to be historically significant and is eligible for listing on the California Register of Historical Resources and as a City of Berkeley Landmark or Structure of Merit.

As discussed in Section IV.C, the building at 2136-2154 San Pablo Avenue was not an historic resource at the time that the Preliminary Application was deemed complete, though the LPC designated the site a City Landmark after this date. Because the project would involve demolition of an eligible historic resource, the City has prepared

an EIR to evaluate the project's impacts on the environment, including historic resources. (See Section V for the environmental review of the project).

Consultation with tribes associated with the site and further investigation revealed no evidence of tribal cultural resources (see Section XVIII of the Initial Study, Appendix A to Attachment 3, Draft EIR). Further, standard conditions of approval have been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. **Government Code Section 65950(a)(2)** requires a public agency to approve or disapprove a project within 90 days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a housing development project. An EIR was prepared for the project. Should ZAB adopt the EIR at the March 28, 2024 public hearing, the application must be approved or disapproved by June 26, 2024.

C. Density Bonus Concessions and Waivers:

The project is entitled to two concessions (or incentives) under Government Code Section 65915(d), and an unlimited number of waivers under Section 65915(e).

1. **Concessions:** A concession is a modification of a development standard that reduces the cost of providing affordable housing. The applicant originally requested a concession under Section 65915(d), and a reduction under Section 65915(p)(2) for the project to reduce the residential parking requirement from 123 spaces to 45 spaces. However, due to the applicability of AB 2097 (prohibits local jurisdictions from requiring minimum parking requirements for both residential and most non-residential uses if located within 1/2 mile of public transit) to the project, the concession and reduction are no longer necessary and have been removed from the project.

Waivers: A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. The applicant is requesting two waivers from the following development standards: height (including number of stories) and floor-to-area ratio. The waivers are requested because they are necessary to physically accommodate the additional 30 units as allowed under the density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the waiver would be contrary to State or Federal law. Staff believes such a finding cannot be made.⁹

⁹ See Footnote 4.

D. Demolition of Nonresidential Buildings and Structures:

Pursuant to BMC Section 23.326.070 main nonresidential buildings may be demolished provided that the demolition will not be materially detrimental to the commercial needs and public interest of the impacted neighborhood and one of the following findings can be made: that the demolition of the structure is required to allow a proposed new building or other proposed new use; will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses; will remove a structure which represents an un-abatable attractive nuisance to the public; or is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

The proposed demolition of the existing one-story commercial building would not be materially detrimental to the commercial needs and public interest of the neighborhood because the proposed project would replace 27 percent of the eliminated commercial floor area with live/work units in a mixed-use building that would provide a significant amount of new dwelling units, to bring more diversity of services to residents and workers in the vicinity and new housing to the neighborhood and the City at large. The existing 9,281-square-foot commercial structure would be demolished and replaced by an 82,824-square-foot mixed-use building, with 2,490 square feet of new commercial area in three live/work units, 122 new residential units, including 10 VLI units. The demolition is required in order to allow the proposed mixed-use project to be constructed. The proposed development would be compatible with the C-W District purposes and the adjacent permitted uses in the along San Pablo Avenue, as discussed in the following section.

Further, as discussed in Section IV.B, on October 1, 2020, the proposed demolition referral was forwarded by the LPC to the ZAB for approval.

VII. 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. The following permits have been determined by the City to be included in the Base Project of the proposal, and are subject to Section 65589.5(j) of the HAA. See section VI.A for discussion of the HAA. All permits are subject to the C-W District permit findings and General Non-Detriment findings discussed in sections VII.A and VII.B.

A. Findings for New Floor Area in C-W District.

Pursuant to BMC Section 23.204.030(A)(3), to approve an AUP or Use Permit for new floor area in the C-W district, the Zoning Adjustments Board must find that the new use or structure provides an intensity of development which does not underutilize the property.

The proposed new floor area in the mixed-use building, which provides 122 new residential units and 2,490 square feet of live/work commercial area is an appropriate

intensity of use for the C-W district, and fulfill the development potential as characterized in the West Berkeley Plan on a property that is currently underutilized.

B. Findings for Use Permits in C-W District:

Pursuant to BMC Section 23.204.140(F), in order to approve any Use Permit in the district, the Board must make the following findings. The proposed use or structure must:

1. Be consistent with the purposes of the District. The project is consistent with the following district purposes:
 - Implement the West Berkeley Plan's designation of a Commercial District;
 - Provide locations for commercial services which primarily serve area residents and/or businesses;
 - Support the retention and attraction of a balance of both smaller and larger stores and restaurants;
 - Provide appropriate locations, consistent with West Berkeley Plan policies, for commercial services which serve a citywide or broader clientele;
 - To provide a relatively compact, clearly bounded set of commercial areas in West Berkeley, so as to both improve the quality of West Berkeley shopping environments and to prevent commercial overspill into industrial areas;
 - Increase the opportunities for development of housing in commercial areas to support local retailing and use of transit lines and opportunities for mixed use projects combining pedestrian-oriented neighborhood-serving uses with mixed income housing in locations abutting residential districts;
 - Encourage appropriately intense development in underutilized portions of commercial streets; and
 - Promote development compatible with adjacent commercial, residential and industrial areas;
2. Be compatible with surrounding uses and buildings;
3. Be consistent with the adopted West Berkeley Plan;
4. Be supportive of an increase in the continuity of retail and service facilities at the ground level to the degree feasible and does not substantially degrade the existing urban fabric of the street and area;
5. Be, for projects which include construction of new floor area, providing an intensity of development which does not underutilize the property;
6. Be capable of meeting any applicable performance standards for off-site impacts; and
7. Not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

The proposed mixed-use building at this location would be an appropriate utilization of the underutilized single-story commercial development site that would bring 122 new

residential units (including ten below-market-rate units) and 2,490 square feet of commercial space to the district and the neighborhood. The project would further the purposes of the district by increasing the neighborhood population with new residents of mixed income who would patronize the local businesses, help to engage the adjacent residential neighborhood (R-1A, Limited Two-Family Residential District) to the west of the site, and contribute to the livability and character of this underutilized portion of the San Pablo Avenue commercial corridor. New residents and business patrons from the project and surrounding neighborhood would increase street-level activity near this intersection of San Pablo Avenue and Cowper Street, and would add to the ground-level activation on the block north of the site (Addison Street to Cowper Street, on the east side of San Pablo) at the existing post office, retail, and restaurant, helping to extend the existing street activation from the commercial node of University Avenue and San Pablo Avenue further south toward Allston Way.

At six stories tall, the proposed project would be taller than the existing one- and two-story residential and commercial buildings in the vicinity, including the four-story senior housing development immediately north of the site. The building design mitigates this height differential by stepping down toward the dwellings to the west of the site at the fifth and fourth levels, and again at the second level, opening to an interior courtyard. There is also a 13-foot, 4-inch setback along the length of the west (rear) property line from the first to fourth levels, to soften the transition to the public park and residential neighborhood to the east. The western roofline at the fourth level has gabled roofs to mimic the scale and massing of the residential dwellings in the neighborhood to the west of the site.

The project would help realize the development potential in the C-W district along San Pablo Avenue in the West Berkeley Area Plan, which allows up to four stories by right (for mixed-use buildings), and would add to the trend of taller, mixed-use development along San Pablo Avenue, extending northward and southward from University Avenue. The group of taller buildings extending northward from University Avenue includes projects such as: 1500 San Pablo Avenue – a five-story, mixed use building approved in 2016, which completed construction in 2021; 1800 San Pablo Avenue – a four-story, mixed-use building, approved in 2004 and built in 2006; 1200-1214 San Pablo Avenue – a six-story, mixed-use building, approved in 2020, and currently obtaining building permits; and 1201-1205 San Pablo Avenue – a six-story, mixed-use building, approved in 2020. The growing group of taller buildings extending southward from University Avenue includes 2100 San Pablo Avenue – a four-story senior housing development which opened in 2022, and 2147 San Pablo (across the street from the project site) – a six-story, mixed-use building approved in 2023.

Finally, the project would be an appropriate intensity of use that would not exceed local traffic and parking capacities. The proposed 50 parking spaces falls within the zero minimum and 61 maximum requirements.

C. 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. The project is consistent with all applicable C-W District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915.
2. Shadows: According to the shadow studies submitted for the project (see Attachment 2, Project Plans – Sheets A0.4A through A0.4D), new shadow impacts would occur: 1) in the winter months and fall months around the hours after sunrise, noon and the hours before sunset on the multi-family residential building at 2113 Tenth Street to the northwest, and the multifamily residential building at 2100 San Pablo Avenue to the north; and 2) in the summer months around noon and the hours before sunset on the multi-family residential buildings at 2125 Tenth Street to the west. All other new shadows would impact commercial buildings in the vicinity. The extent of the new shadow impact from the project on the site's adjacent areas would not be unreasonable for a development in the dense, downtown district that allows building heights up to 60-foot, with 0 to 5-foot setbacks from property lines, by right.

Shadow impact on adjacent dwellings are to be expected, because the subject site is located in the C-W district, which allows heights of up to 50 feet and four stories for mixed-use buildings, by right. The proposal would include a waiver for additional height beyond the district height limits to accommodate the density bonus units (see Section VI.C for a discussion of waivers) and allow a 69-foot, 6-inch-tall, six-story building. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. The shadow impacts from the project would be reasonable and not detrimental.

3. Non-Detriment: The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

D. Administrative Use Permit for Rooftop Projections

BMC Section 23.304.050(A) requires an Administrative Use Permit for roof-top projections, such as mechanical penthouses, elevator equipment rooms or stair towers, that would exceed the maximum height limit. Such projections are limited to no more than 15 percent of the average floor area of all of the building's floors and cannot be used as habitable space or for commercial purposes. The project would include stair and elevator overruns totaling 422 square feet that would extend four feet over the 69-foot, 6-inch roof

height. The penthouses represent approximately three percent of the 13,804-square-foot average of all the floor areas. The projection is, therefore, permissible.

E. General Plan Consistency:

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

1. **Policy LU-3 Infill Development:** Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. **Policy LU-7 Neighborhood Quality of Life, Action A:** Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. **Policy UD-16 Context:** The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. **Policy UD-24 Area Character:** Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
5. **Policy UD-32 Shadows:** New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
6. **Policy LU-23 Transit-Oriented Development:** Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

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

7. **Policy H-19 Regional Housing Needs:** Encourage adequate housing production to meet City needs and the City's share of regional housing needs.
8. **Policy EM-5 "Green" Buildings:** Promote and encourage compliance with "green" building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)
9. **Policy UD-33 Sustainable Design:** Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The project would help Berkeley meet its regional housing needs by adding 122 net new housing units, including ten VLI units. The project would be subject to standard conditions of approval that promote sustainable building design, including conditions for solar photovoltaic (PV) systems, electric vehicle charging, water efficient landscaping, and natural gas prohibitions.

VIII. Recommendation

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

1. **CERTIFY** the Final Environmental Impact Report (Attachment 3) and adopt the Mitigation, Monitoring, and Reporting Program (Attachment 1, Exhibit B); and
2. **APPROVE** #ZP2021-0046 pursuant to Section 23.406.040(D) and subject to the attached Findings and Conditions (Attachment 1, Exhibit A).

Attachments:

1. Findings and Conditions
 - Exhibit A: Use Permit Findings and Conditions
 - Exhibit B: Mitigation, Monitoring, and Reporting Program
 - Exhibit C: CEQA Findings and Statement of Overriding Considerations
2. Project Plans, received March 12, 2024
3. Final EIR (Response to Comments and Draft EIR, available online at: <https://aca.cityofberkeley.info/CitizenAccess/Default.aspx>
Click on Zoning tab; enter permit number #ZP2021-0046; click on the "Record Info" drop down menu; click on Attachments for a list of all application materials.
4. LMSAP2020-0004 NOD, Landmark Designation Findings and Conditions
5. Notice of Public Hearing
6. PRW Commission Comment Letter, dated March 20, 2024

Staff Planner: Sharon Gong, sgong@berkeleyca.gov, (510) 981-7429

ATTACHMENT 1, EXHIBIT A

FINDINGS AND CONDITIONS

MARCH 28, 2024

2136-2154 San Pablo Avenue

Use Permit #ZP2021-0046 to demolish an existing one-story, non-residential building and construct a six-story (69 feet, 6 inches), 82,824-square-foot, mixed-use building with 122 dwelling units (including 10 Very Low-Income, Density Bonus qualifying units), three live/work units (2,490 square feet of commercial space) and a ground-floor parking garage with 50 spaces.¹

ZONING PERMITS REQUIRED

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential building or structure
- Use Permit pursuant to BMC Section 23.204.140(B)(2)(a) to construct a mixed-use development over 20,000 square feet
- Use Permit pursuant to BMC Section 23.204.020(A) for construction of dwelling units
- Use Permit pursuant to BMC Section 23.204.030(B) to construct new gross floor area of 5,000 square feet or more
- Administrative Use Permit pursuant to BMC Section 23.304.050(A) to construct architectural elements that exceed the District's height limit
- Administrative Use Permit pursuant to BMC Section 23.312.030(C)(3)(a) to establish live/work units
- Use Permit pursuant to BMC Section 23.312.040(A)(3) to allow customer visits to live/work units

CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- Concessions – none requested
- Waiver of BMC Section 23.204.140(E)(1) for maximum height to be 69 feet, 6 inches, where 50 feet is the maximum, and six stories, where four stories is the maximum
- Waiver of BMC Section 23.204.140(E)(1) to have 3.6 floor to area ratio (FAR), where 3.0 is the maximum

¹ Live/work units are considered commercial uses that can contain no more than 50% living area, but for density bonus calculations, counts as one dwelling unit.

I. CEQA FINDINGS

- A.** In accordance with the CEQA (California Public Resources Code [PRC] §21000 et seq.) and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, §15000 et seq.), an Initial Study (IS) was prepared to evaluate the potential environmental effects associated with the construction and operation of the project. The IS included a description of the proposed project, evaluated each of the environmental issue areas identified in the environmental checklist form. Based on the impact determinations in the IS, impacts related to Cultural Resources and Hydrology and Water Quality were found to be potentially significant and required further analysis in an Environmental Impact Report (EIR).

In accordance with CEQA Guidelines Section 15105(b), the project Draft EIR was posted for public review for a period of 30 days, from October 20, 2023 to December 4, 2023, and was extended for another 15 days to December 19, 2023, by a request from the public for a total period of 60 days. The City filed a Notice of Completion and Notice of Availability (NOA) for the Draft EIR with the California State Clearinghouse (SCH#2022080445). The City also posted the NOA with the County Clerk and mailed the notice to all property owners within a 300-foot radius and to individuals who have requested notification.

A total of three comment letters/responses were received during the public review period, all from public agencies: two from the California Department of Transportation (Caltrans), and one from the East Bay Municipal Utility District (EBMUD). No comment letters were received from members of the public. Comments received included: concerns for traffic and pedestrian safety due to northbound San Pablo Avenue, U-turn traffic accessing the site; standard hydrology comments; and standard water agency comments. None of the comments presented substantial evidence of a fair argument that the project may have a significant impact on the environment, and no text revisions were made as a result of any comments. All public comments were considered by the ZAB prior to making a CEQA determination on the project.

As stated in the Final EIR, potential impacts to the environment (excepting Cultural Resources) would be reduced to a less-than-significant impact with implementation of the City's standard conditions of approval and mitigation measures for the proposed project (see Attachment 1, Exhibit B, Mitigation Monitoring and Reporting Program). CEQA Guidelines Section 15126.4(a)(2) requires mitigation measures to be fully enforceable through permit conditions, agreements, or other legally binding instrument.

The Zoning Adjustments Board has considered the Final EIR, together with comments received during the public review process, and finds, on the basis of the whole record before it, that (1) potentially significant effects to Cultural Resources (unidentified subsurface archaeological resources) and Hydrology and Water Quality were identified, and could be reduced to less than significant levels by implementation of the mitigation measures and/or the City's standard conditions of approval, (2) the proposed project would result in significant unavoidable impacts related to cultural resources, even after incorporation of all feasible mitigation measures, and that these significant unavoidable impacts are outweighed by the proposed project's benefits, and (3) the Final EIR reflects the lead agency's independent judgment and analysis.

The CEQA findings and Statement of Overriding Considerations (Attachment 1, Exhibit C) includes the required findings related to significant effects. The document describes why the project alternatives are infeasible. In addition, the document describes why the significant unavoidable impact to historical resources is outweighed by the proposed project's economic, legal, social, technological or other benefits (each of which, independently of the others, constitutes overriding consideration warranting approval of the proposed project), including but not limited to the following:

- The project site is zoned and designated in the General Plan for high-density residential development. The proposed project will involve replacement of the underutilized commercial and parking uses within the site with new residential buildings that will be consistent with the zoning and land use designation.
- The project will provide infill development that embodies principles of sustainable planning and construction, and will be sufficiently compatible with existing city character, neighboring land uses, and architectural scale and design in support of Policies LU-7, UD-16, UD-24, and UD-32 in the City's General Plan.
- Based on current housing demand, development of the proposed project is necessary for the City to meet current and anticipated Regional Housing Needs Allocation (RHNA) goals by adding 122 multi-family residential units to the City's housing stock.
- The project will include ten units affordable to Very Low Income (VLI) households in support of Policy LU-25 of the City's General Plan to encourage development of affordable housing within transit-oriented corridors.
- The project would increase high density housing and in close proximity to alternative forms of transportation.
- The project will substantially increase the assessed value of the property, which will increase City revenue used to provide services and infrastructure.
- The project will be subject to several development fees, including the affordable housing mitigation fee, which will be used to develop more affordable housing, and the Berkeley Unified School District fee, which will be used to improve school infrastructure and facilities in the city.
- The project will increase the number of residents who patronize businesses in Berkeley.
- The project will increase high density housing on the San Pablo Avenue Corridor in West Berkeley and in close proximity to existing businesses, services, and alternative forms of transportation (the Alameda and Contra Costa Transit routes). Given this access to services and alternative transportation methods, the project will minimize driving demand and reduce greenhouse gas emissions associated with vehicle trips in the region in support of the City's Climate Action Plan and Policy EM-5 and Policy UD-33 in the City's General Plan, which call for environmentally sensitive and sustainable design in new buildings.

See Attachment 1, Exhibit C, CEQA Findings and Statement of Overriding Considerations, for details. The record of proceedings upon which this decision is based is located at the Permit Service Center, 1947 Center Street, 2nd Floor, Berkeley, California 94704.

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 122 dwelling units. Because the base 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, polices, or conditions, have been identified.

III. DENSITY BONUS FINDINGS

- A.** Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
1. Under the City's methodology for implementing density bonuses, the base project consists of 95 units;
 2. The project will provide at least 10 very low-income qualifying units in the 95-unit base project; and
 3. The project is entitled to a density increase of 32.5 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus two concessions or incentives. This equates to a density bonus of 30 units (31 units maximum) above the base project, for a total of 125 units (126 units maximum).
- B.** In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers to modify development standards as necessary to accommodate these density bonus units:
1. Waiver of BMC Section 23.204.140(E)(1) for maximum height to be 69 feet, 6 inches, where 50 feet is required, and six stories, where four stories is the maximum
 2. Waiver of BMC Section 23.204.140(E)(1) to have 3.6 floor to area ratio (FAR), where 3.0 is required
- C.** In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of waivers is required 1) to construct the proposed project at the density permitted under State law; 2) approval of requested waivers will not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers will not be contrary to State or Federal law.

IV. FINDINGS FOR APPROVAL

A. 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, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

1. The project is consistent with all applicable C-W District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915.
2. According to the shadow studies submitted for the project, new shadow impacts would occur: 1) in the winter months and fall months around the hours after sunrise, noon and the hours before sunset on the multi-family residential building at 2113 Tenth to the northwest, and the multifamily residential building at 2100 San Pablo to the north; and 2) in the summer months around noon and the hours before sunset on the multi-family residential buildings at 2125 Tenth to the west. All other new shadows would impact commercial buildings in the vicinity. The extent of the new shadow impact from the project on the site's adjacent areas would not be unreasonable for a development in the dense, downtown district that allows building heights up to 60-foot, with zero to five-foot setbacks from property lines, by right.

Shadow impact on adjacent dwellings are to be expected, because the subject site is located in the C-W district, which allows heights of up to 50 feet and four stories for mixed-use buildings, by right. The proposal would include a waiver for additional height beyond the district height limits to accommodate the density bonus units and allow a 69-foot, 6-inch-tall, six-story building. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. The shadow impacts from the project would be reasonable and not detrimental.

3. 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.

- B.** As required by Section 23.326.070 of the BMC main nonresidential buildings may be demolished provided that the demolition will not be materially detrimental to the commercial needs and public interest of the impacted neighborhood and one of the following findings can be made: that the demolition of the structure is required to allow a proposed new building or other proposed new use; will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses; will remove a structure which represents an un-abatable attractive nuisance to the public; or is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

The proposed demolition of the existing one-story commercial building would not be materially detrimental to the commercial needs and public interest of the neighborhood because the proposed project would replace 27% of the eliminated commercial floor area with live/work units in a mixed-use building that would provide a significant amount of new dwelling units, to bring more diversity of services to residents and workers in the vicinity and new housing to the neighborhood and the City at large. The existing 9,281-square-foot commercial structure would be demolished and replaced by an 82,824-square-foot mixed-use building, with 2,490 square feet of new commercial area in three live/work units, 122 new residential units, including 10 VLI units. The demolition is required in order to allow the proposed mixed-use project to be built. The proposed development would be compatible with the C-W District purposes and the adjacent permitted uses in the along San Pablo Avenue.

Further, on October 1, 2020, the proposed demolition referral was forwarded by the LPC to the ZAB for approval.

V. OTHER FINDINGS FOR APPROVAL

- A.** As required by BMC Section 23.204.030(A)(3), the Zoning Adjustments Board finds that the proposed new floor area in the mixed-use building, which provides 122 new residential units and 2,490 square feet of live/work commercial area is an appropriate intensity of use for the C-W district, and fulfill the development potential as characterized in the West Berkeley Plan on a property that is currently underutilized.
- B.** As required by Section 23.204.140(F) of the BMC, in order to approve any Use Permit in the district, the Board must make the following findings. The proposed use or structure must:
1. Be consistent with the purposes of the District. The project is consistent with the following district purposes:
 - Implement the West Berkeley Plan's designation of a Commercial District;
 - Provide locations for commercial services which primarily serve area residents and/or businesses;
 - Support the retention and attraction of a balance of both smaller and larger stores and restaurants;
 - Provide appropriate locations, consistent with West Berkeley Plan policies, for commercial services which serve a citywide or broader clientele;
 - To provide a relatively compact, clearly bounded set of commercial areas in West Berkeley, so as to both improve the quality of West Berkeley shopping environments and to prevent commercial overspill into industrial areas;

- Increase the opportunities for development of housing in commercial areas to support local retailing and use of transit lines and opportunities for mixed use projects combining pedestrian-oriented neighborhood-serving uses with mixed income housing in locations abutting residential districts;
 - Encourage appropriately intense development in underutilized portions of commercial streets; and
 - Promote development compatible with adjacent commercial, residential and industrial areas;
2. Be compatible with surrounding uses and buildings;
 3. Be consistent with the adopted West Berkeley Plan;
 4. Be supportive of an increase in the continuity of retail and service facilities at the ground level to the degree feasible and does not substantially degrade the existing urban fabric of the street and area;
 5. Be, for projects which include construction of new floor area, providing an intensity of development which does not underutilize the property;
 6. Be capable of meeting any applicable performance standards for off-site impacts; and
 7. Not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

The proposed mixed-use building at this location would be an appropriate utilization of the and underutilized single-story commercial development site that would bring 122 new residential units (including ten below-market-rate units) and 2,490 square feet of commercial space to the district and the neighborhood. The project would further the purposes of the district by increasing the neighborhood population with new residents of mixed income who would patronize the local businesses, and help to engage the adjacent residential neighborhood (R-1A, Limited Two-Family Residential District) to the west of the site, to contribute to the livability and character of this underutilized portion of the San Pablo Avenue commercial corridor. New residents and business patrons from the project and surrounding neighborhood would increase street-level activity near this intersection of San Pablo Avenue and Cowper Street, and would add to the ground-level activation on the block north of the site (Addison Street to Cowper Street, on the east side of San Pablo) at the existing post office, retail, and restaurant, helping to extend the existing street activation from the commercial node of University Avenue and San Pablo Avenue further south along San Pablo, toward Allston Way.

At six stories tall, the proposed project would be taller than the existing one- and two-story residential and commercial buildings in the vicinity, including the four-story senior housing development immediately north of the site. The building design mitigates this height differential by stepping down toward the dwellings to the west of the site at the fifth and fourth levels, and again at the second level, opening to an interior courtyard. There is also a 13-foot, 4-inch setback along the length of the west (rear) property line from the first to fourth levels, to soften the transition to the public park and residential neighborhood to the east. The western roofline at the fourth level has gabled roofs to mimic the scale and massing of the residential dwellings in the neighborhood to the west of the site.

The project would help realize the development potential in the C-W district along San Pablo Avenue in the West Berkeley Area Plan, which allows up to four stories by right (for mixed-use buildings), and would add to the trend of taller, mixed-use development along San Pablo Avenue, extending northward and southward from University Avenue. The group of taller buildings extending northward from University includes projects such as: 1500 San Pablo – a five-story, mixed use building approved in 2016, which completed construction in 2021; 1800 San Pablo – a four-story, mixed-use building, approved in 2004 and built in 2006; 1200-1214 San Pablo – a six-story, mixed-use building, approved in 2020, and currently obtaining building permits; and 1201-1205 San Pablo – a six-story, mixed-use building, approved in 2020. The growing group of taller buildings extending southward from University includes 2100 San Pablo Avenue – a four-story senior housing development which opened in 2022, and 2147 San Pablo (across the street from the project site) – a six-story, mixed-use building approved in 2023.

Finally, the project would be an appropriate intensity of use that would not exceed local traffic and parking capacities. The proposed 50 parking spaces falls within the zero minimum and 61 maximum requirements.

- C. As required by BMC Section 23.304.050(A), the Zoning Adjustments Board finds that the proposed rooftop equipment, which exceeds the district height limit, does not exceed 15 percent the average floor area of the building's floors. None of the equipment structures will be used as habitable or commercial space. The project would include stair and elevator overruns totaling 422 square feet that would extend four feet over the 69-foot, 6-inch roof height. The penthouses represent approximately three percent of the 13,804-square-foot average of all the floor areas. The projection is, therefore, permissible.

VI. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. **Conditions and Mitigation Monitoring and Reporting Program 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. Pay Transparency Acknowledgement (BMC Section 13.104.030).** Prior to the issuance of a building permit for any Project subject to this Chapter:
- A.** A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.

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

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

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

11. Posting of Wage Theft Ordinance (BMC Section 13.104.050). Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

12. Wage Theft Prevention Conditions of Approval (BMC Section 13.104.060). The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under BMC Chapter 23.404.

13. Hold Harmless. The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney’s fees and disbursements (collectively, “Claims”) arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee’s duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

VII. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

Project Liaison _____

Name	Phone #
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15. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC 16.28.030, and, except for new buildings on vacant lots, entered into the City’s database after the building permit is issued but prior to final inspection.

16. Construction Noise Reduction Program. The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

- A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - C. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
 - D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
 - E. Prohibit unnecessary idling of internal combustion engines.
 - F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
 - H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
 - I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.
- 17. Damage Due to Construction Vibration.** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall consider project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake study of existing conditions (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage.

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

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

- 18. Compliance with Conditions of Approval and Environmental Mitigations.** The building permit application is subject to verification of compliance of these Conditions of Approval and the adopted Mitigation Monitoring and Reporting Program (Attachment 1- Exhibit B). The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit \$10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

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

- 19. 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.
- 20. Final Design Review.** The Project requires approval of a Final Design Review application by the Design Review Committee.
- 21. Live/work Units.** Prior to the issuance of building permits, the live/work units shall comply with the following standards:
- A.** Adequate and clearly defined working space constituting no less than 50 percent of the gross floor area of the live/work unit is required.
 - B.** The working space must be reserved for and regularly used by one or more live/work unit residents and be consistent with City administrative guidelines for live/work design.
 - C. *Business License.*** At least one resident in each live/work unit shall maintain at all times a valid City Business License and Zoning Certificate or Use Permit for a business on the premises.

D. *Employment, Client, and Customer Visits.* (a) Persons who do not live in the live/work unit may be employed in a live/work unit if an additional Use Permit is obtained and the required on-site parking space is provided, and client and customer visits to live/work units are permitted if an additional Use Permit is obtained and the required on-site parking is provided.

E. *Unit Rental and Sale.* No portion of a live/work unit may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.

22. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

23. Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

24. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) 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.

25. 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. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: [City of Berkeley Community GIS Portal \(arcgis.com\)](#)

- B.** Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.
- C. Environmental Site Clearance.** The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.
- D. Soil and Groundwater Management Plan.** A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

- i. procedures for soil and groundwater management including identification of pollutants and disposal methods;
- ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;
- iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and
- iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

- E. Demolitions & Renovations – Building Materials Survey.** A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

- i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.
- ii. 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. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)
- iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.
- iv. 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.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

- F. Hazardous Materials Business Plan.** A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: <http://cers.calepa.ca.gov> for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

- G. Petroleum Storage.** An (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

- i. aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or
- ii. one or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: <http://cers.calepa.ca.gov/>. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Prior to Issuance of Any Building (Construction) Permit

- 26. Percent for Public Art.** Consistent with BMC Section 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
- 27. Affordable Housing Mitigation Fee.** Consistent with BMC Section 22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.
- 28. 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.
- 29. 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.
- 30. 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.)
- 31. Nonresidential Electric Vehicle (EV) Charging.** At least 10 percent of project parking spaces for nonresidential use shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations and/or DC Fast Charging Stations, and least 40 percent shall be "EV Capable" equipped with raceway, electrical panel service capacity, and an electrical system to support future Level 2 (40 amp) EV charging stations, or any more stringent EV charging requirements, as specified by the Berkeley Green Code (BMC Chapter 19.37). EV charging station installations and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions. (Project required to meet applicable code at time of building permit application, if different from above.)

- 32. 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.
- 33. Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.
- 34. Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

BELOW MARKET RATE UNITS

- 35. Affordable Housing Mitigation Fee (AHMF).** Consistent with BMC 22.20.065 and fee resolution No. 68,074-N.S., the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, or provide an alternative to the fee payment as permitted by the BMC. Payment of the AHMF may be reduced if paid prior to the building permit per resolution No. 68,074-N.S., and shall be paid no later than prior to the issuance of a certificate of occupancy for the project.
- The applicant may elect to avoid the AHMF by providing, for the life of the project, a number of units equal to 20 percent of the total units in the project at rental rates affordable to Low-Income and Very Low-Income Households in accordance with the BMC. The applicant may also elect to provide BMR units below 20 percent of total units for a reduced AHMF as calculated in BMC Section 22.20.065(D). The applicant must contact and coordinate with the Department of Health, Housing and Community Services (HHCS) via email to affordablehousing@berkeleyca.gov for review and approval. The final number of affordable onsite units must be declared prior to issuance of the first building permit for the project.
- 36. Number of Below Market Rate Units.** The project shall provide **ten (Very Low-Income) below market rate** rental dwelling units ("BMR Units"), which are required to comply with the State Density Bonus Law (Government Code Section 65915), as well as to comply with BMC Section 22.20.065.D. The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.

37. Affordable Housing: Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit should they elect to provide BMR units to avoid or reduce their AHMF obligation. The Regulatory Agreement shall include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for very low income BMR Units shall be 50 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 50 percent of AMI. The maximum qualifying household income for Low Income BMR units shall be 80 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 80 percent of AMI for Low-Income households, as set forth in the following paragraphs of this condition. If the BMR units are occupied by Very Low-Income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Department of Health, Housing and Community Services (HHCS) via email to affordablehousing@berkeleyca.gov for review and approval.

38. Affordable Housing: Below Market Rate Program. In addition, affordable units must adhere to the administrative guidelines for the City's Below Market Rate program. These guidelines can be found online at <https://berkeleyca.gov/community-recreation/affordable-housing-berkeley/below-market-rate-rental-information-owners-and>. The guidelines are updated annually by HHCS and posted online. Please note the following key provisions from the guidelines:

- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to
- B. California Health & Safety Code Section 50052.5 (h).
- C. Rent shall include a reasonable allowance for utilities, as published and updated by the
- D. Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
- E. BMR units will be provided for the life of the project under Section 22.20.065.
- F. Determination of Area Median Income (AMI):
 - The AMI shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.

- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one-person household
One-bedroom unit	AMI for a two-person household
Two-bedroom unit	AMI for a three-person household
Three-bedroom unit	AMI for a four-person household

39. Affordable Housing. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, then are required in the foregoing provisions.

40. Affordable Housing. Dwellings that are approved as rental units, but in which a condo map is approved prior to issuance of an occupancy permit, shall be subject to the affordability requirements within BMC 23.328 in effect on March 31, 2023. (A) Residential housing projects for the construction of five or more Dwelling Units; (B) Residential housing projects for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four-unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter; (C) Residential housing projects proposed on lots whose size and zoning designation is such to allow construction of five or more Dwelling Units.

Prior to Demolition or Start of Construction:

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

42. 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:

- A. Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- B. Storage of building materials, equipment, dumpsters, debris anywhere in the public ROW;
- C. Provision of exclusive contractor parking on-street; or
- D. 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 stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 43. Construction/No Parking Permits.** 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.

During Construction:

- 44. 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.
- 45. 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.
- 46. 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.
- A.** Contact information (i.e. "hotline" phone number, and email address) for the project construction manager
 - B.** Calendar and schedule of daily/weekly/monthly construction activities
 - C.** 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.
- 47. Public Works - Implement Bay Area Air Quality Management District (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.

48. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.
- C. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
 - i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

- ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

- 49. 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 [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.
- 50. 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. (Project required to meet applicable code at time of building permit application, if different from above.)
- 51. 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.
- 52. 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.

53. 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.

54. 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.

- 55. 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.
- 56. 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 shall be conducted prior to the issuance of a Building Permit.
 - E.** All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F.** All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

- G.** All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)
- H.** All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
- I.** Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- J.** All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- K.** Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- L.** The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 57. Public Works.** Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
- 58. 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.

- 59. 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.
- 60. 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.
- 61. 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.
- 62. 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.
- 63. Public Works / Building and Safety.** 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:

- 64. Compliance with Conditions and Environmental Mitigations.** 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. Occupancy is subject to verification of compliance to the Mitigation Monitoring and Reporting Program.
- 65.** All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 12, 2024**.
- 66. Number of Below Market Rate Units.** Should the Applicant elect to provide BMR units prior to receiving a building permit for the Project, they are entitled to eliminate or receive a proportional reduction in the AHMF consistent with BMC Section 22.20.065. The BMR Units shall be designated in the Regulatory Agreement; comply with the City's BMR administrative guidelines; shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City. Any additional BMR units the applicant may choose to provide must also conform with these conditions.

67. Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in these sections.

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

At All Times:

68. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit.

69. Transportation Demand Management Compliance. A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).

- 70. 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.
- 71. 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.
- 72. Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
- 73. 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.
- 74. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 75. 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.
- 76. 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 Finance Department, Customer Service Center shall 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.
- 77. Required Bike Parking.** Secure and on-site bike parking for at least **42** bicycles shall be provided for the life of the building.
- 78. 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. (Project required to meet applicable code at time of building permit application, if different from above.)
- 79. Nonresidential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and DC Fast Charge stations, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in *good working condition and made available for building occupant and/or visitor* use. (Project is required to meet applicable code at time of building permit application, if different from above.)
- 80. Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service, and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
- 81. Transit Subsidy Condition.** If 10 or more employees, the business operator shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.

ATTACHMENT 1 - EXHIBIT B
**MITIGATION MONITORING AND
REPORTING PROGRAM**

The 2136-2154 San Pablo Avenue Mixed-Use Project (project) Environmental Impact Report (EIR) identifies mitigation measures to reduce the potential environmental impacts of the project. The California Environmental Quality Act (CEQA) requires a public agency to adopt a monitoring and reporting program to help ensure compliance with required mitigation measures. Pub. Res. Code § 21081.6.

The following table lists mitigation measures identified in the EIR and identifies the timing of and responsibility for monitoring each measure. The project proponent will have the responsibility for implementing the measures, and the various listed City of Berkeley departments will have the primary responsibility for monitoring and reporting on the implementation of the mitigation measures.

Mitigation Monitoring and Reporting Program

Mitigation Measure (MM)	Mitigation Monitoring			Reporting	
	Monitoring Timing	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
CULTURAL RESOURCES					
<p>MM CUL- 1: Documentation. Prior to the issuance of a demolition permit, the project applicant shall hire a professional Historic American Building Survey (HABS) photographer to document the 1923 storefront commercial building and its setting. Generally, this documentation shall be done in accordance with the HABS "Outline" format, which includes:</p> <p>1. Photographs: HABS standards require large-format black-and-white photography, with large-format safety film negative (4" x 5", 5" x 7", or 8" x 10") and a contact print, archivally processed, on fiber-based paper. The HABS photographer must be familiar with the recordation of historical resources in accordance with current HABS guidelines. Photographs should include context views of the general environment to illustrate setting, including landscaping, adjacent building(s), and roadways, views of character-defining features, exterior elevations of significant façades, views of interior spaces, and detailed views of specific materials or elements. Overgrowth, board-up plywood, and other obstacles shall be removed by the project sponsor prior to photography at the direction of the professional HABS photographer.</p> <p>Photographs must include a photo index, photo sketch plans, and field notes, and be identified and labeled using HABS standards outlined in Preparing HABS/HAER/HALS Documentation - Transmittal Guidelines.</p> <p>2. Measured Drawings or 3D Laser Scanning "As-Builts": Measured drawings for HABS are considered "as-built"</p>	<p>Prior to issuance of building permits for demolition</p>	<p>CUL-1: City of Berkeley Planning & Development Department</p>	<p>The applicant shall have prepared, by a qualified individual, archival documentation of as- built and as-found conditions of the property at 2136-2154 San Pablo Avenue.</p> <p>Applicant shall submit archival documentation to appropriate depositories (see MM CUL 1.4).</p> <p>Applicant shall provide documentation, in writing, to City Staff that this measure has been implemented.</p>		

Mitigation Monitoring and Reporting Program

Mitigation Measure (MM)	Mitigation Monitoring			Reporting	
	Monitoring Timing	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>drawings. As such, they illustrate the existing condition of a building at the time of documentation, including additions, alterations, and demolitions which have occurred since the building was first constructed. Where sufficient knowledge exists concerning the sequence of changes to a building over time, it may be useful to provide appropriate notation on the drawings.</p> <p>Alternatively, delineators may wish to produce additional interpretive drawings illustrating the building at an earlier date, to explain its historic significance more fully. In lieu of measured architectural drawings, 3D laser scanning and 2D CAD documentation can be done to create as-built drawings from the scanned data in AutoCAD in order to provide archival-quality printed and digital images that can be utilized for future exhibits, documentation and research associated with the 1923 storefront commercial building. The 3D images can then be printed as measured drawings and will also be available digitally.</p> <p>3. Historical Background Information: An architectural historian, meeting the Secretary of the Interior’s Professional Qualification Standards, shall assemble historical background information, drawings, maps, and historic photographs relevant to the 1923 storefront commercial building and its setting using the HABS “Outline” format to produce a HABS historical report. The historical report will be formatted to HABS Guidelines for Historical Reports (updated January 2020).</p>					

Mitigation Monitoring and Reporting Program

Mitigation Measure (MM)	Mitigation Monitoring			Reporting	
	Monitoring Timing	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
4. Public Access to Documentation: HABS documentation must be prepared using specific archival materials and archival processes to comply with the permanence standards that govern the collection. By adhering to these standards, even the very earliest HABS records from the 1930s are still available for researchers and will be in the future. Non-archival material deteriorates for two principal reasons: harmful substances in the environment attack it, and/or the physical and chemical composition is such that it will deteriorate regardless of how it is stored. As such, it is recommended that one archival set of the HABS documentation is submitted to the Library of Congress or the Berkeley Architectural Heritage Association (BAHA). Digital copies are also recommended to be submitted to the Northwest Information Center (NWIC)/ California Historical Resources Information System (CHRIS), the City of Berkeley, the City of Berkeley Library, the Berkeley Historical Society, the California State Library, and the California Historical Society. This mitigation would create a collection of preservation materials that would be available to the public and inform future research.					

Mitigation Monitoring and Reporting Program

Mitigation Measure (MM)	Mitigation Monitoring			Reporting	
	Monitoring Timing	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>MM CUL- 2a: Cultural Resource Awareness Training. Prior to commencement of project-related, ground-disturbing activities, the project supervisors, equipment operators, and other members of the construction team overseeing or conducting ground-disturbing activities shall be familiarized with the types of archaeological resources that could be encountered during ground-disturbing activities and the procedures to follow if subsurface archaeological resources are unearthed during construction. To accomplish this, a Secretary of Interior qualified archaeologist shall conduct one or more preconstruction Cultural Resource Awareness Trainings as needed to familiarize supervisors, contractors, and equipment operators with the potential to encounter archaeological resources, the types of archaeological material that could be encountered, and procedures to follow if archaeological deposits and/or artifacts are encountered during construction.</p>	<p>Prior to commencement of project-related, ground-disturbing activities.</p>	<p>City of Berkeley Department of Planning & Development</p>	<p>The applicant shall have a Secretary of Interior qualified archaeologist conduct one or more pre-construction Cultural Resource Awareness Trainings.</p>		
<p>MM CUL- 2b: Implementation of Inadvertent Discovery Protocols. If an archaeological deposit is encountered during project related, ground-disturbing activities, all work within 50 feet of the discovery shall be redirected until the archaeologist assesses the find, consults with agencies as appropriate, and makes recommendations for the treatment of the discovery.</p> <p>If avoidance of the archaeological deposit is not feasible, the archaeological deposit shall be evaluated for its eligibility for listing in the CRHR. If the deposit is found to be eligible, adverse effects shall be mitigated. Mitigation may include excavation of the archaeological deposit in accordance with the Secretary of Interior’s Standards and</p>	<p>During project construction.</p>	<p>City of Berkeley Department of Planning & Development</p>	<p>The applicant shall have prepared, by a qualified individual, a report to document the methods and results of the assessment if an archaeological deposit is encountered</p>		

Mitigation Monitoring and Reporting Program

Mitigation Measure (MM)	Mitigation Monitoring			Reporting	
	Monitoring Timing	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
Guidelines for Archaeological Documentation that may include data recovery using standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; and accessioning of archaeological materials and a technical data recovery report at a curation facility. Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to the project applicant, City of Berkeley, and the NWIC/CHRIS upon completion of the resource assessment.			during project related, ground-disturbing activities. The report shall be submitted to the City of Berkeley, and the NWIC/CHRIS upon completion of the resource assessment.		
MM CUL- 3: See MM CUL-1.					
HYDROLOGY AND WATER QUALITY					
MM HYDRO- 1: Hydraulic modeling shall be performed to evaluate the rates of stormwater discharge from the project site under existing conditions and from the project. The available capacity of existing off-site storm drain systems that would receive runoff from the project shall be evaluated and the evaluation shall account for contribution of runoff from the project site and other development projects that are under construction or planned which would discharge stormwater into the same storm drain systems. If an increase in stormwater discharge from the project site could cause an exceedance of the available capacity of existing storm drain systems, the project shall incorporate stormwater retention systems (e.g., swales, retention ponds, or cisterns with metered outlets) into the	Prior to issuance of grading or building permits.	City of Berkeley Public Works Department, Planning & Development Department	The applicant shall have prepared, by a qualified individual, a hydraulic model to evaluate the capacity of existing off-site storm drain systems. Applicant shall submit results of the hydraulic		

Mitigation Monitoring and Reporting Program

Mitigation Measure (MM)	Mitigation Monitoring			Reporting	
	Monitoring Timing	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
project design to ensure that stormwater runoff from the project would not contribute to exceeding the capacity of existing off-site storm drain systems. The results of the hydraulic modeling, evaluation of the capacity of existing off-site storm drain systems, and any changes to the project's stormwater management system designs shall be submitted to the City for review and approval prior to the issuance of grading or building permits.			modeling to the City.		
MM HYDRO- 2: Implementation of Mitigation Measure HYDRO-1 would ensure that potential impacts related to exceeding the capacity of existing or planned stormwater drainage systems would be less than significant.	See Mitigation Measure HYDRO-1.	See Mitigation Measure HYDRO-1.	See Mitigation Measure HYDRO-1.		

Attachment 1 - Exhibit C

CEQA Findings & Statement of Overriding Considerations

March 2024

2136-2154 San Pablo Avenue Mixed-Use Project

**Pursuant to Sections 15091 and 15093 of the
State CEQA Guidelines and Section 21081 of the Public Resources Code**

The Final Environmental Impact Report (Final EIR) prepared by the City of Berkeley (City) for the 2136-2154 San Pablo Avenue Mixed-Use Project (project) consists of the Draft EIR and Response to Comments on the Draft EIR. The Final EIR identifies significant environmental impacts that would result from implementation of the project. Implementation of the project includes the demolition of a building eligible for listing on the California Register of Historic Resources (CRHR) and listed as a City Landmark. No feasible mitigation measures have been identified to reduce this impact to a less-than-significant level; therefore, the impact to cultural resources would remain significant and unavoidable. This impact will be overridden by specific considerations described in this document that on balance support a finding that the benefits of the project outweigh this impact.

As required by the California Environmental Quality Act (CEQA), the City, in adopting these CEQA Findings and Statement of Overriding Considerations, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the project. The City finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the CEQA Guidelines, the City adopts these findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Final EIR reflects the City's independent judgment as the lead agency for the project.

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SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Section 15091 of the CEQA Guidelines states that:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that would otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.¹

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.² The CEQA Guidelines state in section 15093 that:

“If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

1.2 Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City’s decision on the project consists of: a) matters of common knowledge to the City, including, but not limited to, federal, State and local laws and regulations; and b) the following documents which are in the custody of the City:

- August 2022 Notice of Preparation and Initial Study and other public notices issued by the City in conjunction with the project (see Appendix A of the Draft EIR for the Notice of Preparation);
- The Notice of Availability and Public Review Draft EIR, dated October 2023;
- All written and verbal comments submitted by agencies, organizations, and members of the public during the public comment period and at public hearings on the Draft EIR and responses to those comments (see Response to Comments Document, dated March 2024);
- The Mitigation Monitoring and Reporting Program;

¹ CEQA Guidelines, 2019. Section 15091 (a), (b).

² Public Resources Code Section 21081(b).

- All findings and resolutions adopted by the City in connection with the project, and all documents cited or referred therein;
- All final reports, studies, memoranda, maps, correspondence, and all planning documents prepared by the City or the consultants to each, or responsible or trustee agencies with respect to: a) the City's compliance with CEQA; b) development of the project site; or c) the City's action on the project; and
- All documents submitted to the City by agencies or members of the public in connection with development of the project.

1.3 Organization/Format of Findings

Section 2 of these findings sets forth the objectives of the project and contains a summary description of the project and project alternatives. Section 3 identifies the potentially significant effects of the project which were determined to be mitigated to a less-than-significant level. Section 4 identifies the project's potential environmental effects that were determined not to be significant, and do not require mitigation. Section 5 discusses the feasibility of project alternatives. Section 6 identifies the significant effects of the project, including cumulative impacts, that cannot be mitigated to a less-than-significant level even though all feasible mitigation measures have been identified and incorporated into the project. All numbered references identifying specific mitigation measures refer to numbered mitigation measures found in the Draft EIR and Response to Comments Document. Section 7 includes the City's Statement of Overriding Considerations.

SECTION 2: THE 2136-2154 SAN PABLO AVENUE MIXED-USE PROJECT

This section lists the objectives of the proposed project, provides a brief description of the project, and lists the project alternatives evaluated in the Draft EIR.

2.1 Project Objectives

The objectives of the project are as follows:

- Construct a mixed-use development that includes dwelling units, live-work units, and open spaces that primarily serve residents;
- Activate the San Pablo Avenue frontage by designing for a mix of uses;
- Provide high-density transit-oriented design that maximizes efficient and sustainable use of and through urban infill development;
- Reduce residential vehicle miles traveled and single occupancy vehicle use by promoting higher density, walkability, and the creation of a complete community with uses easily accessible to public transportation and the regional transportation network; and
- Support the retention and attraction of businesses throughout the West Berkeley Commercial District.

2.2 Project Description

The project proposes to demolish an existing 9,000-square-foot one-story building and construct a new six-story mixed-use development. The project would include a six-story mixed-use building comprised of 122 dwelling units, 3 live-work units, and a secure ground-floor bicycle storage room.³ The project site would also include a parking garage, and 5,404 square feet of open space. Pursuant to the State Density Bonus Law, Government Code Section 65915, the allowable Density Bonus of 32.5 percent permits 30 additional residential dwelling units (31 maximum allowed), which are included in the 122 total number of dwelling units. See Chapter III, Project Description, of the Draft EIR for more details.

2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to Section 15126.6 of the CEQA Guidelines, and Section 15183.3(2)(e) the following project alternatives were selected for analysis:

Alternative 1: No Project Alternative. The No Project/No Build Alternative assumes the project site would remain in its current condition and no new development would be constructed on the project site.

Alternative 2: The Live-Work Façade Preservation Alternative. Alternative 2 assumes development of 123 multi-family residential units and three live-work units consistent with the project. Unlike the project, the Live-Work Façade Preservation Alternative would retain the existing façade and preserve the character defining features of the primary façade of the historic building.

Alternative 3. The Commercial Storefronts Preservation Alternative. Alternative 3 assumes development of 123 multifamily residential units, but it would not include development of the three live-work units. Instead, it would retain the existing façade to preserve the character defining features at the front of the historic building as well as retaining the eight commercial tenant spaces at the ground floor fronting San Pablo Avenue.

Refer to Chapter V, Alternatives, of the Draft EIR for the complete project alternatives analysis.

³ As noted in Section I.C of the Responses to Comments document, the project applicant has refined the residential unit count from 123 to 122.

SECTION 3: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Initial Study identified certain potentially significant effects that could be mitigated to less-than-significant levels. The City finds for each of the significant or potentially significant impacts identified in this section (Section 3) that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Final EIR⁴ and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. Adoption of the mitigation measures will effectively make the mitigation measures part of the project. In addition, City Conditions of Approval and compliance with City and other regulations will further reduce project impacts. Therefore, the City finds that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Final EIR.⁵

3.1 Cultural Resources (Initial Study)

Impact CUL-2: Ground-disturbing activities associated with new construction and related underground utility installation could result in the destruction or disturbance of unidentified subsurface archaeological resources.

Mitigation Measure CUL-2a: Cultural Resource Awareness Training. Prior to commencement of Project-related, ground-disturbing activities, the project supervisors, equipment operators, and other members of the construction team overseeing or conducting ground-disturbing activities shall be familiarized with the types of archaeological resources that could be encountered during ground-disturbing activities and the procedures to follow if subsurface archaeological resources are unearthed during construction. To accomplish this, a Secretary of Interior qualified archaeologist shall conduct one or more preconstruction Cultural Resource Awareness Trainings as needed to familiarize supervisors, contractors, and equipment operators with the potential to encounter archaeological resources, the types of archaeological material that could be encountered, and procedures to follow if archaeological deposits and/or artifacts are encountered during construction.

Mitigation Measure CUL-2b: Implementation of Inadvertent Discovery Protocols. If an archaeological deposit is encountered during Project-related, ground-disturbing activities, all work within 50 feet of the discovery shall be redirected until the archaeologist assesses the find, consults with agencies as appropriate, and makes recommendations for the treatment of the discovery. If avoidance of the archaeological deposit is not feasible, the archaeological deposit shall be evaluated for its eligibility for listing in the CRHR. If the deposit is found to be eligible, adverse effects shall be mitigated. Mitigation may include excavation of the archaeological deposit in accordance with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation that may include data recovery using standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; and accessioning of archaeological materials and a technical data recovery report at a curation facility. Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to the Project applicant, City of Berkeley, and the Northwest Information Center (NWIC)/ California Historical Resources Information System (CHRIS) upon completion of the resource assessment.

⁴ CEQA Guidelines, 2012. Section 15091.

⁵ CEQA Guidelines, 2019. Section 15091.

3.2 Hydrology and Water Quality (Initial Study)

Impact HYDRO-1: Project could substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site.

Mitigation Measure HYDRO-1: Hydraulic modeling shall be performed to evaluate the rates of stormwater discharge from the project site under existing conditions and from the project. The available capacity of existing off-site storm drain systems that would receive runoff from the project shall be evaluated and the evaluation shall account for contribution of runoff from the project site and other development projects that are under construction or planned which would discharge stormwater into the same storm drain systems. If an increase in stormwater discharge from the project site could cause an exceedance of the available capacity of existing storm drain systems, the project shall incorporate stormwater retention systems (e.g., swales, retention ponds, or cisterns with metered outlets) into the project design to ensure that stormwater runoff from the project would not contribute to exceeding the capacity of existing off-site storm drain systems. The results of the hydraulic modeling, evaluation of the capacity of existing off-site storm drain systems, and any changes to the project's stormwater management system designs shall be submitted to the City for review and approval prior to the issuance of grading or building permits.

Impact HYDRO-2: The project would alter drainage patterns and increase the amount of impervious surface area, which could create or contribute runoff water which could exceed the capacity of stormwater drainage systems.

Mitigation Measure HYDRO-2: Implementation of Mitigation Measure HYDRO-1 would ensure that potential impacts related to exceeding the capacity of existing or planned stormwater drainage systems would be less than significant.

SECTION 4: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the project are not significant or are less than significant. The Initial Study included in Appendix A of the Draft EIR provides a detailed analysis of the less-than-significant impacts of the proposed project.

4.1 Aesthetics (Initial Study)

Pursuant to California State Law (Senate Bill 743), CEQA was amended in 2013 as it relates to assessment of the aesthetics impacts of infill projects. Accordingly, aesthetics is no longer considered in determining if a project has the potential to result in significant aesthetic effects for projects that meet all three of the following criteria:

- 1) the project is in a transit priority area
- 2) the project is on an infill site
- 3) the project is residential, mixed-use residential, or an employment center

The project meets all three criteria as follows: (1) it is located in a transit priority area less than ¼-mile from multiple bus stops (2) the project site is an infill site within the urban area of the city of Berkeley and is currently developed with a commercial building and surface parking lot; and (3) the project is a mixed-use residential project.

4.2 Agricultural and Forestry Resources (Initial Study)

The project site and vicinity are located within an urban area in the City of Berkeley. The site is currently zoned as West Berkeley Commercial (C-W) on the City's Zoning Map and is classified as "Urban and Built-Up Land" by the State Department of Conservation. The project site is not used for agricultural production, nor does it support forestry resources. Therefore, the proposed project would not conflict with existing zoning for an agricultural or forestry use or a Williamson Act contract. As such, the City finds that the proposed project would have no impact on agricultural or forestry resources.

4.3 Air Quality (Initial Study)

The City of Berkeley and the project site are in the San Francisco Bay air basin and are within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The latest air quality plan, the *2017 Bay Area Clean Air Plan*, defines a control strategy to reduce emissions and ambient concentrations of air pollutants; safeguard public health by reducing exposure to air pollutants that pose the greatest health risk; and reduce greenhouse gas emissions. The proposed project would support the goals of the Clean Air Plan; includes applicable control measures from the Clean Air Plan; and would not disrupt or hinder implementation of any control measures from the Clean Air Plan. Project construction would generate ROG, NO_x, PM₁₀, and PM_{2.5} from the exhaust of off-road construction equipment and on-road construction vehicles (worker vehicles, vendor trucks, and haul trucks). In addition, fugitive ROG emissions would result from the application of architectural coatings and paving during construction. With implementation of COA Public Works – Implement BAAQMD-Recommended Measures during Construction and COA Air Quality – Diesel Particulate Matter during Construction, construction of the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment. Therefore, the air quality impact related to the generation of criteria pollutant emissions during project construction would be less than significant. The primary pollutant emissions of concern during project operation would be ROG, NO_x, and exhaust PM₁₀ and PM_{2.5} from mobile sources, energy use, and area sources. Mobile source emissions would result from vehicle trips associated with the proposed project. The long-term vehicular emissions generated by the proposed project are not anticipated to exceed the BAAQMD's thresholds. The project would have no impact related to the creation of odors. Therefore, the City finds that the proposed project would not result in significant impacts related to air quality.

4.4 Biological Resources (Initial Study)

No special-status plant or animal species are expected to occur on or in the vicinity of the site due to its completely urbanized condition and lack of suitable habitats. The project would not interfere with local wildlife movement or corridors. Common wildlife species that are adapted to urban environments would continue to use the site after redevelopment. No riparian vegetation, other sensitive natural communities, federally protected wetlands, or other aquatic features are present on the site.

The site is not subject to a local, regional, or State habitat conservation or natural community plan. Therefore, the City finds that the proposed project would have no impact on biological resources, except for the three Sycamore street trees that are proposed to be replaced with London Plane Trees. The City's COA Avoid Disturbance of Nesting Birds would ensure avoidance of effects to nesting birds during site disturbance.

4.5 Cultural Resources (Initial Study)

The project would be subject to the City of Berkeley standard Conditions of Approval related to the discovery of archaeological resources, which would reduce impacts to a less than significant level. While the discovery of human remains is always a possibility during ground disturbing activities, the project would be subject to several requirements related to the discovery of human remains, including State of California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and City of Berkeley standard conditions of approval. Therefore, the City finds that the proposed project would not result in significant impacts related to cultural resources, apart from significance of a historical resource as defined in 15064.5, which is discussed below in Section 6.

4.6 Energy (Initial Study)

Demolition and construction activities would result in short-term consumption of energy. However, energy use during construction would be temporary, and the use of fuel to operate the construction equipment and construction-related vehicles required is not wasteful.

Additionally, the project would be required to comply with Berkeley's local amendments to the California State Green Building Code (CALGreen) (Berkeley Green Code, BMC 19.37), which ensures that the project would be operated in an energy efficient manner. Moreover, as described above, the project will likely be served by EBCE's 100 Renewable product and will be required to have a solar PV system as per COA Solar Photovoltaic (Solar PV). Therefore, the City finds that project construction or operation would not result in potentially significant environmental effects due to the wasteful, inefficient, or unnecessary consumption of energy, and impacts would be less than significant.

4.7 Geology and Soils (Initial Study)

The project site is not located within a designated Alquist-Priolo Earthquake Fault Hazard Zone and would not be subject to fault rupture. Compliance with the existing building codes would ensure that potential impacts related to seismic ground shaking from nearby faults would be reduced to the extent feasible and this impact is considered less than significant. Based on the findings of the geotechnical report, the soils on the project would not be susceptible to seismic-related ground failure such as liquefaction. Given the flat is generally level there is not risk of landslide and soil erosion is addressed with implementation of the City's COA Stormwater Requirements. Additionally, the potential to destroy a paleontological resource or site or unique geologic feature is addressed with implementation of the City's COA Paleontological Resources. Therefore, the City finds that the proposed project would not result in significant impacts related to geology and soils.

4.8 Greenhouse Gas Emissions (Initial Study)

Greenhouse gas (GHG) emissions during construction would be minimized to the maximum extent feasible. The BAAQMD does not have construction-period GHG emissions thresholds. Furthermore, the idling times for off-road construction equipment would be limited to a maximum idling time of 5 minutes, as required by the California Air Resources Board (CARB)'s Airborne Toxic Control Measure to reduce emissions from diesel-fueled vehicles. Furthermore, implementation of COA Public Works – Implement BAAQMD-Recommended Measures during Construction will limit the idling times for off-road construction equipment to 5 minutes to reduce emissions from diesel-fueled vehicles. Therefore, the City finds GHG emissions from project construction would have a less-than-significant impact on the environment.

The proposed project would not exceed the project level significance criteria established by the BAAQMD and, therefore, the proposed project would not conflict with plans adopted for the purpose of reducing GHG emissions. The project is required to comply with the Reach Code. The project would exceed the 2019 Title 24 energy efficiency standards through the use of an all-electric building design and the installation of a rooftop solar photovoltaic system that covers at least 15 percent of the roof area subject to the exceptions in Section 110.10 of the Energy Code (COA Solar Photovoltaic (Solar PV)). In accordance with COA Electric Vehicle (EV) Charging, the project must install a raceway, wiring, and power for each unit to allow for future Level 2 (240 Volt/40 amp) plug-in EV charging system installation as specified by the Berkeley Green Code (BMC Section 19.37.040). Therefore, the project will not result in any wasteful, inefficient, or unnecessary electrical usage.

For transportation, based on the City of Berkeley VMT Criteria and Thresholds,⁶ the project is located in a transit priority area (TPA) and also is within an area with an average VMT per resident that is at least 15 percent below the Bay Area average. The project is located near the North Berkeley BART station and numerous bus stops. According to the VMT analysis conducted by Abrams Associate,⁷ the project would have a less than significant impact on VMT in the area.

The City finds that the project is consistent with, and would not hinder, the GHG reduction goals set forth in the City of Berkeley's Climate Action Plan. In addition to the conditions of approval mentioned above, the project is subject to the following conditions, which would reduce GHG emissions: COA Water Efficient Landscaping, COA Recycling and Organics Collection, COA Exterior Lighting, and COA Transportation Demand Management. Overall, the project would not conflict with applicable GHG plans, policies or regulations and this impact would be less than significant.

4.9 Hazards and Hazardous Materials (Initial Study)

Local, state, and federal regulations and standards are in place to regulate the transportation, use, and disposal of hazardous materials, including during construction. Operation of residential uses typically does not involve the use or storage of large quantities of hazardous materials. Impacts would be less than significant. Three schools occur within 0.25 miles of the project site and several other schools are located further than 0.25 miles but still relatively near the site. However, given required compliance with local, state, and federal rules and regulations and COA Toxics, impacts would be less than significant. A review of regulatory databases, including listed hazardous materials release sites compiled pursuant to Government Code 65962.5, did not identify any hazardous materials releases at or adjacent to the project site. Therefore, the project would not impact the public or the environment with respect to a reported release or disposal of hazardous materials related to a listed site. Development of the project site would not involve the routine transport, use, or disposal of significant quantities of hazardous materials. The proposed project would be subject to COA Toxics related to discharge of pollutants to the City's storm drainage system, as well as demolition activities related to the release of hazardous building materials. The site is not located within the vicinity of any public use airports or private airstrips. Finally, the project site is not within or adjacent to a

⁶ City of Berkeley, 2020. City of Berkeley VMT Criteria and Thresholds, June 29

⁷ Abrams Associates, 2021. VMT Analysis for the 2136 San Pablo Avenue Project, June 8

wildland fire hazard area. Therefore, the City finds that the proposed project would not result in significant impacts related to hazards and hazardous materials.

4.10 Hydrology and Water Quality (Initial Study)

The project would not violate any water quality standards or waste discharge requirements, nor would it substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The proposed project would not alter the course of a stream or a river because the project site is in an urban area and redevelopment of the site would result in only minor alterations to the drainage pattern, given compliance with COA Stormwater Requirements. The project would increase the amount of impervious surface area on the project site which could increase the volume and rate of stormwater runoff discharged from the project site. Mitigation Measures HYD-1 and HYD-2 would control the risk of exceeding the capacity of existing off-site storm drain system and potential impacts related to additional sources of polluted runoff would be less than significant. The project would not place housing or other structures within a 100-year flood hazard zone; would not pose a significant risk to people or structures as a result of levee or dam failure; and would not be subject to inundation by a seiche, tsunami, or mudflows. Therefore, the City finds that the proposed project, with mitigation measures incorporated, would not result in significant impacts related to hydrology and water quality.

4.11 Land Use and Planning (Initial Study)

The project would not separate connected neighborhoods or land uses from each other. No new roads, linear infrastructure, or other development features are proposed that would divide an established community or limit movement, travel, or social interaction between established land uses. No impact would occur. The project site is designated Avenue Commercial in the Berkeley General Plan. The Avenue Commercial designation allows residential uses; therefore, the proposed residential project would be consistent with the General Plan designation. The project would also be consistent with applicable General Plan goals and policies. The project site is in the West Berkeley Commercial (C-W) Zoning District, which allows a variety of commercial and residential uses. As a multi-family residential development, the project is therefore consistent with the permitted uses in the C-W zoning district. Therefore, the City finds that the proposed project would not result in significant impacts related to land use and planning.

4.12 Mineral Resources (Initial Study)

The project site is located within an urban area on an infill site. As a result, the proposed project would not result in the loss of availability of a known mineral resource of value to the region or residents of the State or the loss of availability of a locally important mineral resource recovery site. Therefore, the City finds that the proposed project would have no impact to mineral resources.

4.13 Noise (Initial Study)

The proposed project would not result in a significant temporary construction noise and vibration would be less than significant, based on compliance with the City's time restrictions on construction activities contained in the BMC and compliance with COA Construction Noise Reduction Program, COA Construction Noise Management – Public Notice Required, COA Construction Phases, COA Construction Hours, COA Construction Hours – Exceptions, and COA Project Construction Website. In addition, vibration would be a temporary impact during construction and would not occur during normal sleep hours and it would not exceed Caltrans' recommended criterion for distinctly perceptible vibration from transient sources and construction would be subject to COA Damage Due to Construction Vibration.

Operation of the project would generate noise from commercial and residential activities and associated vehicular traffic. However, the difference would not be perceivable as the incremental change would not be significant. The project site is not within an area covered by an airport land use plan, nor is it located in the

vicinity of a private air strip. Therefore, the City finds that the proposed project would not result in significant impacts related to noise or vibration during project operation or construction.

4.14 Parks and Recreation (Initial Study)

The project would incrementally increase demand for parks and recreational facilities by facilitating residential growth within the project site. However, the project would not require the construction or expansion of facilities which may have an adverse physical effect on the environment. Therefore, the City finds that the proposed project would not result in significant impacts related to parks and recreation.

4.15 Population and Housing (Initial Study)

The proposed project could increase the local population by up to 280 persons. The project would account for 1 percent of the population growth projected through 2040. The population growth associated with implementation of the project would not be considered substantial in the context of existing population in Berkeley and given that the City's Regional Housing Needs Allocation (RHNA)'s demonstrated capacity for the current planning period (2023-2031) is 8,934.

The project site currently includes a single-story building that would be demolished and replaced with the project, and thus would not displace any housing.

Therefore, the proposed project would neither directly nor indirectly increase population growth in Berkeley beyond that planned for by the City, nor displace housing or people necessitating the construction of replacement housing elsewhere. Therefore, the City finds that the proposed project would have a less-than-significant impact on population and have no impact related to displacement of existing housing.

4.16 Public Services (Initial Study)

The proposed project would be adequately served by existing public services, such as police and fire protection school services, and parks. The development would occur in an urban area already served by public services and facilities, and the anticipated growth would not impose a burden on existing police and fire protection to create a significant impact. With continued implementation of existing practices of the City, including compliance with the California Fire Code and the BMC, the proposed project would not substantially affect community fire protection services and would not result in the need for construction of fire protection facilities. In addition, the project site is within the Berkeley Police Department's service area and is currently serviced by the BPD.

Pursuant to Senate Bill 50, payment of mandatory fees to the affected school district would reduce potential school impacts to less than significant level under CEQA. If approved, this project would be subject to the Berkeley Unified School District School Impact Fees, which are assessed based on proposed land use and floor area.

The project would incrementally increase demand for parks and recreational facilities by facilitating residential growth within the project site. However, the project would not require the construction or expansion of facilities which may have an adverse physical effect on the environment.

Therefore, the City finds that the proposed project would have a less-than-significant impact on public services and recreation.

4.17 Transportation (Initial Study)

The proposed project would not include any activities or construction of structures that would decrease the performance or safety of public transit, bicycle, or pedestrian facilities. The proposed project meets the City of Berkeley's VMT Criteria and Thresholds screening criteria, and subject to City approval, this project would be assumed to have a less than significant impact on VMT in the area. The proposed project will have multiple access points and is located less than ½ mile from Berkeley Fire Department Station 1, according to the estimated approximate 28 peak hour trips, there would be minimal impact on emergency access time. Therefore, the City finds that the proposed project would have a less-than-significant impact on transportation and traffic.

4.18 Tribal Cultural Resources (Initial Study)

No tribal cultural resources are expected to be within the project site. Moreover, the project would be subject to the City of Berkeley standard condition of approval related to the unanticipated discovery of tribal cultural resources. Therefore, the City finds that the proposed project would have a less-than-significant impact on Tribal Cultural Resources.

4.19 Utilities and Service Systems (Initial Study)

The proposed project is an infill development project located in an urban area already served by existing utility systems. The proposed project would generate a water demand of 32,000 gallons per day for residential uses and the commercial portions of the live-work units, which accounts for approximately .013 percent of EBMUD's projected service-wide daily water demand for 2020 and 2025. According to the Water Supply Management Program (WSMP) 2040, EBMUD's water supplies are estimated to be sufficient during the planning period (2010-2040) in normal and single dry years. With the implementation measures indicated in the Bay-Friendly Basics Landscape Checklist and compliance with requirements of the State's Water Efficient Landscape Ordinance, Section 31 of EBMUD's Water Service Regulations, and COA Water Efficient Landscaping, the project's impacts pertaining to water quality would be less than significant. The proposed project would also increase wastewater generated and solid waste; however, these increases could be met by existing service providers. Therefore, the City finds that the proposed project would have a less-than-significant impact on utilities and service systems.

4.20 Wildfire (Initial Study)

The project would be consistent with the policies outlined in the General Plan's Disaster Preparedness and Safety Element and would not obstruct emergency evacuation routes, therefore would have a less-than-significant impact on implementation of an adopted emergency response plan or emergency evacuation plan. The project site is not located in or near a state responsibility area or very high fire hazard severity zone for wildland fires. Therefore, the proposed project would have a less-than-significant impact on Wildfire.

SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES

5.1 Project Alternatives

The Draft EIR included three alternatives: the No Project/No Build Alternative, the Live-Work Façade Preservation Alternative, and the Commercial Storefronts Preservation Alternative. The City hereby concludes that the Draft EIR sets forth a reasonable range of alternatives to the 2136 San Pablo Avenue Project that address the significant impacts of the project, so as to foster informed public participation and informed decision making. The City finds that the alternatives identified and described in the Draft EIR were considered and further finds them to be infeasible for the specific economic, social, or other considerations set forth below pursuant to Public Resources Code section 21081(c).

5.1.1 No Project/No Build Alternative.

The No Project/No Build Alternative assumes that the project site would remain in its current condition and would not be subject to development. The No Project/No Build Alternative is considered to compare the impacts of approving the project to not approving the project. Under the No Project/No Build Alternative, no development would occur on the project site and existing conditions would remain. No physical alterations to the existing 0.53-acre site would occur, and the structures would continue to be utilized for commercial uses. As a result, the cultural elements of the site would remain unchanged.

Findings. The No Project/No Build Alternative assumes that the existing structures on the site would remain in their current condition.

While the No Project/No Build Alternative would avoid the significant unavoidable cultural resources impacts and hydrology and water quality impacts (can be mitigated to LTS) of the project, it would not achieve any of the objectives of the proposed project. It would conflict with the City's recently adopted 2023-2031 Housing Element, which identifies this site as a housing opportunity site. For these reasons, the City rejects the No Project/No Build Alternative.

5.1.2 Live-Work Façade Preservation Alternative.

The Live-Work Façade Preservation Alternative includes development of 123 multi-family residential units and three live-work units, similar to the project. Unlike the project, the Live-Work Façade Preservation Alternative would retain one of the existing facades (the façade along San Pablo Avenue).

Findings. The Live-Work Façade Preservation Alternative would result in redevelopment of the site. The preservation of one façade would not meet the Secretary of the Interior's Standards for Rehabilitation (Standards 2 and 9), so this would not mitigate Impact CUL-1 or CUL-3 to a less-than-significant level. This alternative would also result in the same significant impact related to the potential discovery of archaeological resources (Impact CUL-2), which would be reduced to a less-than-significant level with the implementation of Mitigation Measures CUL-1 and CUL-2.

Similar to the project, with implementation of the City's COAs and Mitigation Measures HYDRO-1 and HYDRO-2 described in *Chapter IV.B, Hydrology and Water Quality*, potential impacts related to hydrology and water quality would be reduced to a less-than-significant level under the Live-Work Façade Preservation Alternative.

Because this alternative would not further mitigate Impact CUL-1 and CUL-3, the City rejects the Live-Work Façade Preservation Alternative.

5.1.3 Commercial Storefront Preservation Alternative.

The Commercial Storefront Preservation Alternative includes development of 123 multi-family residential units similar to the project, but would not include the three live-work units. Unlike the project but similar to the Live-

Work Façade Preservation Alternative, the Commercial Storefront Alternative would preserve the elongated decorative façade of the commercial frontage.

Findings. The Live-Work Façade Preservation Alternative would result in redevelopment of the site. The preservation of one façade would not meet the Secretary of the Interior's Standards for Rehabilitation (Standards 2 and 9), so this would not mitigate Impact CUL-1 or CUL-3 to a less-than-significant level. This alternative would also result in the same significant impact related to the potential discovery of archaeological resources (Impact CUL-2), which would be reduced to a less-than-significant level with the implementation of Mitigation Measures CUL-1 and CUL-2.

Similar to the project, with implementation of the City's COAs and Mitigation Measures HYDRO-1 and HYDRO-2 described in Chapter IV.B, Hydrology and Water Quality, potential impacts related to hydrology and water quality would be reduced to a less-than-significant level under the Commercial Storefront Preservation Alternative

Because this alternative would not further mitigate Impact CUL-1 and CUL-3, the City rejects the Live-Work Façade Preservation Alternative.

5.2 Environmentally Superior Alternative

Section 15126.6(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be identified among the selected alternatives. While the No Project/No Build Alternative would be environmentally superior in the technical sense that contribution to the aforementioned impacts would not occur, the No Project/No Build Alternative would also fail to achieve all of the project's objectives. In accordance with State CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives.

The Commercial Storefronts Preservation Alternative would be considered the environmentally superior alternative because this alternative would retain the existing façade to preserve the character defining features at the front of the historic building, as well as retain the eight commercial storefronts at the ground floor fronting San Pablo Avenue. While this alternative would still result in significant and unavoidable cultural resource impacts, preservation of the façade and commercial retail stores is incrementally better than demolition of the building and only having written and photographic documentation, thereby reducing the significant and unavoidable impact to historical resources to a greater degree.

SECTION 6: SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The proposed project would result in significant unavoidable impacts related to cultural resources. A number of mitigation measures are presented, but none would reduce these impacts to a less-than-significant level.

6.1 Cultural Resources

Impact CUL-1. The project would demolish the existing 1923 storefront commercial building, which is a historical resource pursuant to CEQA Guidelines Section 15064.5.

Mitigation Measure CUL-1: Documentation. Prior to the issuance of a demolition permit, the project applicant shall hire professional Historic American Building Survey (HABS) photographer to document the 1923 storefront commercial building and its setting. Generally, this documentation shall be done in accordance with the "Outline" format, which includes:

1. **Photographs:** HABS standards require large-format black and-white photography, with large-format safety film negative (4" x 5", 5" x 7", or 8" x 10") and a contact print, archivally processed, on fiber-based paper. The HABS photographer must be familiar with the recordation of historical resources in accordance with current HABS guidelines. Photographs should include context views of the general environment to illustrate setting, including landscaping, adjacent building(s), and roadways, views of character-defining features, exterior elevations of significant façades, views of interior spaces, and detailed views of specific materials or elements. Overgrowth, board-up plywood, and other obstacles shall be removed by the project sponsor prior to photography at the direction of the professional HABS photographer. Photographs must include a photo index, photo sketch plans, and field notes, and be identified and labeled using HABS standards outlined in Preparing HABS/HAER/HALS Documentation - Transmittal Guidelines.
2. **Measured Drawings or 3D Laser Scanning "As-Built":** Measured drawings for HABS are considered "as-built" drawings. As such, they illustrate the existing condition of a building at the time of documentation, including additions, alterations, and demolitions which have occurred since the building was first constructed. Where sufficient knowledge exists concerning the sequence of changes to a building over time, it may be useful to provide appropriate notation on the drawings. Alternatively, delineators may wish to produce additional interpretive drawings illustrating the building at an earlier date, to explain its historic significance more fully. In lieu of measured architectural drawings, 3D laser scanning and 2D CAD documentation can be done to create as-built drawings from the scanned data in AutoCAD in order to provide archival-quality printed and digital images that can be utilized for future exhibits, documentation and research associated with the 1923 storefront commercial building. The 3D images can then be printed as measured drawings and will also be available digitally.
3. **Historical Background Information:** An architectural historian, meeting the Secretary of the Interior's Professional Qualification Standards, shall assemble historical background information, drawings, maps, and historic photographs relevant to the 1923 storefront commercial building and its setting using the HABS "Outline" format to produce a HABS historical report. The historical report will be formatted to HABS Guidelines for Historical Reports (updated January 2020).
4. **Public Access to Documentation:** HABS documentation must be prepared using specific archival materials and archival processes to comply with the permanence standards that govern the collection. By adhering to these standards, even the very earliest HABS records from the 1930s are still available for researchers and will be in the future. Non-archival material deteriorates for two principal reasons: harmful substances in the environment attack it, and/or the physical and chemical composition is such that it will deteriorate regardless of how it is stored. As such, it is recommended that one archival set of the HABS documentation is submitted to the Library of Congress or the BAH. Digital copies are also recommended to be submitted to the WIC/CHRIS, the City of Berkeley, the City of Berkeley Library, the Berkeley Historical Society, the California State Library,

and the California Historical Society. This mitigation would create a collection of preservation materials that would be available to the public and inform future research.

Impact CUL-3: Implementation of the project would contribute to a cumulatively considerable historic resources impact.

Mitigation Measure CUL-3: Implement Mitigation Measure CUL-1.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project; however, implementation of Mitigation Measures CUL-1 and CUL-3, would not avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than- significant level. No further mitigation is available for CUL-1 and CUL-3. Therefore, CUL-1 and CUL-3 will remain significant and unavoidable.

Facts in Support of Finding: Implementation of Mitigation Measures CUL-1 and CUL-3 would document the affected historical resource, provide a site-specific preservation treatment plan for the 1923 storefront commercial building. However, even with these mitigation measures in place, the project would not fully comply with General Plan LU-2 Preservation because it requires the demolition of the building; therefore, this impact is conservatively identified as significant and unavoidable.

6.2 Cumulative Impacts

The City finds that Implementation of the project would contribute to a cumulatively considerable historic resources (See Impact CUL-3 above)..

SECTION 7: STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable.⁸ CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record.⁹ The proposed project would result in significant unavoidable impacts related to cultural resources, even after incorporation of all feasible mitigation measures. These significant unavoidable impacts are identified and discussed in Section 6 of these Findings. The City further finds that these significant unavoidable impacts are outweighed by the proposed project's benefits, each of which, independently of the others, constitutes overriding consideration warranting approval of the proposed project. Those benefits are as follows:

- The project site is zoned and designated in the General Plan for high-density residential development. The proposed project will involve replacement of the underutilized commercial and parking uses within the site with new residential buildings that will be consistent with the zoning and land use designation.
- The project will provide infill development that embodies principles of sustainable planning and construction, and will be sufficiently compatible with existing city character, neighboring land uses, and architectural scale and design in support of Policies LU-7, UD-16, UD-24, and UD-32 in the City's General Plan.
- Based on current housing demand, development of the proposed project is necessary for the City to meet current and anticipated Regional Housing Needs Allocation (RHNA) goals by adding 122 multi-family residential units to the City's housing stock.
- The project will include ten units affordable to Very Low Income (VLI) households in support of Policy LU-25 of the City's General Plan to encourage development of affordable housing within transit-oriented corridors.
- The project would increase high density housing and in close proximity to alternative forms of transportation.
- The project will substantially increase the assessed value of the property, which will increase City revenue used to provide services and infrastructure.
- The project will be subject to several development fees, including the affordable housing mitigation fee, which will be used to develop more affordable housing, and the Berkeley Unified School District fee, which will be used to improve school infrastructure and facilities in the city.
- The project will increase the number of residents who patronize businesses in Berkeley.
- The project will increase high density housing on the San Pablo Avenue Corridor in West Berkeley and in close proximity to existing businesses, services, and alternative forms of transportation (the Alameda and Contra Costa Transit routes). Given this access to services and alternative transportation methods, the project will minimize driving demand and reduce greenhouse gas emissions associated with vehicle trips in the region in support of the City's Climate Action Plan and Policy EM-5 and Policy UD-33 in the City's General Plan, which call for environmentally sensitive and sustainable design in new buildings.

On balance, the City finds that these are specific considerations associated with the project serve to override and outweigh the project's significant unavoidable effects. Therefore, pursuant to *CEQA Guidelines* Section 15093(b), the City finds that these adverse effects are considered acceptable.

⁸ *CEQA Guidelines*, 2012. Section 15093(a)

⁹ *CEQA Guidelines*, 2012. Section 15093(b)

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**ALLSTON
 EXTENSION**

2136 - 2154 San Pablo Ave.
 Berkeley, CA

- 03.12.2021 SB-330 ZONING APPLICATION
- 06.08.2021 ZONING COMPLETENESS
- 08.03.2021 ZONING COMPLETENESS
- 05.23.2023 REVISED CONTEXT PHOTOS
- 02.15.2024 DRC MEETING DRAWING SET
- 03.28.2024 ZAB HEARING DRAWING SET

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 CONSENT OF TRACHTENBERG ARCHITECTS.

JOB: 1831

SHEET:

GENERAL
 INFORMATION

A0.0

DRAWING LIST

SHEET NO. & TITLE

ARCHITECTURAL

- A0.0 GENERAL INFORMATION
- A0.1A ZONING INFORMATION & DIAGRAMS
- A0.1B BUILDING CODE INFORMATION & DIAGRAMS
- A0.1C EXITING DIAGRAMS (CONT.)
- A0.3 DENSITY BONUS DIAGRAMS
- A0.4A SHADOW STUDIES
- A0.4B SHADOW STUDIES
- A0.4C SHADOW STUDIES
- A0.4D SHADOW STUDIES
- A0.5 ZONING SITE PHOTOS
- A0.6 VICINITY MAP
- A1.0 SITE SURVEY
- A2.1 FLOOR PLANS
- A2.2 FLOOR PLANS
- A2.3 FLOOR PLANS
- A2.4 FLOOR PLANS
- A2.5 FLOOR PLANS
- A2.6 LIVE/WORK AREA DIAGRAMS
- A3.1 BUILDING ELEVATIONS
- A3.2 BUILDING ELEVATIONS
- A3.3 STREET STRIP ELEVATIONS
- A3.4 PHOTO CONTEXT VIEW
- A3.5 PHOTO CONTEXT VIEW
- A3.6 PHOTO CONTEXT VIEW
- A3.7 PERSPECTIVE VIEW
- A3.8 PERSPECTIVE VIEW
- A3.9 PERSPECTIVE VIEW
- A3.10 PERSPECTIVE VIEW
- A3.11 PERSPECTIVE VIEW
- A3.12 PERSPECTIVE VIEW
- A3.13 PERSPECTIVE VIEW
- A3.14 PERSPECTIVE VIEW
- A4.1 SECTIONS
- A4.2 WALL SECTIONS & DETAILS
- A4.3 STREET FRONT AWNING SECTIONS
- SW-1 PRELIM. STORMWATER MANAGEMENT PLAN
- G-1 CONCEPTUAL GRADING PLAN
- MAT MATERIAL BOARD

LANDSCAPE

- L1.1 GROUND LEVEL PRELIMI. LANDSCAPE PLAN
- L1.2 PODIUM LEVEL PRELIMI. LANDSCAPE PLAN
- L1.3 4TH FLOOR PRELIMI. LANDSCAPE PLAN
- L1.4 6TH FLOOR PRELIMI. LANDSCAPE PLAN
- L1.5 IMAGES & RECOMMENDED PLANT LIST

PROJECT DESCRIPTION

PROJECT ADDRESS: 2136 - 2154 SAN PABLO AVENUE, BERKELEY, CA 94702 (APN: 056 19770101)

SCOPE OF WORK:
 REMOVAL OF THE EXISTING STRUCTURE AND CONSTRUCTION OF A NEW 6-STORY MIXED-USE BUILDING WITH 125 DWELLING UNITS (OF WHICH 3 ARE LIVE WORK), GROUND LEVEL LOBBY AND PARKING WITH A STATE OF CALIFORNIA DENSITY BONUS.

ZONING CODE SUMMARY
 (BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-W

SEE SHEET A0.1A FOR COMPLETE ZONING DATA

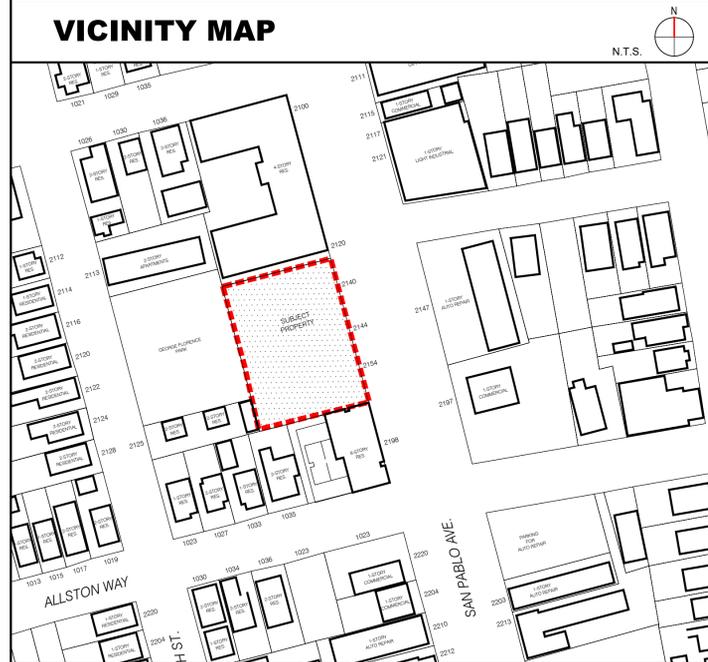
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 (925) 933-2583

VICINITY MAP



VIEW AT SAN PABLO INTERSECTION LOOKING NORTHEAST

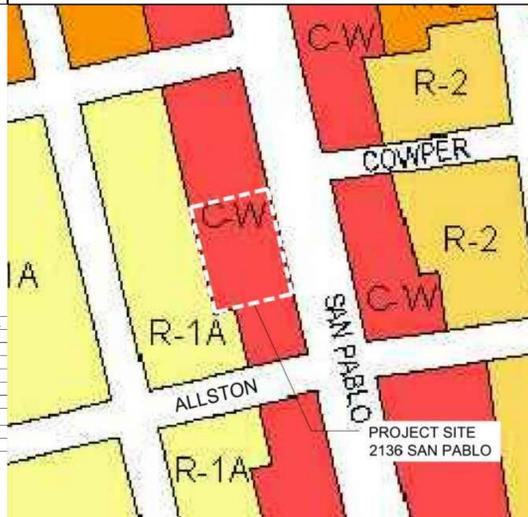


ZONING CODE DATA

ZONING INFORMATION	BASE ALLOWABLE	35% DENSITY BONUS ALLOWABLE	PROPOSED w/ DENSITY BONUS
ZONING	C-W	C-W	C-W
TOTAL LOT SIZE (SQ. FT.)	23,301	23,301	23,301
TOTAL LOT SIZE (ACRES)	0.53	0.53	0.53
FLOOR AREA RATIO (FAR)	3.00	4.05	3.55
BASE FLOOR AREA	69,903	94,369	82,824
HEIGHT - FEET	50'	70'	69'-6"
HEIGHT - STORIES	4	6	6
LOT COVERAGE	100%	100%	83%
FOOTPRINT	23,301	23,301	19,363
SETBACKS			
FRONT	0	0	0
REAR	10% (13'-4")	10% (13'-4")	10% (13'-4")
INTERIOR SIDE (NORTH)	0	0	8'-0"
INTERIOR SIDE (SOUTH)	VARIES; 0' - 5'-0"	VARIES; 0' - 5'-0"	VARIES; 0' - 10'-6"
PARKING RATIO - DWELLINGS	1 PER UNIT	.5 PER BEDROOM	SEE TABLE
PARKING RATIO - LIVE/WORK	1 PER UNIT	1 PER UNIT	SEE TABLE
OPEN SPACE	40 SF / UNIT	40 SF / UNIT	SEE TABLE

UNIT TABLE	LIVE / WORK	LOFT	STUDIO	1-BR	2-BR	TOTAL
LEVEL 6			5	11	1	17
LEVEL 5			9	11	1	21
LEVEL 4			9	15	1	25
LEVEL 3			9	17	1	27
LEVEL 2			9	17	1	27
LEVEL 1	3	5				8
TOTAL	3	5	41	71	5	125
BEDROOMS PER	1	1	1	1	2	
TOTAL RESIDENTIAL BEDROOMS			41	71	10	127

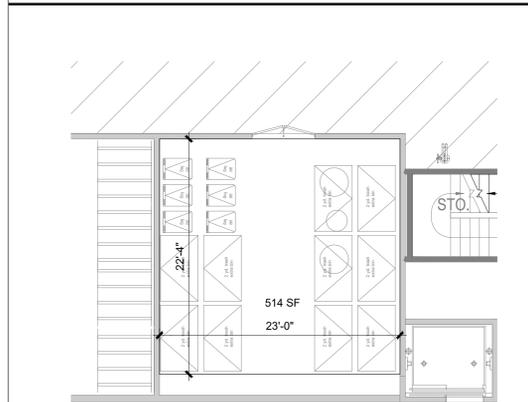
ZONING MAP



OPEN SPACE DIAGRAMS



REFUSE AND RECYCLING



PROJECT AREAS	RESIDENTIAL AREA	COMMERCIAL AREA	MECH. (EXCLUDES PARKING)	TOTAL AREA
LEVEL 6	9,853			9,853
LEVEL 5	11,579			11,579
LEVEL 4	14,222			14,222
LEVEL 3	15,789			15,789
LEVEL 2	15,789			15,789
GROUND LEVEL (plus MEZZANINE)	12,361	2,490	741	15,592
TOTAL	79,593	2,490		82,824
			FAR	3.55
			MAX ALLOWABLE FAR	4.05

PARKING CALCULATIONS (DENSITY BONUS METHOD)				
RESIDENTIAL UNITS (PER AB 2097)	SPACES	PER	REQ'D	
LIVE/WORK UNITS	3	1	1	3
LIVE/WORK CLIENTS/WORKERS	1245			2
BASE REQUIRED CAR PARKING				5
TOTAL PROPOSED CAR PARKING				50

LONG TERM BIKE PARKING CALCULATIONS				
LIVE/WORK UNITS	SPACES	PER	REQ'D	
LIVE/WORK UNITS	0	N/A		0
RESIDENTIAL BEDROOMS	127	1	3	42
LONG TERM BIKE PARKING REQ.				42
TOTAL PROPOSED LONG TERM BIKE PARKING				64

SHORT TERM BIKE PARKING CALCULATIONS				
LIVE/WORK UNITS	SPACES	PER	REQ'D	
LIVE/WORK UNITS	3	1	5	2
RESIDENTIAL BEDROOMS	127	1	40	3
SHORT TERM BIKE PARKING REQ.				5
TOTAL PROPOSED SHORT TERM BIKE PARKING				8

OPEN SPACE CALCULATIONS				
RESIDENTIAL & LIVE/WORK UNITS	UNITS	SF / UNIT	TOTAL	LANDSCAPED OPEN SPACE %
TOTAL OPEN SPACE REQUIRED	125	40	5,000	2034
TOTAL OPEN SPACE PROVIDED			5,404	41%

ROOFTOP ARCHITECTURAL ELEMENTS CALCS				
AVERAGE AREA OF FLOORS	PROVIDED	MAX ALLOWED		
TOTAL AREA OF ROOFTOP ARCHITECTURAL ELEMENTS	422	2,071		
% AREA OF ROOFTOP ARCHITECTURAL FEATURES	3.1%	15.0%		

Waste and Recycling Calculation							
# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3 occ)	Waste (40%)	Recycling: Glass & Bottles (741 gal)	Recycling: Paper (20%) (741 gal)	Organics (20%) (741 gal)
127	1.75	222	18.52 cy / 3,704 gal	7.41 cuft / 1,482 gal			

Space Calculation		Container Quantities				Space Required		150% Additional Increase for Operation	
		Waste	Recycling (Glass+ Bottles)	Recycling (Paper)	Organics	Factor per container	Space per Container	Required	Provided
2 cy bin (404 gal)	3	2	2	2	2	28 sf	252 sf		
96 gallon cart	3					7 sf	21 sf		
64 gallon cart						6 sf	sf		
Total capacity	1500 gal	808 gal	808 gal	808 gal	808 gal		273 sf	410 sf	514 sf

GROUND FLOOR



LEVEL 2 PODIUM

LEVEL 6 ROOF DECK



LEVEL 4 ROOF DECK

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ZONING
INFORMATION
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BUILDING CODE
INFORMATION &
DIAGRAMS

A0.1B

EXITING DIAGRAMS

BUILDING CODE DATA

Building Information 1/14/2020

Occupancy Type: Mixed Use Apartments (R-2) Type III-A over Type I-A Residential Common Area Storage, Garage, Commercial, (S-2, R-2, B) w/ 3-hour horizontal assembly per CBC 510.2

Construction Type: Type I-A (Story 1), III-A (Stories 2-6)

Building Story and Height Limitation (CBC Table 504.3 & 504.4)

* story count measured from floor above Type I-A per CBC 510.2

Occupancy Type	Construction Type	Allowable Stories	Proposed Stories	Allowable Building Height	Proposed Building Height
Ground Floor (Storage, Apartments, Commercial)	I-A	UL	1	UL	18'-0"
R-2 (Apartment)	III-A	5 *	5 *	85'	51'-6"

Building Below Horizontal Separation Code Area Limitation Analysis - Type I-A

Allowable Building Area Analysis - Separated Occupancies (CBC Table 506.2 506.3 & 506.2.4)

Occupancy	Type	Allowable Area	Proposed	%
S-2 (Sto., Garage, Mech, Mezz.)	I-A		UL	10,713
B (50% Live/Work)	I-A		UL	1,245
R-2 (Loft Units, Common Areas, Gym, 50% Live/Work)	I-A		UL	11,759
Type I-A Sub-Total				23,717

Building Above Horizontal Separation Code Area Limitation Analysis - Type III-A

Allowable Building Area Analysis - Separated Occupancies (CBC Table 506.2 506.3 & 506.2.4)

Aa = Allowable Area = [At + (NS x If)] If=Frontage Increase=(F/P-0.25)W/30

At = Area (Table 506.2)	NS = Area (Table 506.2)	F=231'	P=532'	W=30'	Occupancy	Type	At	NS	If	Aa	Proposed	%
					Second Floor R-2 (Apartments)	III-A	72,000	24000	0.184	76,416	15,536	20%
					Third Floor R-2 (Apartments)	III-A	72,000	24000	0.184	76,416	15,536	20%
					Fourth Floor R-2 (Apartments)	III-A	72,000	24000	0.184	76,416	11,579	15%
					Fifth Floor R-2 (Apartments)	III-A	72,000	24000	0.184	76,416	9,853	13%
					Sixth Floor R-2 (Apartments)	III-A	72,000	24000	0.184	76,416	9,853	13%
Type V-A Second-Fifth Total											62,357	
Total Allowed per CBC 506.2.4 (200%)											82%	

Separations of Occupancies (CBC 508.4)

Occupancies	Rating	Occupancies	Rating
R-2 to S-2 & B	1 Hour	S-2 to B	1 Hour
Between Dwelling Units	1 Hr Floor & Walls (CBC 708.3&711.3)		

Fire Resistance of Exterior Walls (Table 602)

Ground Floor Type I-A (R-2, S-2, B)

Wall Location	Fire Sep. Dist.	Rating	Fire Sep. Dist.	Rating
	X<5	1	10sX<30	1
	5sX<10	1	X≥30	0

Floors 2-6 Type III-A (R-2)

Wall Location	Fire Separation Distance	Rating	Fire Sep. Dist.	Rating
	X<5	1	10sX<30	1
	5sX<10	1	X≥30	0

Fire Resistance of Requirements (Table 601)

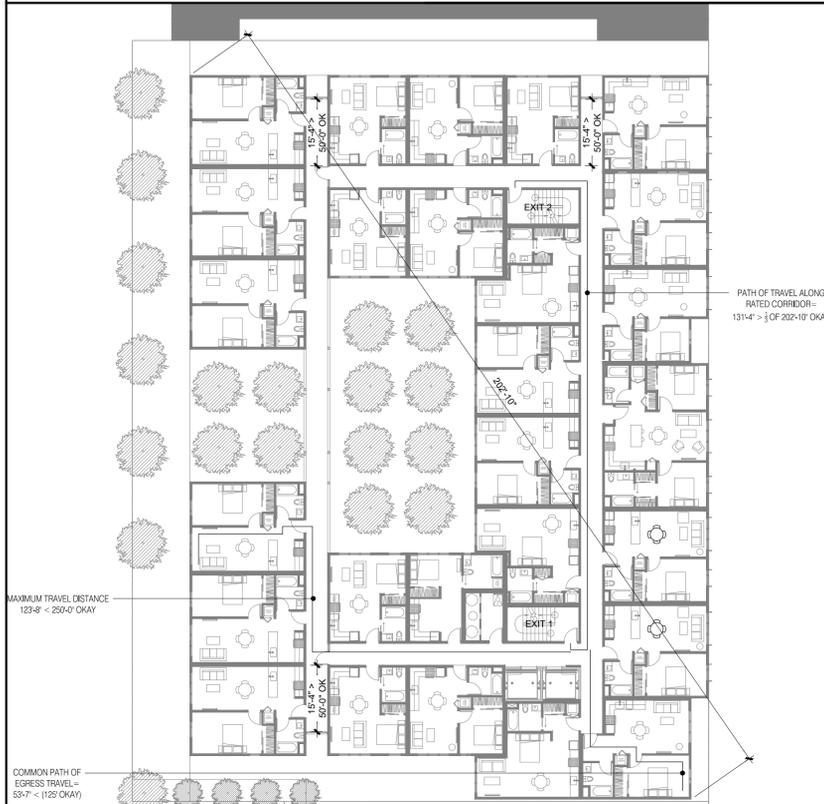
Type I-A

Building Element	Required	Provided
Structural Frame	3	3
Bearing Walls - Exterior	3	3
Bearing Wall - Interior	3	3
Non-bearing Walls - Exterior	See Table 602	
Non-bearing Wall - Interior	0	0
Floor Construction	2	2
Roof Construction	1 1/2	NA

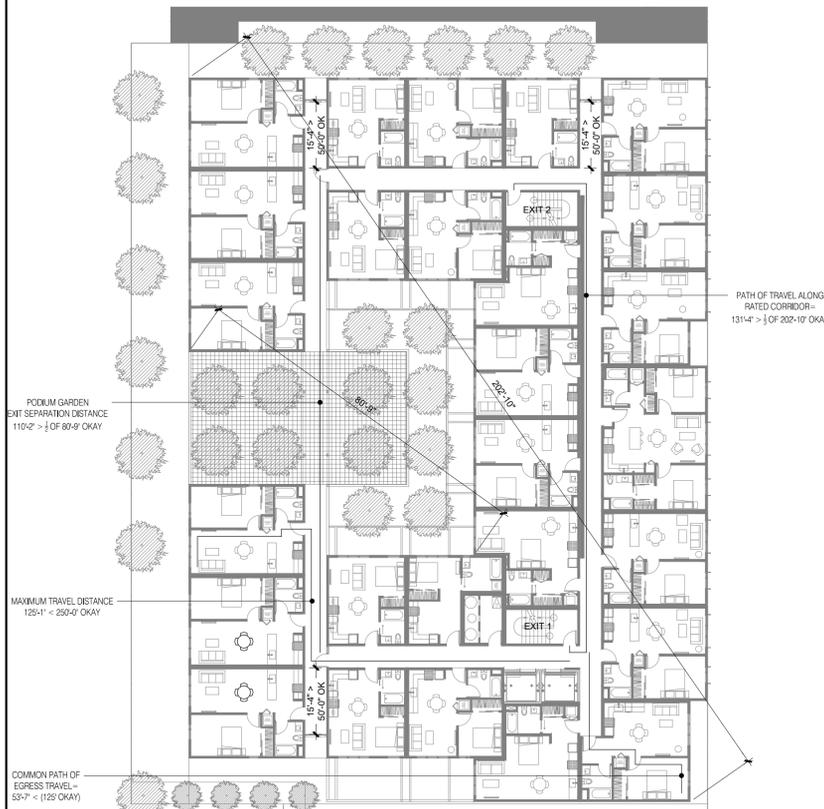
Floors 2nd-6th Type III-A

Building Element	Required	Provided
Structural Frame	1	1
Bearing Walls - Exterior	2	2
Bearing Wall - Interior	1	1
Non-bearing Walls - Exterior	See Table 602	
Non-bearing Wall - Interior	0	0
Floor Construction	1	1
Roof Construction	1	1

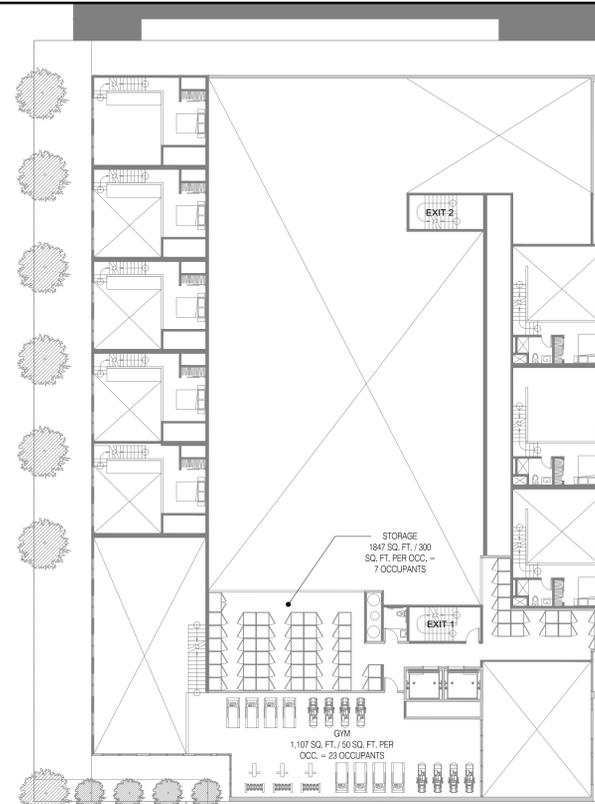
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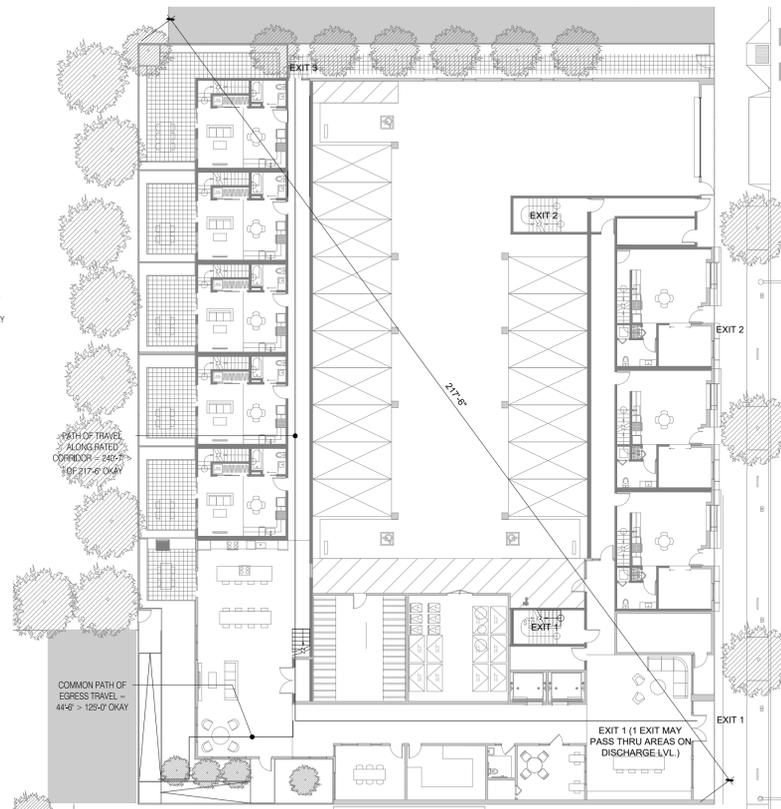
LEVEL 3



LEVEL 2



MEZZANINE



GROUND FLOOR

EXITING DIAGRAMS (CONT.)

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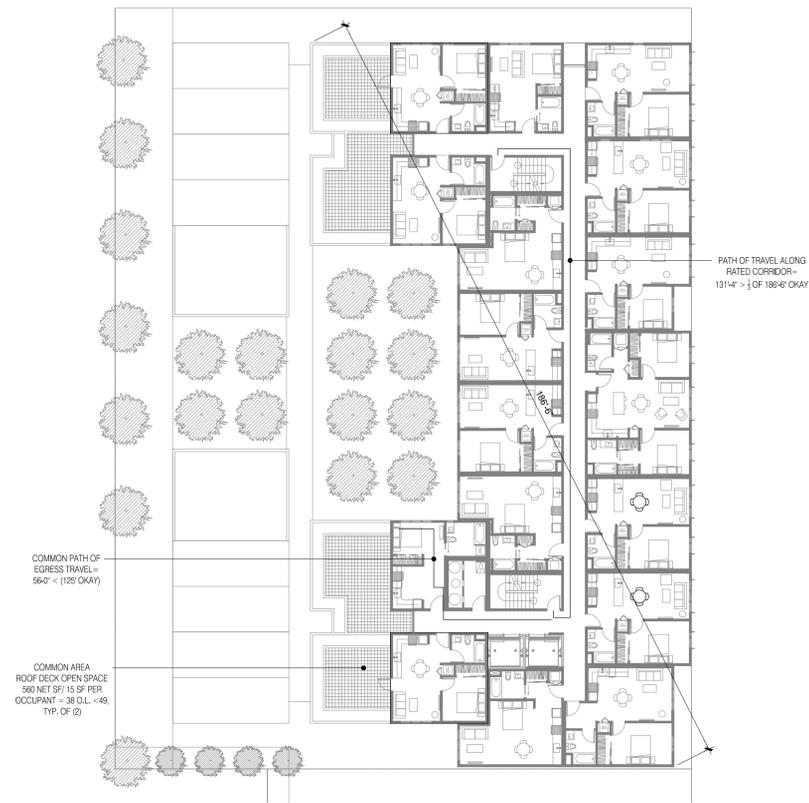
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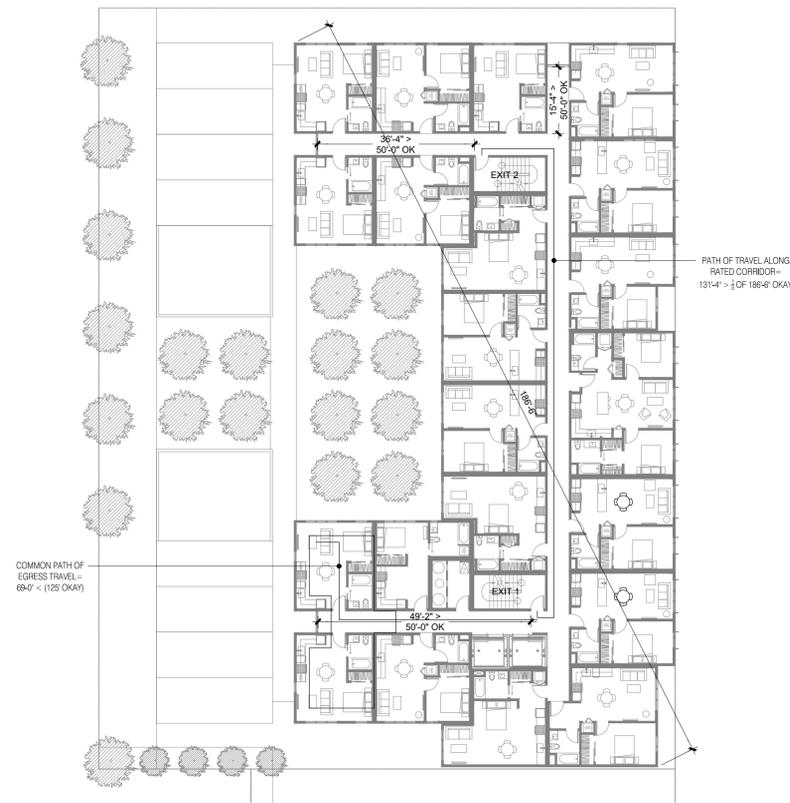
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**EXITING DIAGRAMS
 (CONT.)**

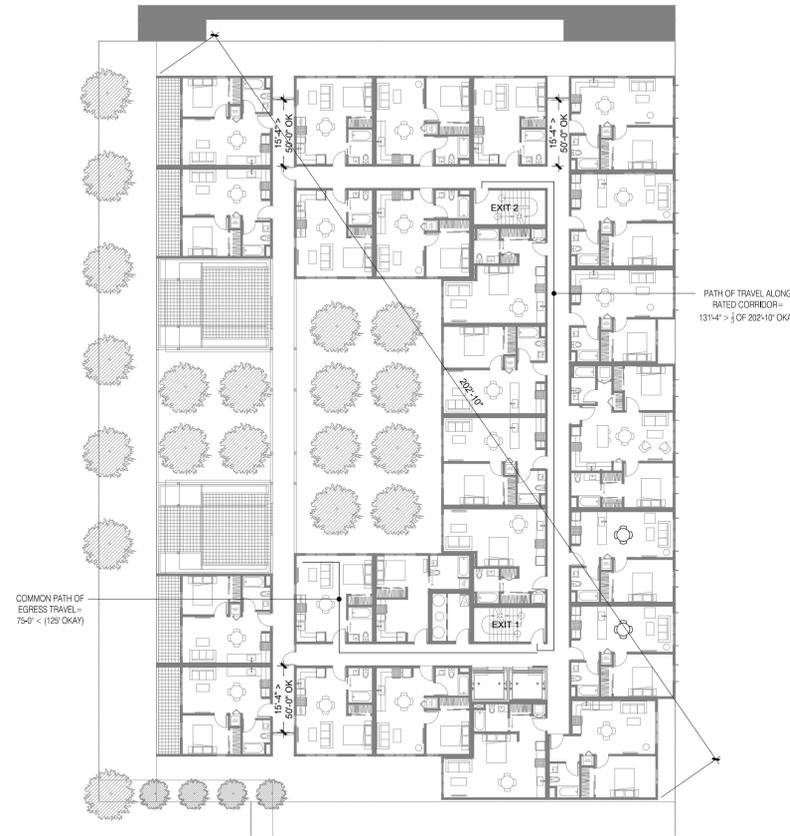
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LEVEL 6



LEVEL 5



LEVEL 4

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DENSITY BONUS DIAGRAMS

A0.3

DENSITY BONUS DIAGRAM LEGEND

- RESIDENTIAL GROSS FLOOR AREA
- COMMERCIAL GROSS FLOOR AREA
- MECH./PARKING GROSS FLOOR AREA

DENSITY BONUS DIAGRAM GENERAL NOTES

- 1) PER BMC SECTION 23F.04.010, GROSS FLOOR AREAS ARE CLASSIFIED AS EITHER RESIDENTIAL-USE OR NON-RESIDENTIAL USE. GROSS FLOOR AREAS ARE CALCULATED TO THE OUTSIDE SURFACE OF MAIN WALLS.
- 2) RESIDENTIAL GROSS FLOOR AREAS INCLUDE: CIRCULATION ON EVERY FLOOR, COMMON RESIDENTIAL AMENITIES (BIKE ROOM, MANAGER'S OFFICE, MAIL ROOMS/AREAS, LOUNGES, ETC.), AND STAIRS/ELEVATORS ON THE FLOOR OF THEIR GREATEST HORIZONTAL EXTENT.
- RESIDENTIAL GROSS FLOOR AREAS EXCLUDE: STAIRS/ELEVATORS EXCEPT ON THE FLOOR OF THEIR GREATEST HORIZONTAL EXTENT.
- 3) PARKING & ASSOCIATED MEZZANINES EXCLUDED FROM DENSITY BONUS FLOOR AREA CALCULATIONS.
- 4) SEE A2.5 FOR ENLARGED PLANS DIFFERENTIATING THE COMMERCIAL FLOOR AREA FROM THE RESIDENTIAL FLOOR AREA.

MAXIMUM AREA CALCULATIONS

	Total Gross Floor Area (GFA)	Non-Residential Commercial Gross Floor Area	Mech. Gross Floor Area	Allowable Residential Gross Floor Area	Proposed Project Residential Gross Floor Area
Site Area	23,301				
Base FAR	3.0				
Base Project GFA	69903	1,245	483	68,175	61,353
Density Bonus Mod.				1.35	
Density Bonus GFA	93,281	1,245	483	92,036	80,753

DENSITY BONUS TABLE

Base Project RFA	Avg. Unit Size	Base # Units	% VLI	# VLI Units	#VLI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project	
sq. ft. - see calculation below	sq. ft.	base project area / avg. unit size	VLI = Very Low Income <50 AMI	% VLI x Base # Units	#VLI Units	% Bonus x Base # Units (rounded up)	% Bonus x Base # Units (rounded up)	% Bonus x Base # Units (rounded up)		
61,353	646	95	10%	9.50	10.00	32.5%	30.8750	31	128	
Reference Only - 35% Maximum Density Bonus Project:							35%	33.2500	34	129
Proposed Project Residential Floor Area										129
5,867	First (Non-LW)	8,539				5%	20.0%			
630	First (LW)	630				6%	22.5%			
2,685	Mezz (Non-LW)	3,737				7%	25.0%			
615	Mezz (LW)	615				8%	27.5%			
17,192	Second	15,789				9%	30.0%			
17,192	Third	15,789				10%	32.5%			
17,192	Fourth	14,222				11%	35.0%			
	Fifth	11,579								
	Sixth	9,853								
Total:		61,353								
Add. DB Sq. Ft.:									19400	
DB %:									31.62%	

Base Project # of Units	Floor	Proposed Project # of Units
5	First	8
30	Second	27
30	Third	27
30	Fourth	25
	Fifth	21
	Sixth	17
Total:		125

Units w/ Mezzanine Area Breakdown

	L/W Units	Res. Lofts
First Floor GFA	625	450
Mezz. GFA	205	135
Total GFA per Unit	830	585
Residential Floor Area (50%)	415	n/a
Commercial Floor Area (50%)	415	n/a
Total L/W Units	3	
Total Commercial Floor Area	1245	

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - FAR	Site Area	Res. Area	Comm. Area	Total Area	FAR
Base Units	23,301	61,353	1,245	62,598	2.69

Base Project - Stormwater

Base Project - Stormwater	Site Area	Roof Area	%	Required	Provided
Base Units	23,301	19,533	4%	781	781

Base Project - Open Space

Base Project - Open Space	Units	Ratio	Total Area
Base Units	95	40	3800
Total Required Open Space			3800
Total Provided Open Space			3817
Ground Floor			824
Podium			2063
Roof Deck			930

Base Project - Parking

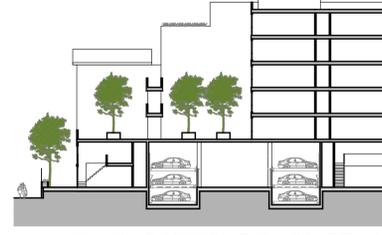
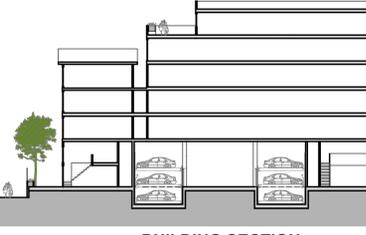
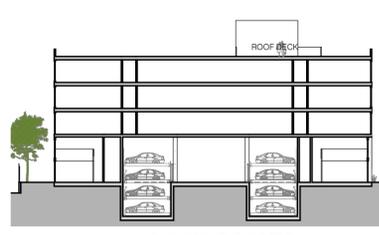
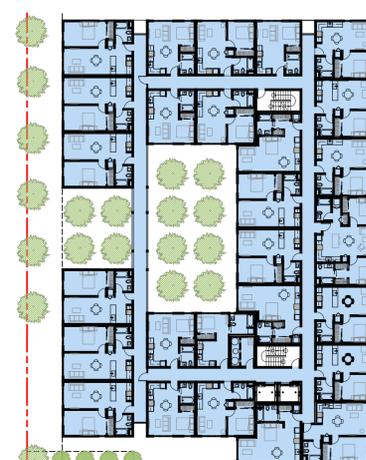
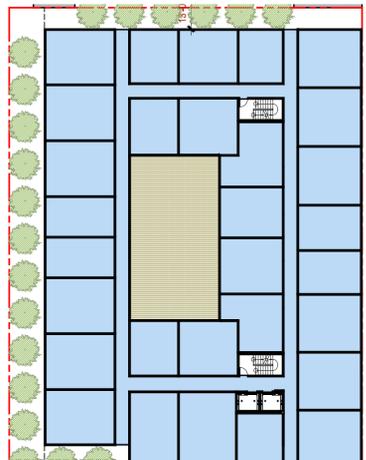
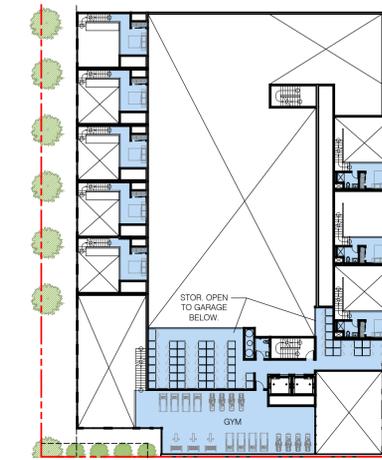
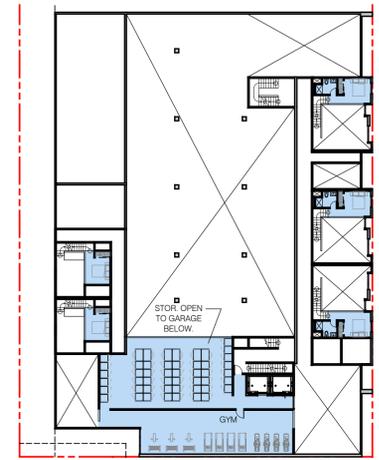
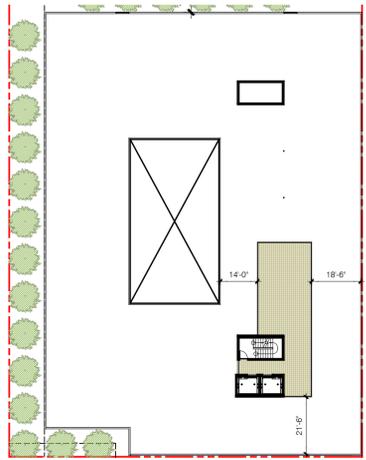
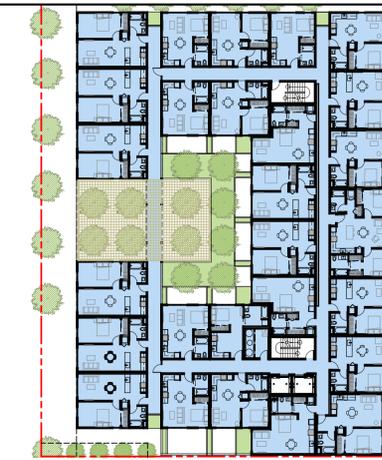
Base Project - Parking	Spaces	Ratio	Total
Base Units (Per AB 2097)			0
Live/Work (Per AB 2097)	3	1	3
Live/Work Non-Res SF	1,245	1	1000
Total Car Spaces Required			4
Total Car Spaces Provided			73

Base Project - Long Term Bike Parking

Base Project - Long Term Bike Parking	Spaces	Ratio	Total
Base Bedrooms	92	1	31
Live/Work	3	0	n/a
Total Long Term Bike Spaces Req.			31
Total Long Term Bike Spaces Provided			48

Base Project - Short Term Bike Parking

Base Project - Short Term Bike Parking	Spaces	Ratio	Total
Base Bedrooms	92	1	40
Live/Work	3	1	5
Total Short Term Bike Spaces Req.		Or 2, whichever is greater	2
Total Short Term Bike Spaces Provided			5



REFERENCE BASE PROJECT

0 4 8 16 32

PROPOSED DENSITY BONUS PROJECT w/ SETBACKS

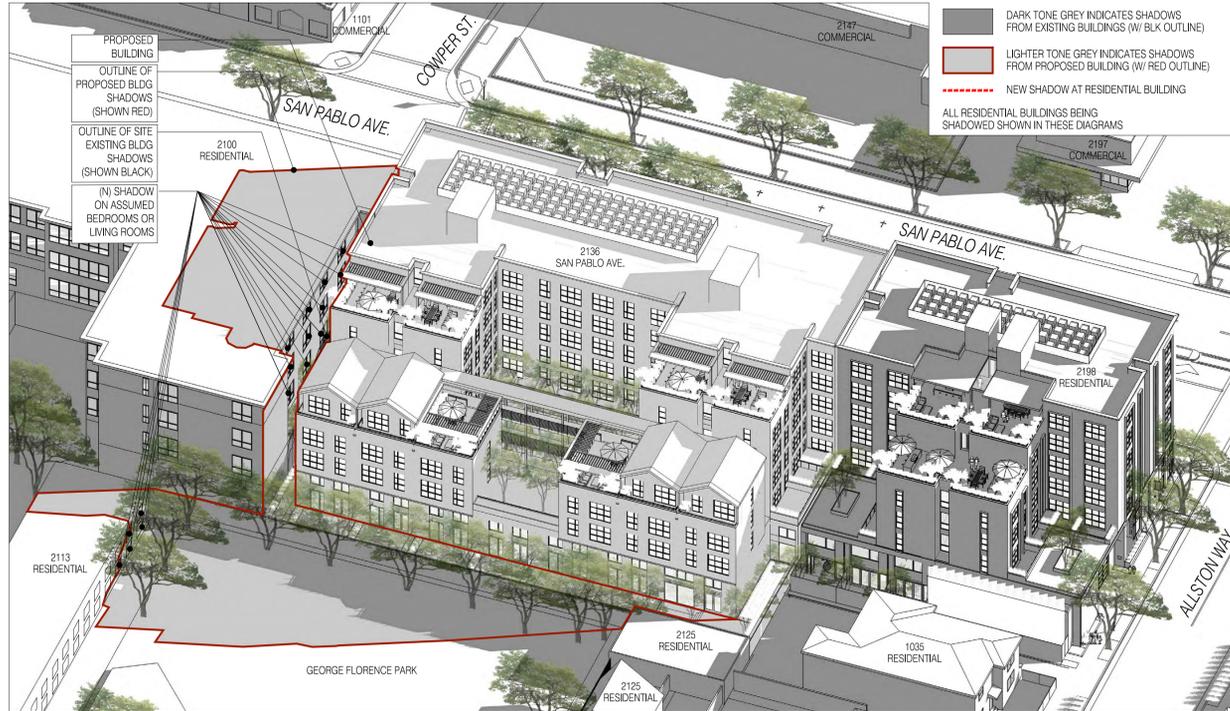
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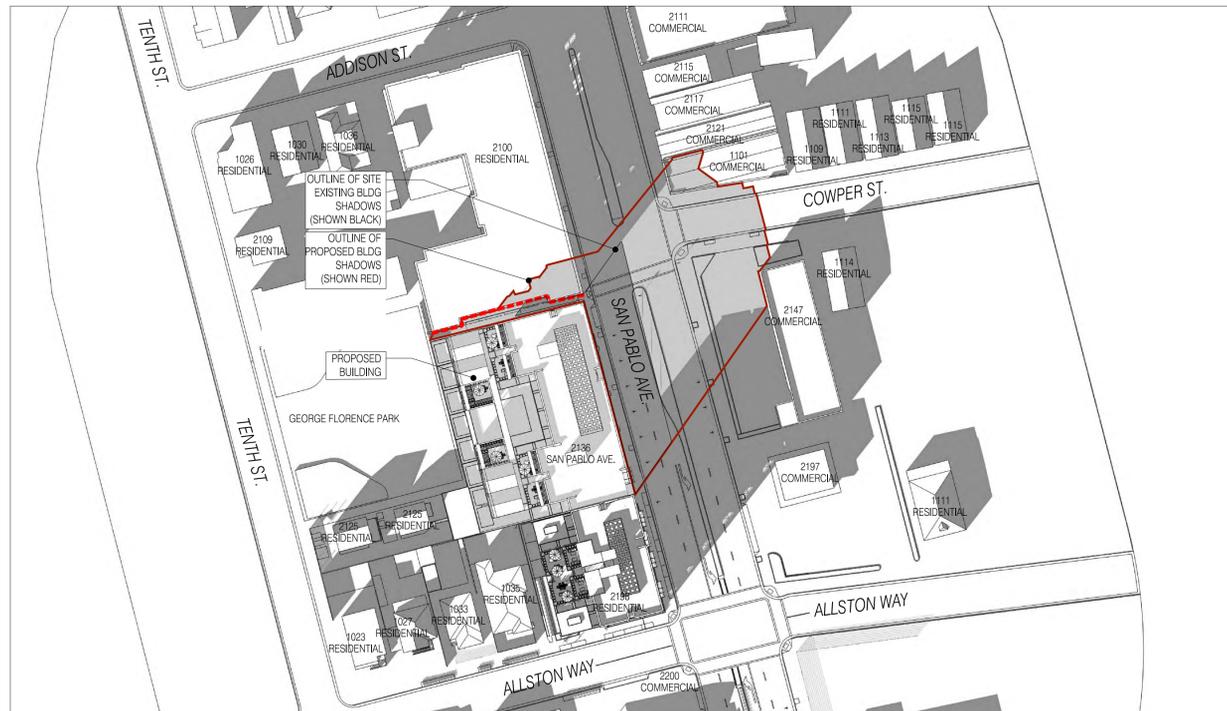
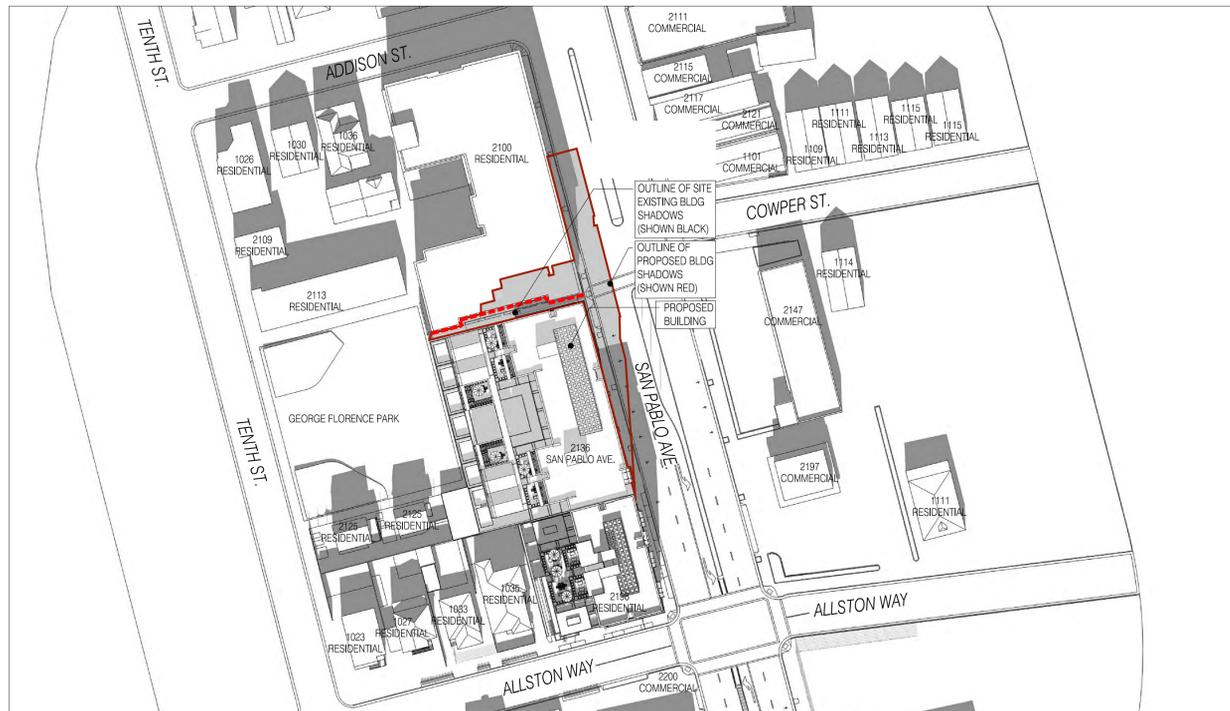
4 SHADOW STUDY AXONOMETRIC - DECEMBER 21ST: 2-HOURS AFTER SUNRISE
 NTS

2 SHADOW STUDY - DECEMBER 21ST: 2-HOURS AFTER SUNRISE
 1:100 @ 11X17 1:50 @ 24X36



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3 SHADOW STUDY - DECEMBER 21ST: NOON
 1:100 @ 11X17 1:50 @ 24X36

1 SHADOW STUDY - DECEMBER 21ST: 2-HOURS BEFORE SUNSET
 1:100 @ 11X17 1:50 @ 24X36



SHADOW STUDIES
 DECEMBER 21ST

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SHEET:

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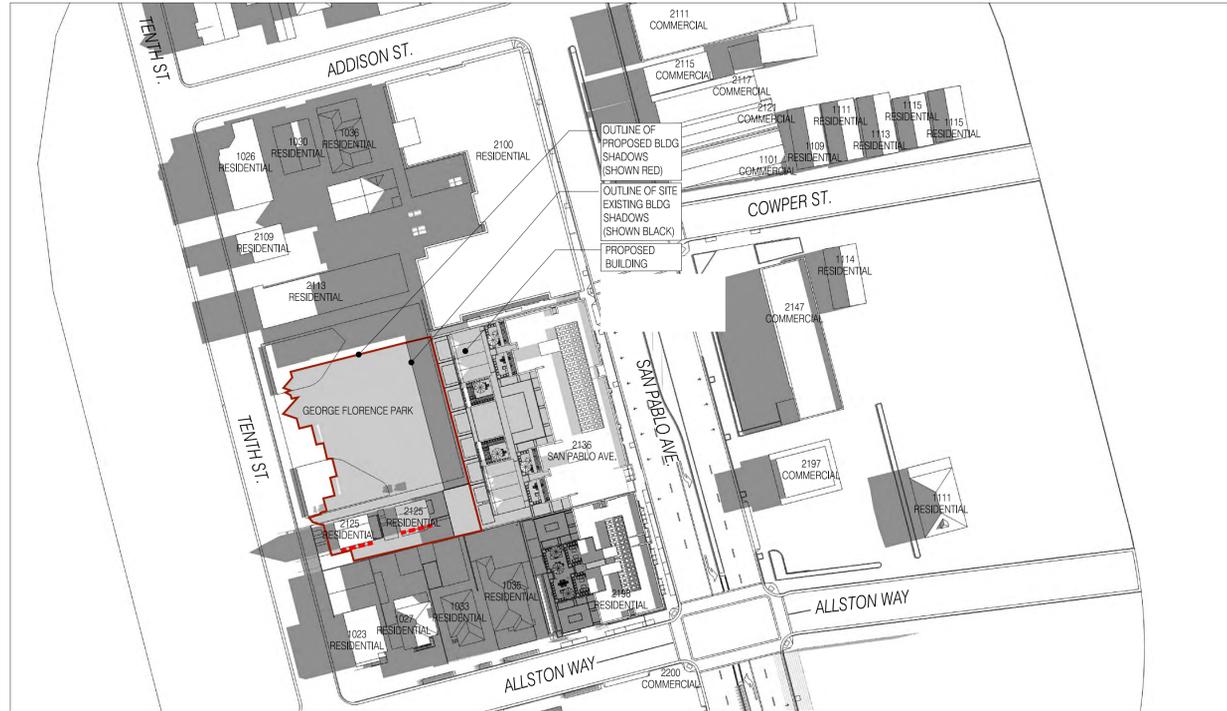
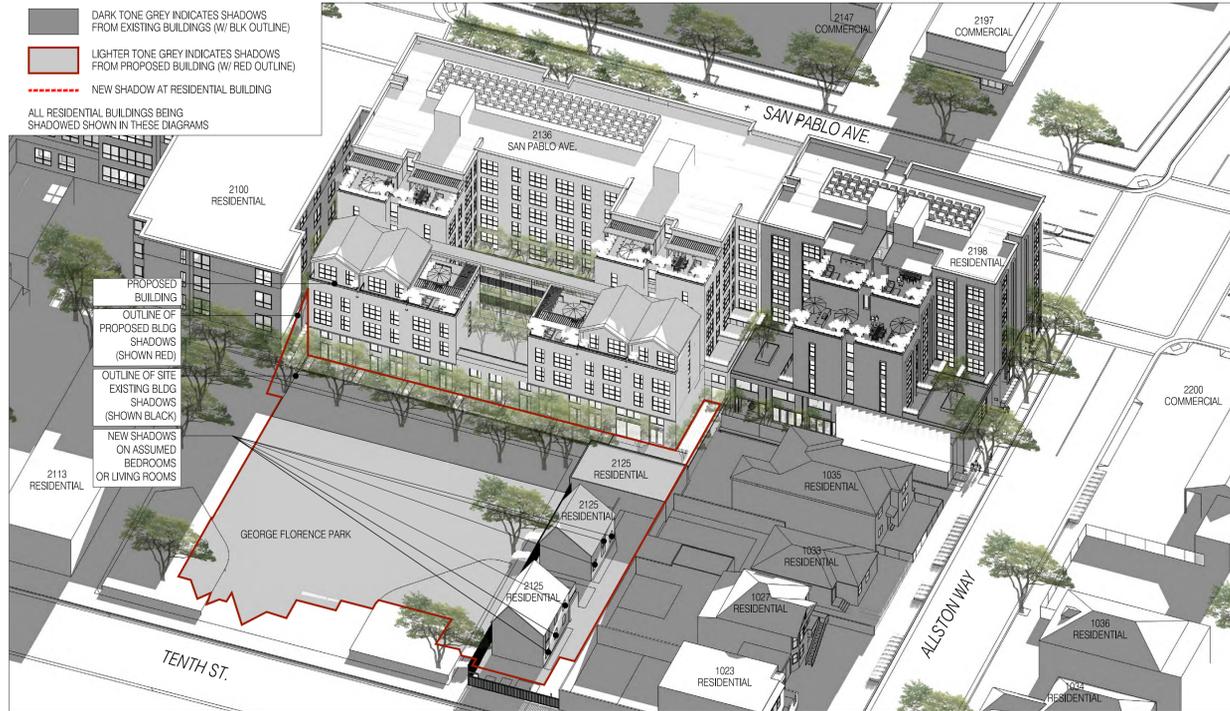
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4 SHADOW STUDY AXONOMETRIC - JUNE 21ST: 2-HOURS AFTER SUNRISE
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2 SHADOW STUDY - JUNE 21ST: 2-HOURS AFTER SUNRISE
 1:100 @ 11X17 1:50 @ 24X36



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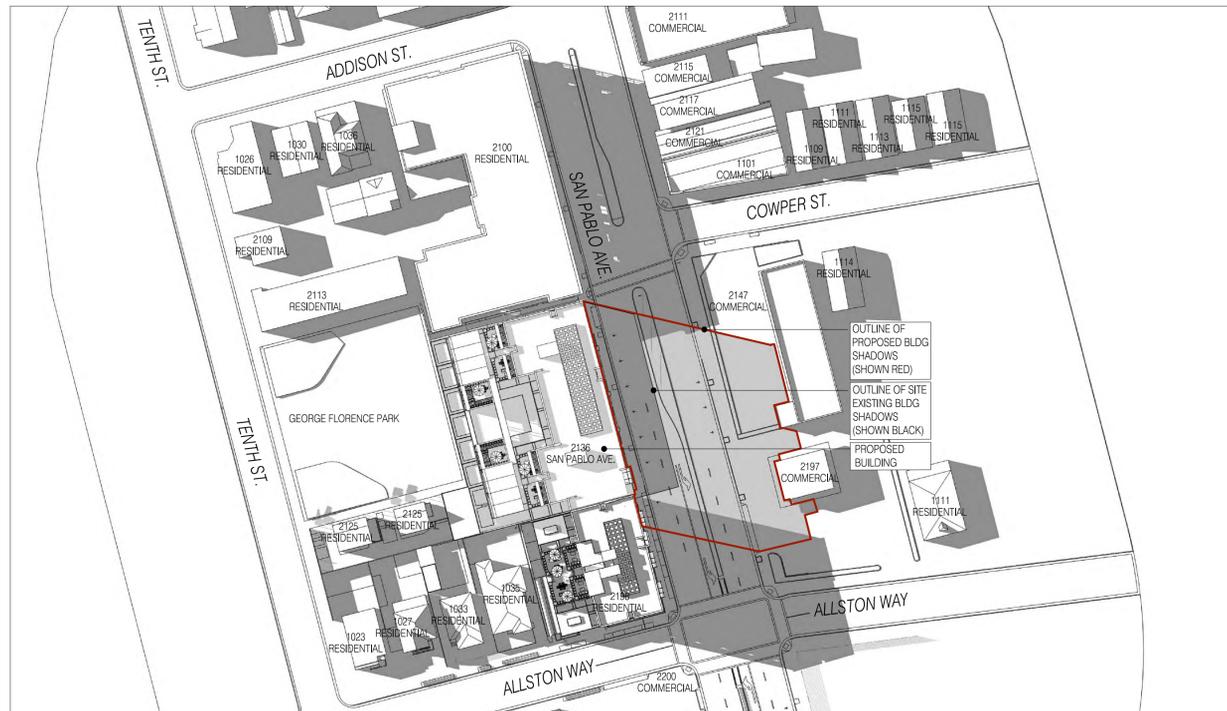
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JOB: 1831

SHEET:

SHADOW STUDIES
 JUNE 21ST



3 SHADOW STUDY - JUNE 21ST: NOON
 1:100 @ 11X17 1:50 @ 24X36

1 SHADOW STUDY - JUNE 21ST: 2-HOURS BEFORE SUNSET
 1:100 @ 11X17 1:50 @ 24X36



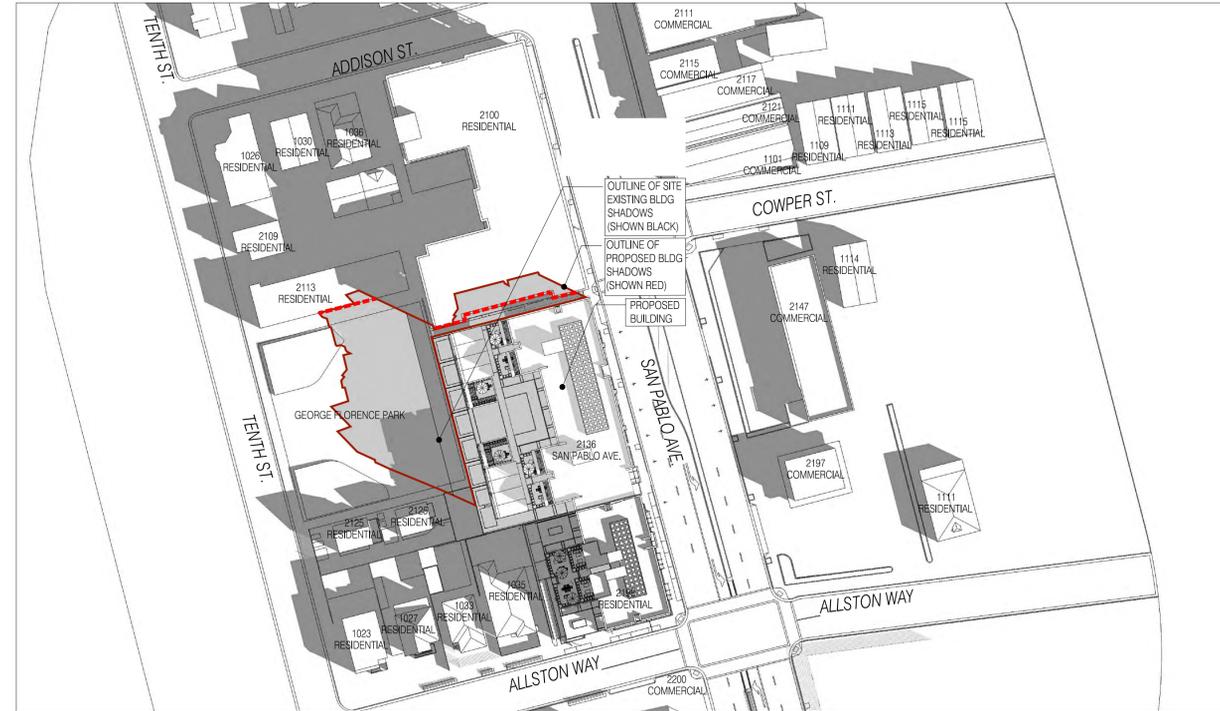
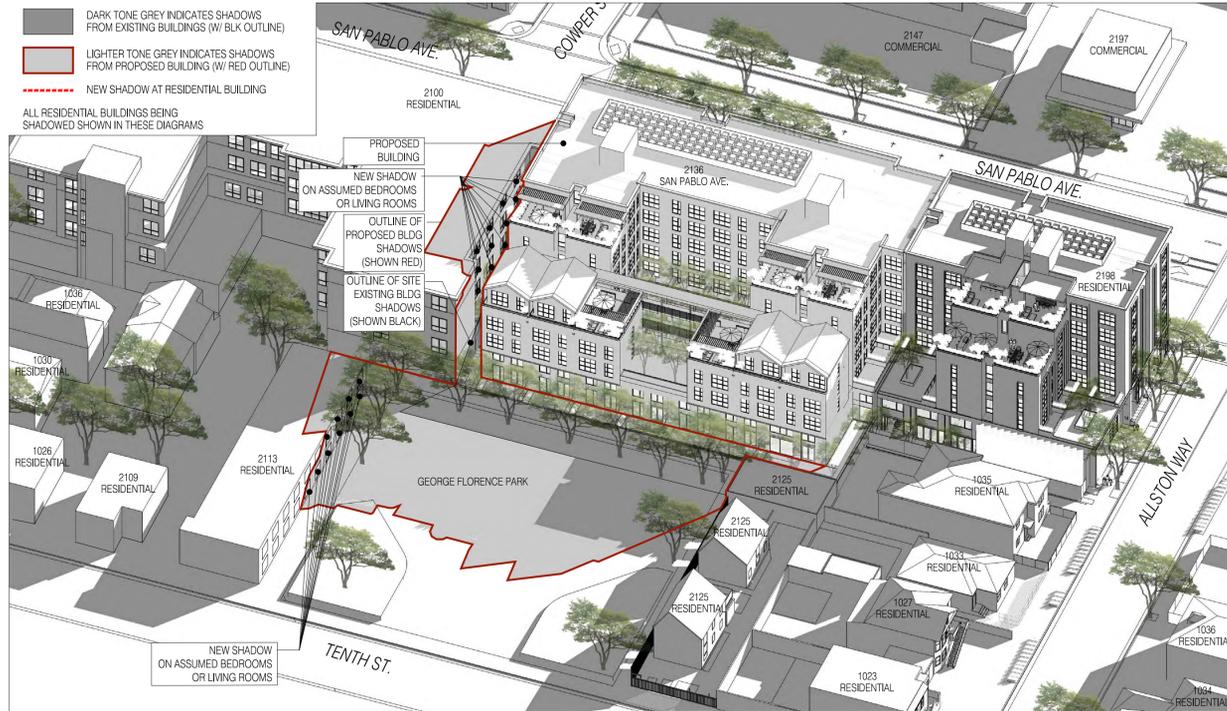
A0.4B

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**ALLSTON
 EXTENSION**



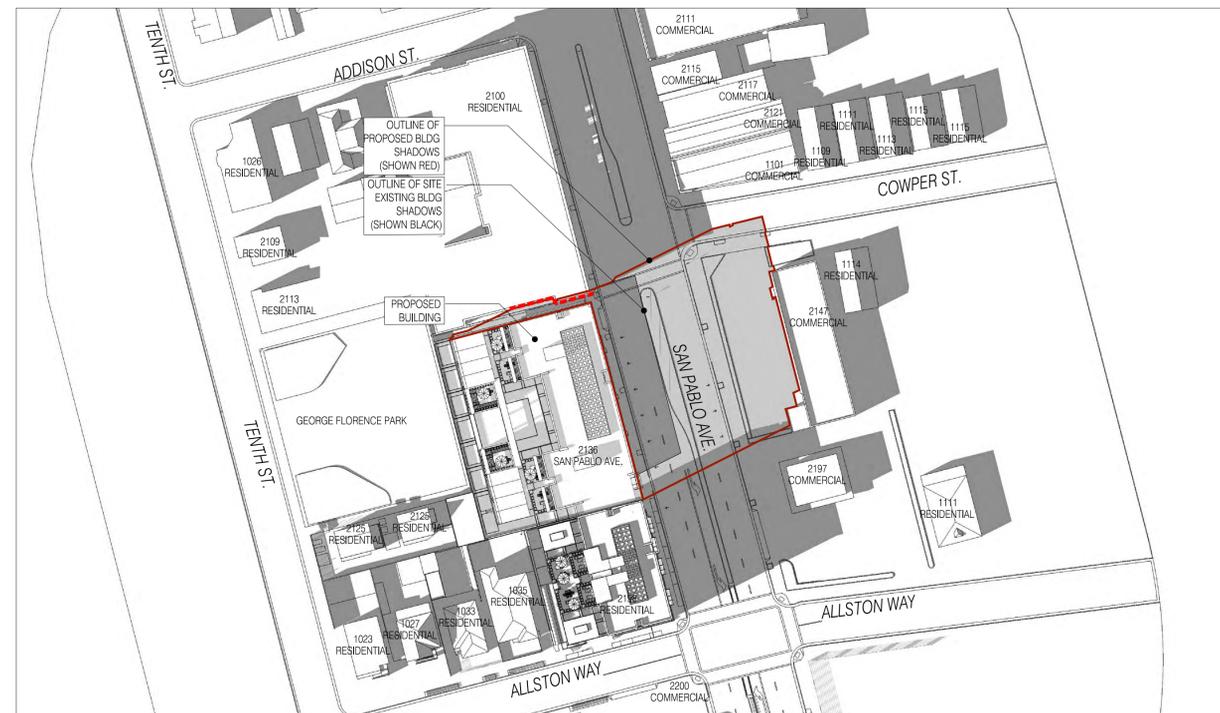
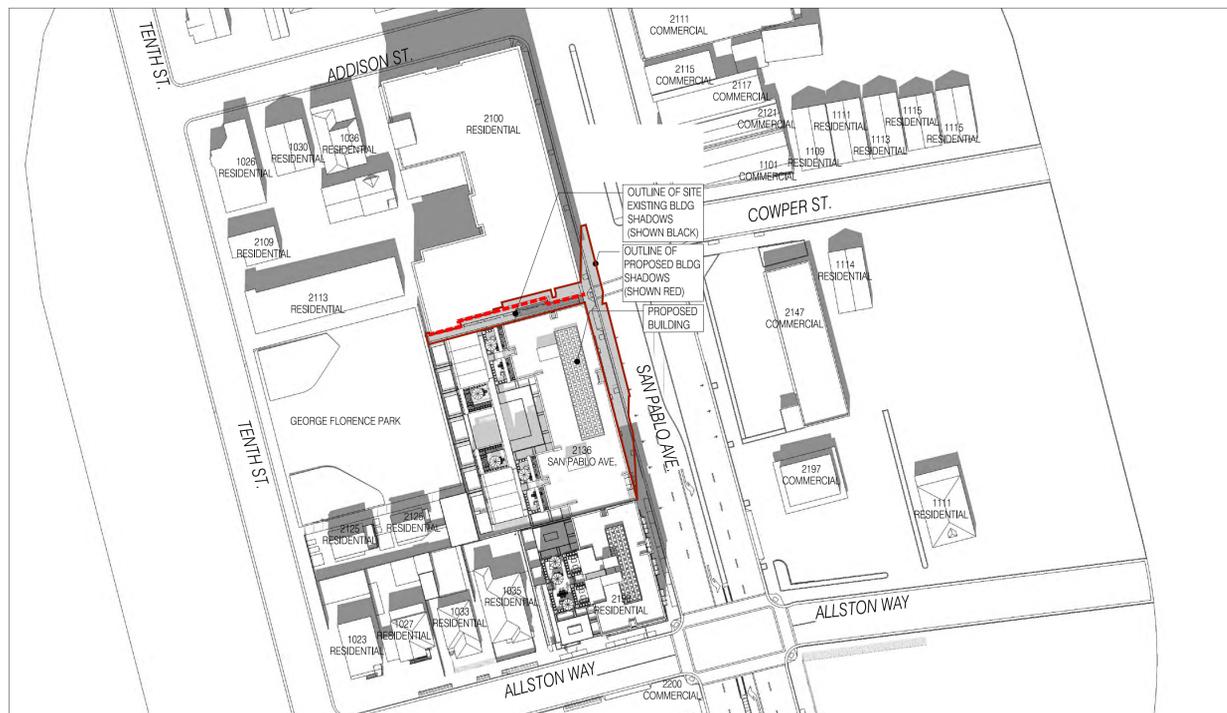
4 **SHADOW STUDY AXONOMETRIC - OCTOBER 4TH: 2-HOURS AFTER SUNRISE**
 NTS

2 **SHADOW STUDY - OCTOBER 4TH: 2-HOURS AFTER SUNRISE**
 1:100 @ 11X17 1:50 @ 24X36



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3 **SHADOW STUDY - OCTOBER 4TH: NOON**
 1:100 @ 11X17 1:50 @ 24X36

1 **SHADOW STUDY - OCTOBER 4TH: 2-HOURS BEFORE SUNSET**
 1:100 @ 11X17 1:50 @ 24X36



SHADOW STUDIES
 OCTOBER 4TH

JOB: 1831

SHEET:

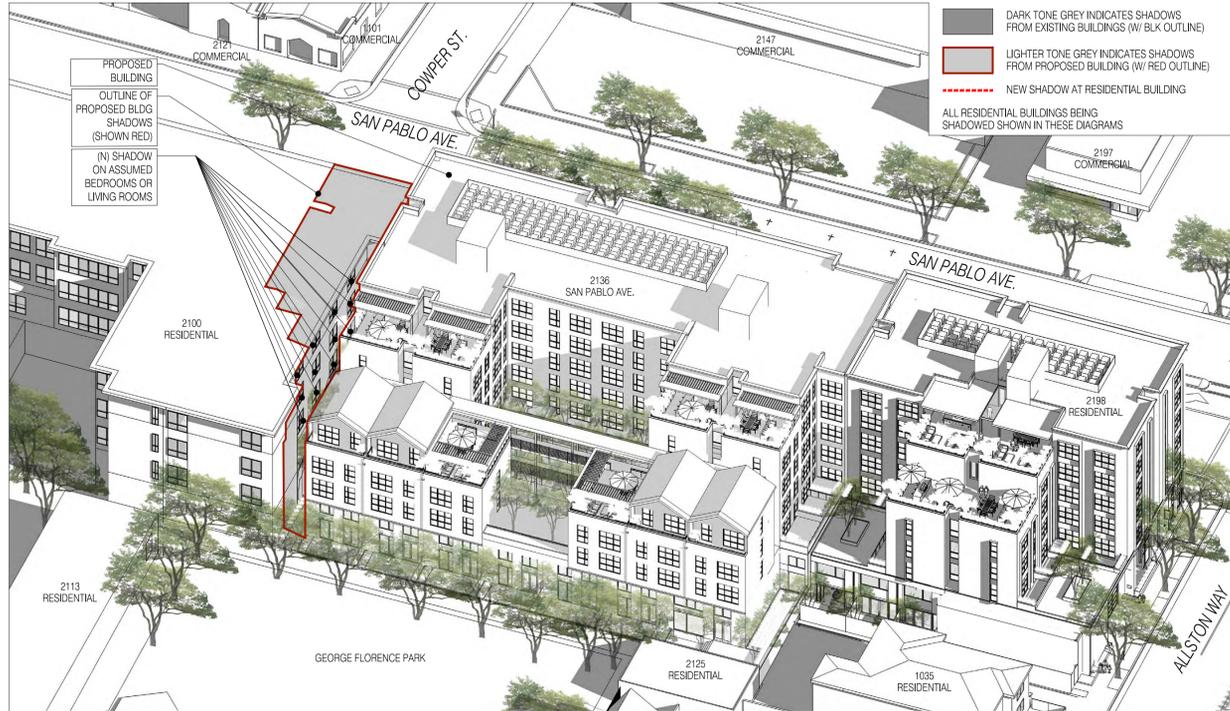
A0.4C

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2 SHADOW STUDY AXONOMETRIC - DECEMBER 21ST: NOON
 NTS

1 SHADOW STUDY AXONOMETRIC - DECEMBER 21ST: 2-HOURS BEFORE SUNSET
 NTS

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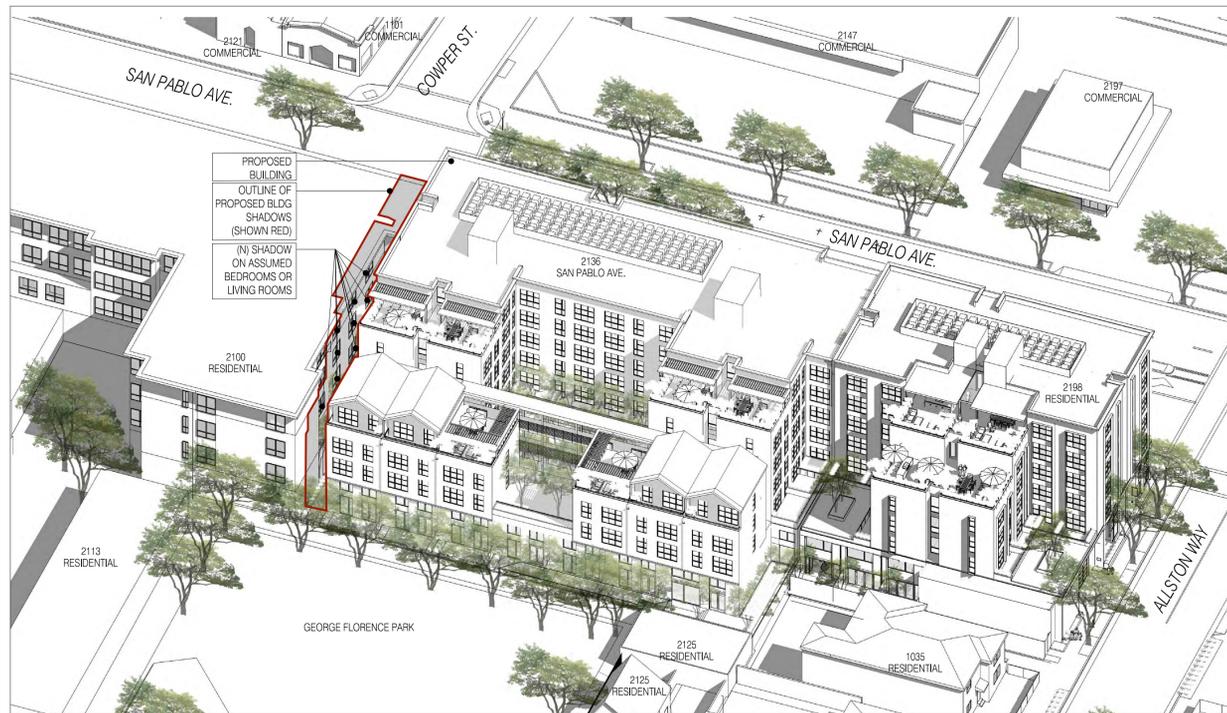
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SHEET:

SHADOW STUDIES
 AXONOMETRIC

A0.4D



1 SHADOW STUDY AXONOMETRIC - JUNE 21ST: NOON
 NTS

1 SHADOW STUDY AXONOMETRIC - OCT 4TH: NOON
 NTS

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SHEET:

SITE CONTEXT
 PHOTOS

A0.5



4 - VIEW FROM SAN PABLO LOOKING SOUTH



2 - VIEW FROM COWPER LOOKING WEST



3 - VIEW FROM SAN PABLO LOOKING NORTH



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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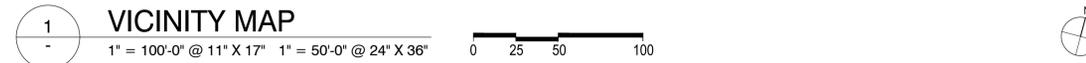
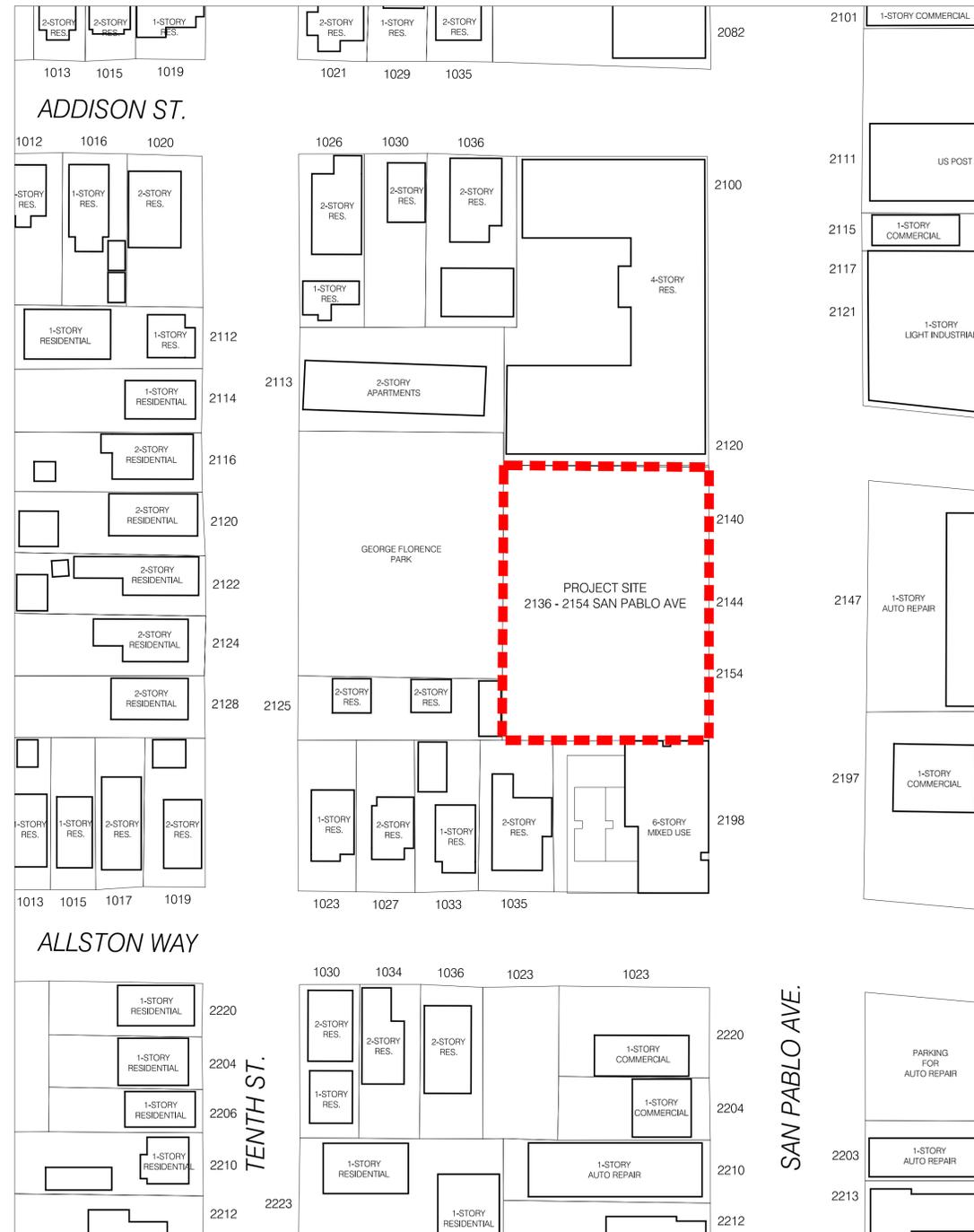
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SHEET:

VICINITY MAP

A0.6



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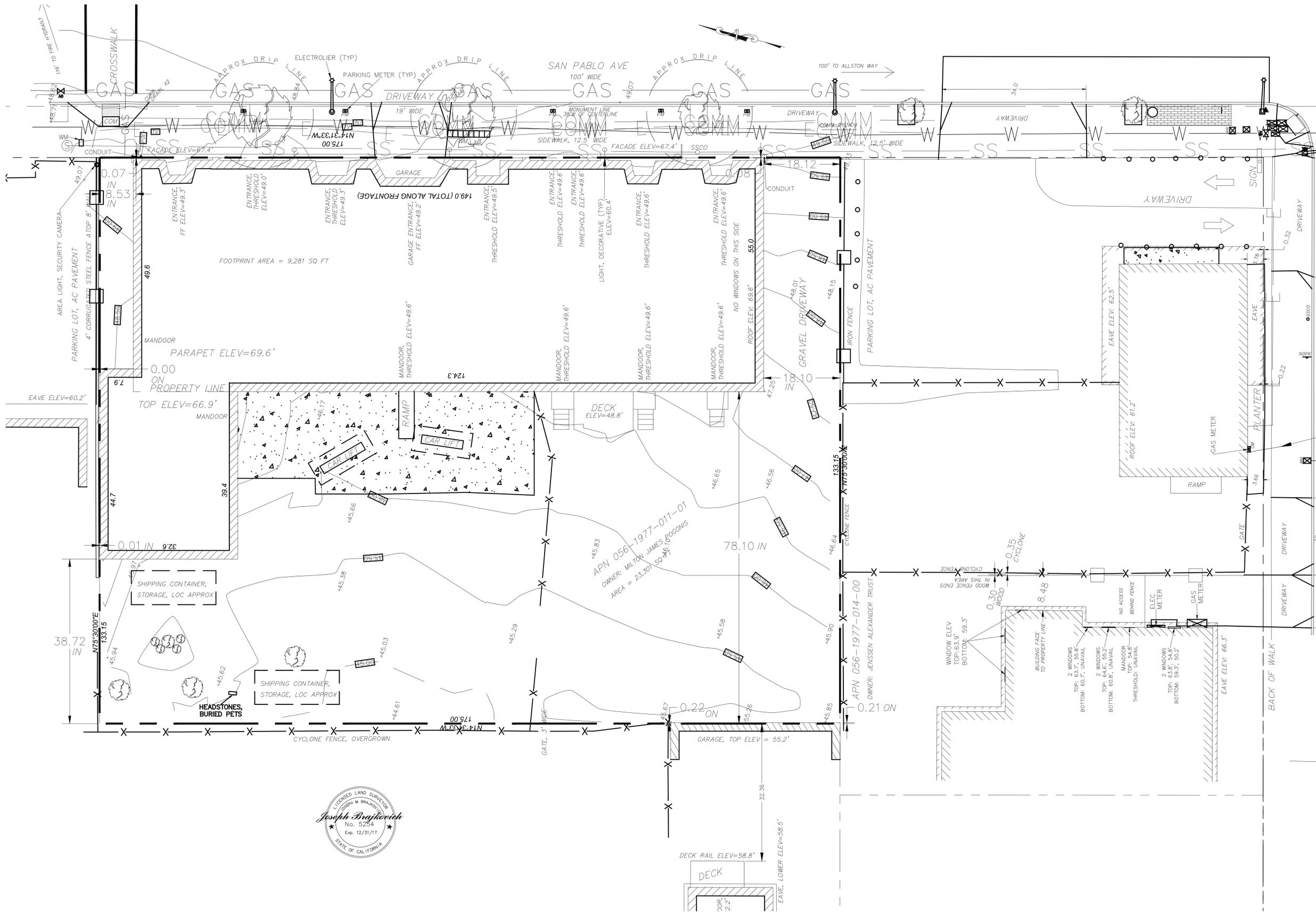
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SHEET:

SURVEY

A1.0



1 SURVEY
 3/64" = 1'-0" @ 11x17 3/32" = 1'-0" @ 24x36"

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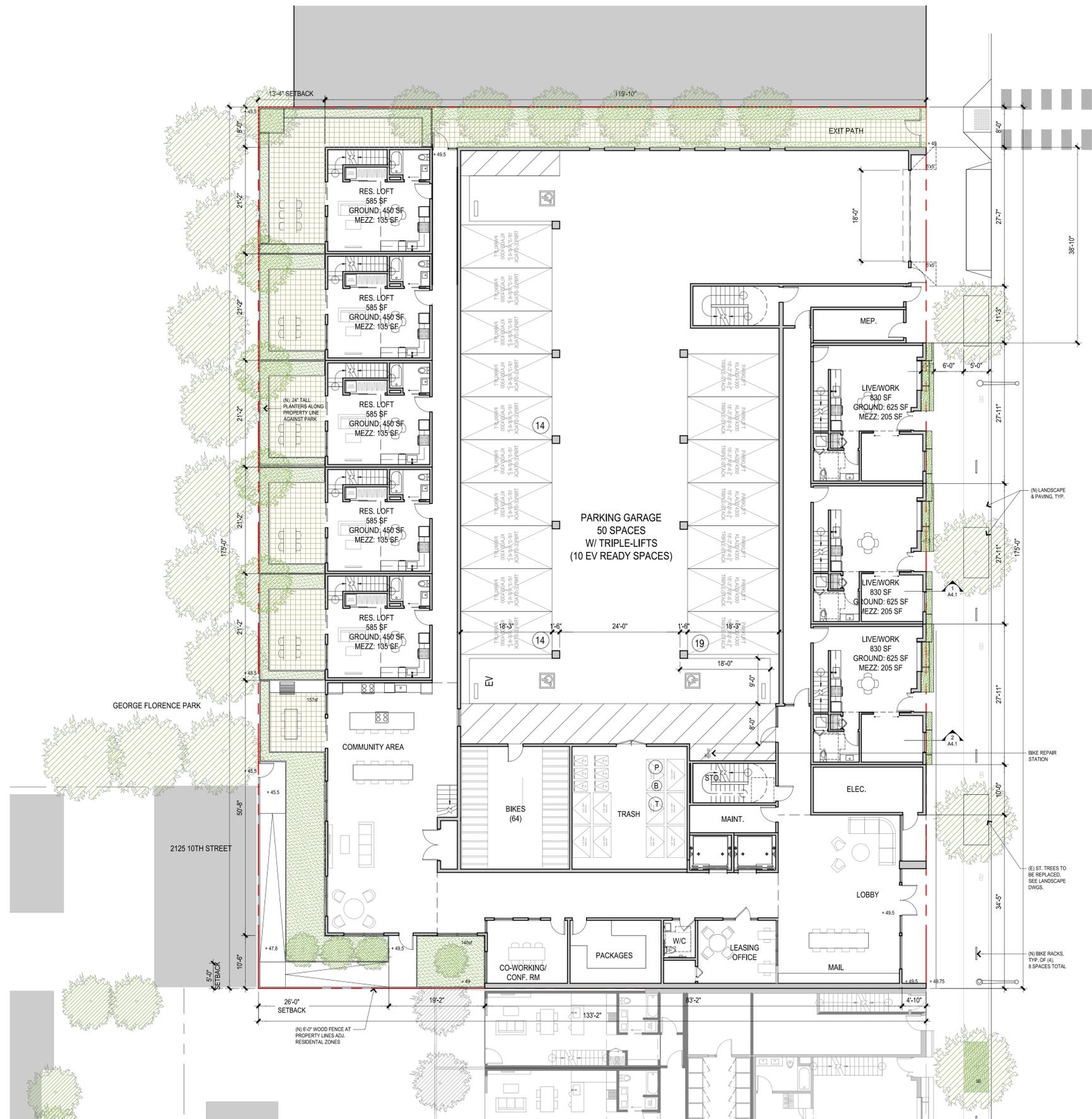
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JOB: 1831

SHEET:

FLOOR PLANS

A2.1



1 GROUND LEVEL PLAN
 3/64"=1'-0" @ 11"x17" 3/32"=1'-0" @ 24"x36"

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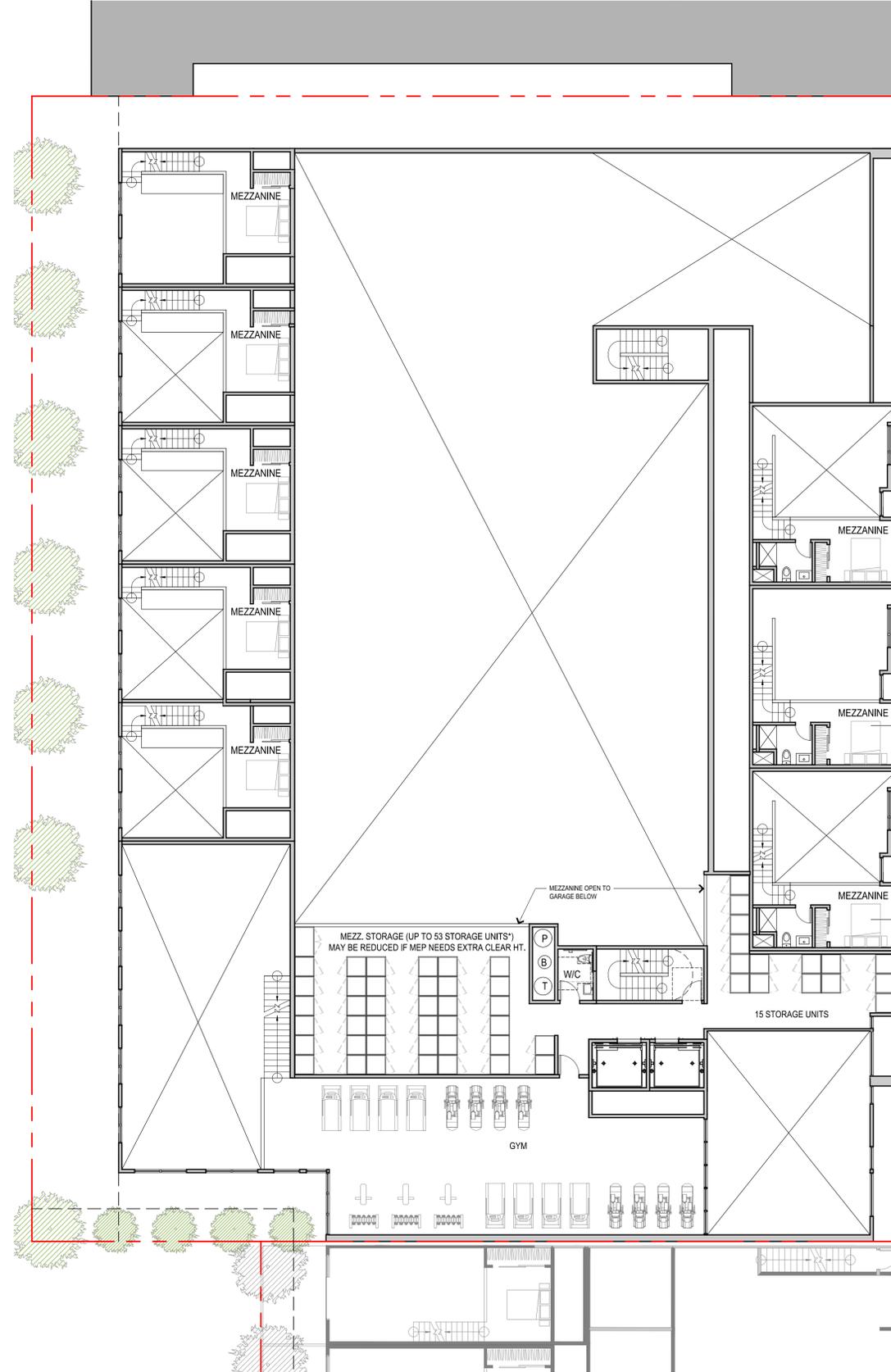
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SHEET:

FLOOR PLANS

A2.2



1 MEZZANINE PLAN
3/64"=1'-0" @ 11"x17" 3/32"=1'-0" @ 24"x36"

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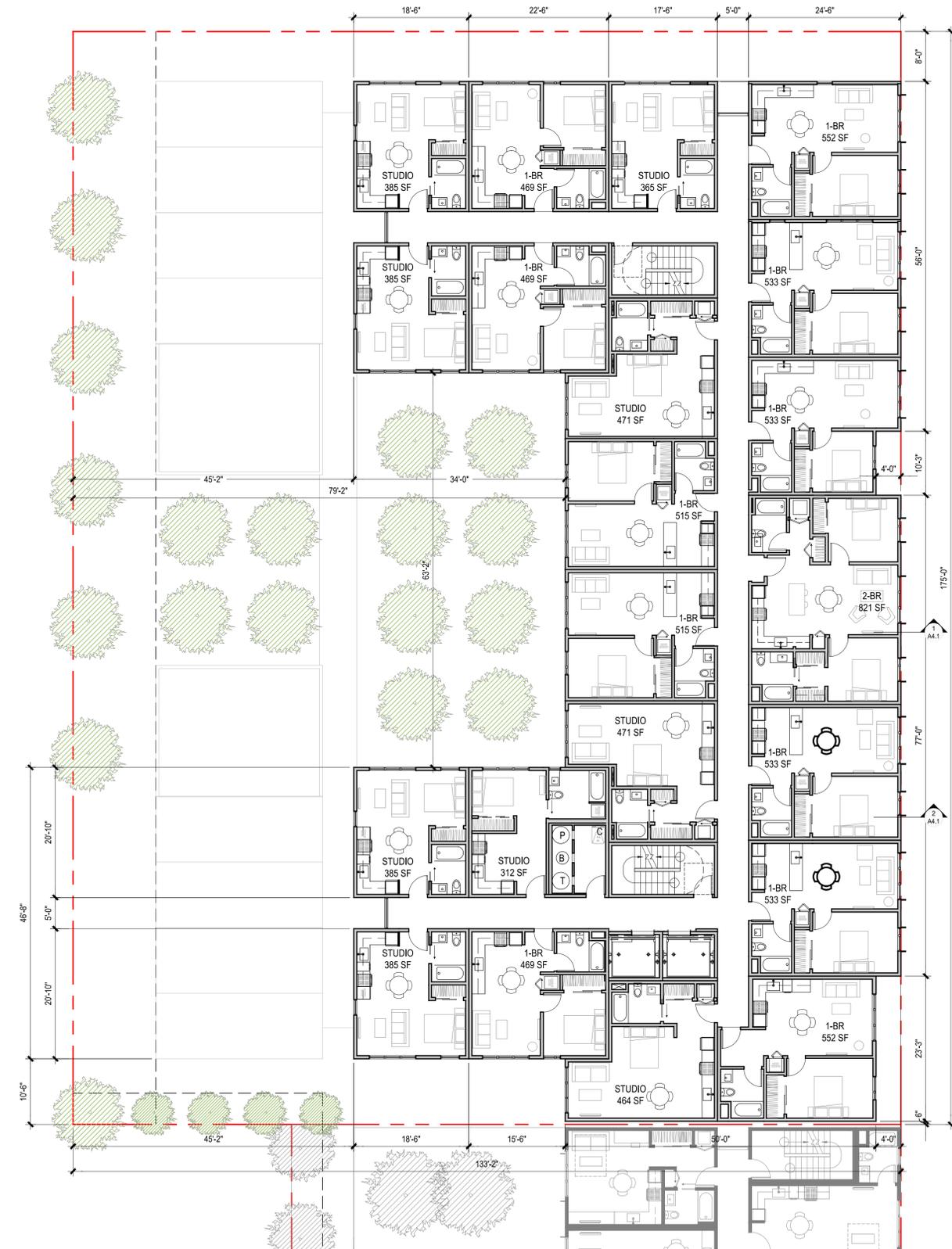
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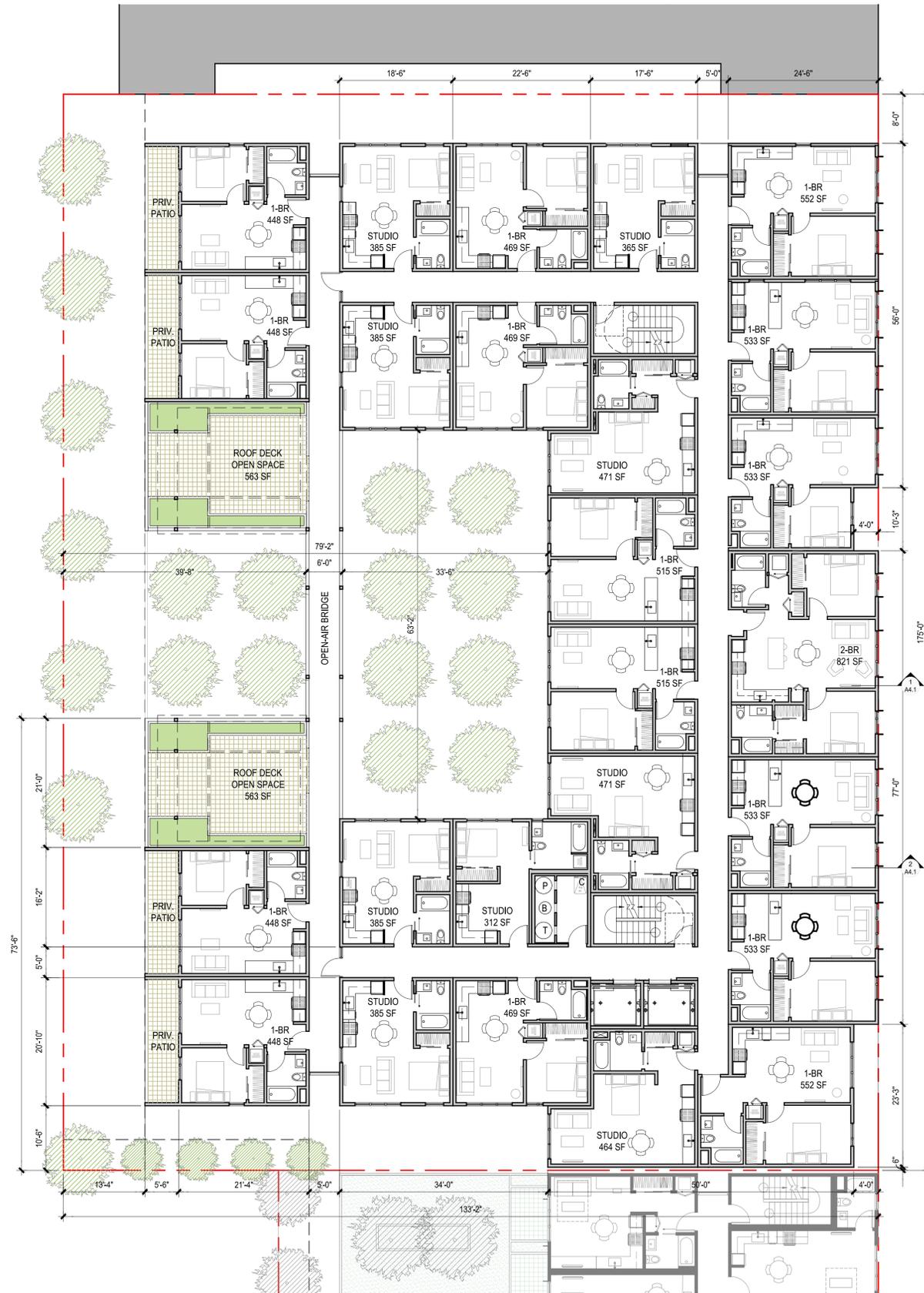
SHEET:

FLOOR PLANS

A2.4



2 PLAN AT LEVEL 5
 3/64"=1'-0" @ 11"x17" 3/32"=1'-0" @ 24"x36"



1 PLAN AT LEVEL 4
 3/64"=1'-0" @ 11"x17" 3/32"=1'-0" @ 24"x36"

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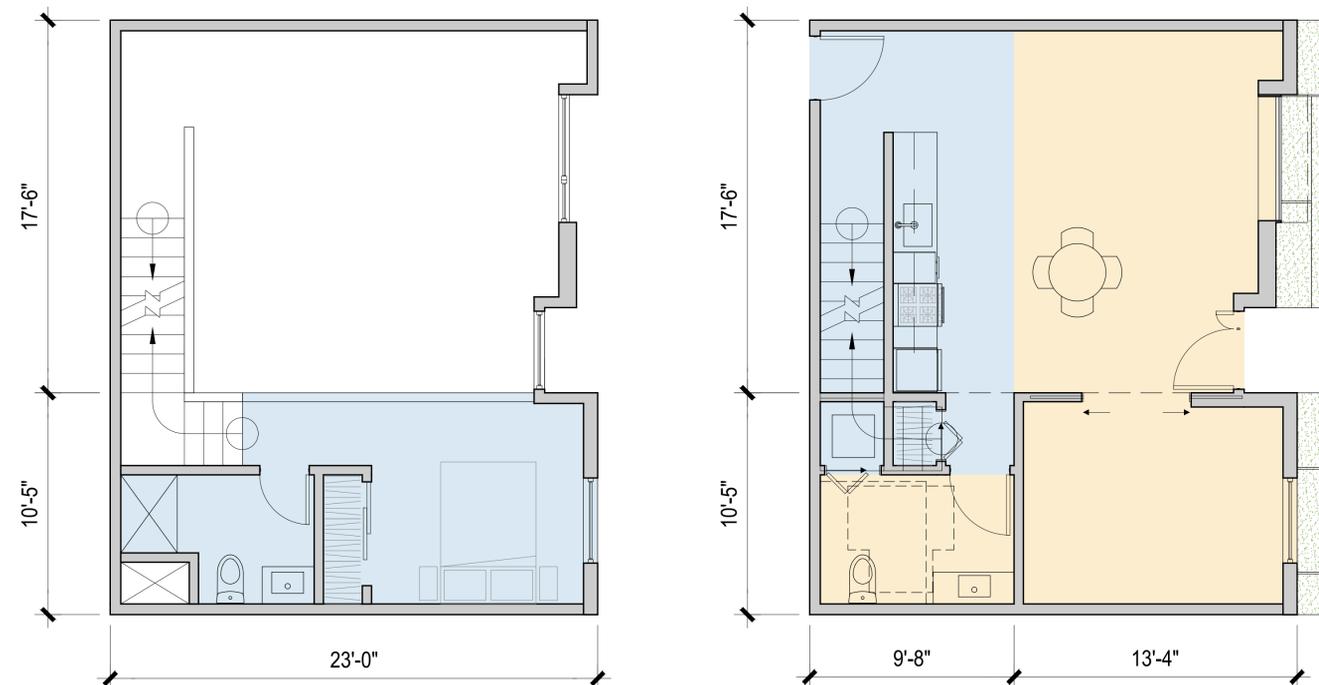
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JOB: 1831

SHEET:

LIVE/WORK
 AREA DIAGRAMS

A2.6



NON-BUSINESS HOURS KEY:



LIVE-WORK SPACE DISTRIBUTION

	Residential	Work	Total
Ground Floor	205	415	620
Mezzanine	210	0	210
Total Area	415	415	830
Subtotal %	50.0%	50.0%	100.0%
Total %	50.0%	50.0%	100.0%
Zoning Check:	Business Hours Defined Working Spaces > 60%		Waiver
State Check:	Non-Residential Areas < 50%		Yes

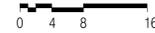
1 LIVE/WORK DIAGRAMS
 1/8"=1'-0" @ 11"x17" 1/4"=1'-0" @ 24"x36"

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**ALLSTON
 EXTENSION**



2 WEST ELEVATION
 3/64" = 1'-0" @ 11X17 3/32" = 1'-0" @ 24X36

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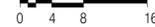
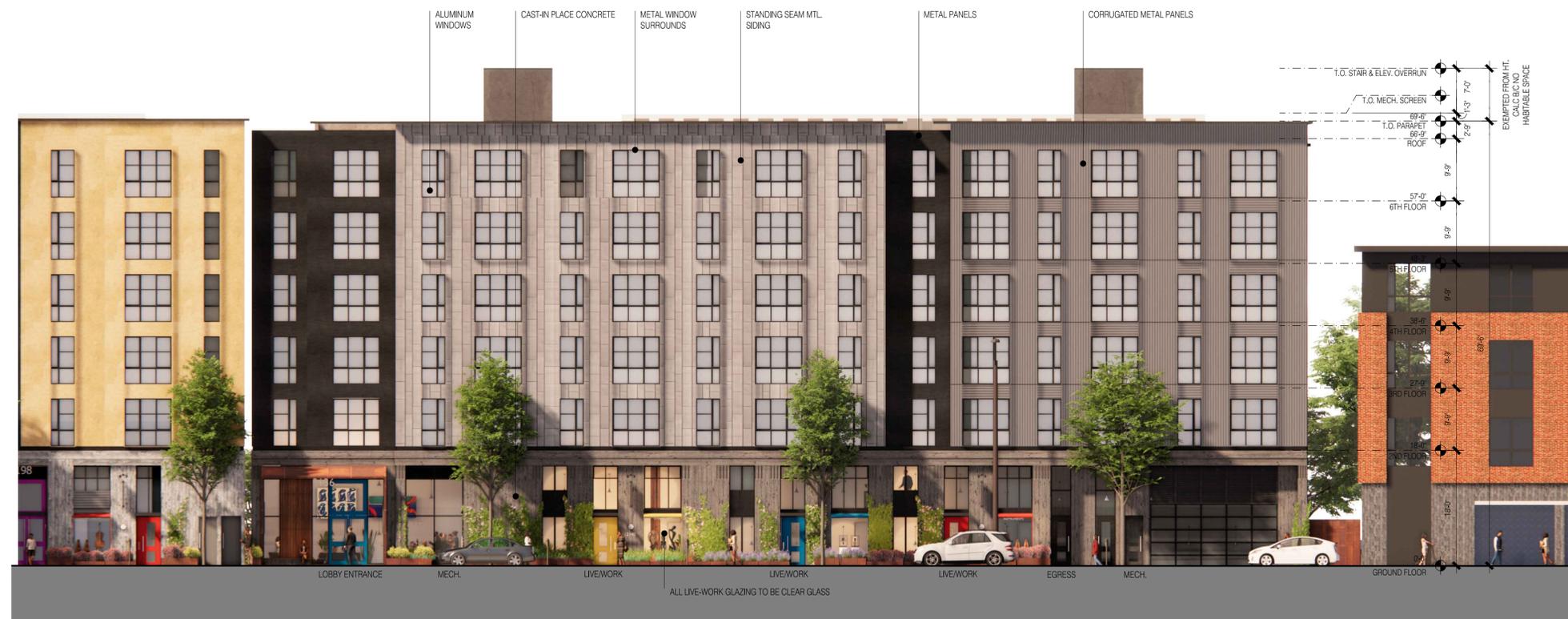
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SHEET:

BUILDING
 ELEVATIONS

A3.1



1 EAST ELEVATION
 1/32" = 1'-0" @ 11X17 2/32" = 1'-0" @ 24X36

LOBBY ENTRANCE MECH. LIVE/WORK LIVE/WORK LIVE/WORK EGRESS MECH.
 ALL LIVE-WORK GLAZING TO BE CLEAR GLASS

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JOB: 1831

SHEET:
**BUILDING
 ELEVATIONS**

A3.2



2 NORTH ELEVATION
 1/32" = 1'-0" @ 11X17 2/32" = 1'-0" @ 24X36



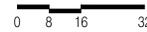
1 SOUTH ELEVATION
 1/32" = 1'-0" @ 11X17 2/32" = 1'-0" @ 24X36

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ALLSTON EXTENSION



2

STREET STRIP ELEVATION @ TENTH

1/32" = 1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

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SHEET:

STREET STRIP
ELEVATIONS



1

STREET STRIP ELEVATION @ SAN PABLO

3/128" = 1'-0" @ 11X17 3/64" = 1'-0" @ 24X36

A3.3

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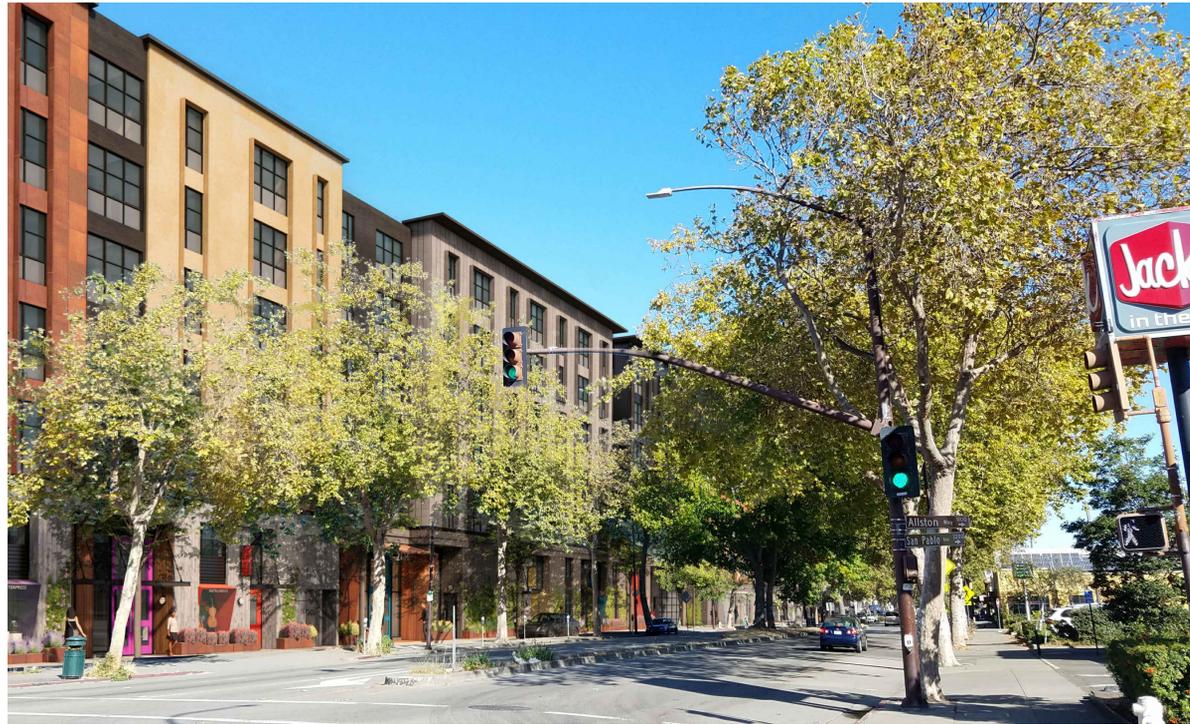
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SHEET:

PHOTO CONTEXT
VIEWS

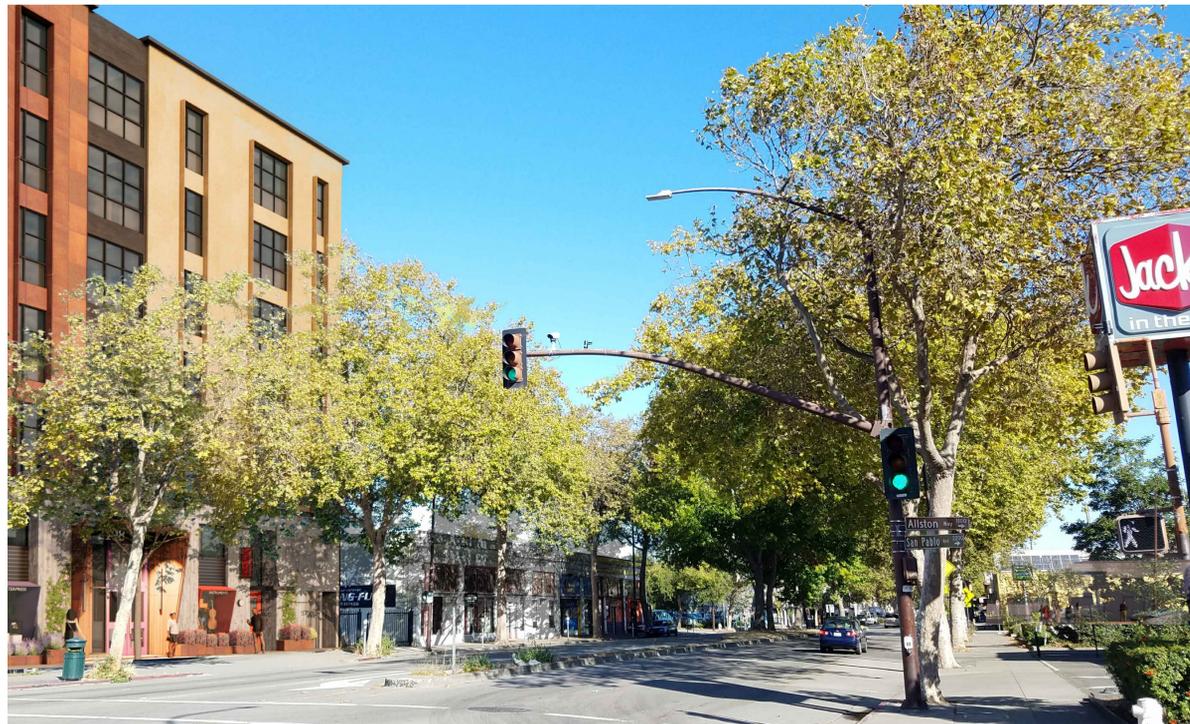
A3.4



4 SAN PABLO LOOKING NORTH - AFTER



2 SAN PABLO LOOKING SOUTH - AFTER



3 SAN PABLO LOOKING NORTH - BEFORE



1 SAN PABLO LOOKING SOUTH - BEFORE

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SHEET:

PHOTO CONTEXT
VIEWS

A3.5



2 COWPER LOOKING WEST - AFTER



1 COWPER LOOKING WEST - BEFORE

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2 TENTH LOOKING EAST - AFTER

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SHEET:

PHOTO CONTEXT
VIEWS

A3.6



1 TENTH LOOKING EAST - BEFORE

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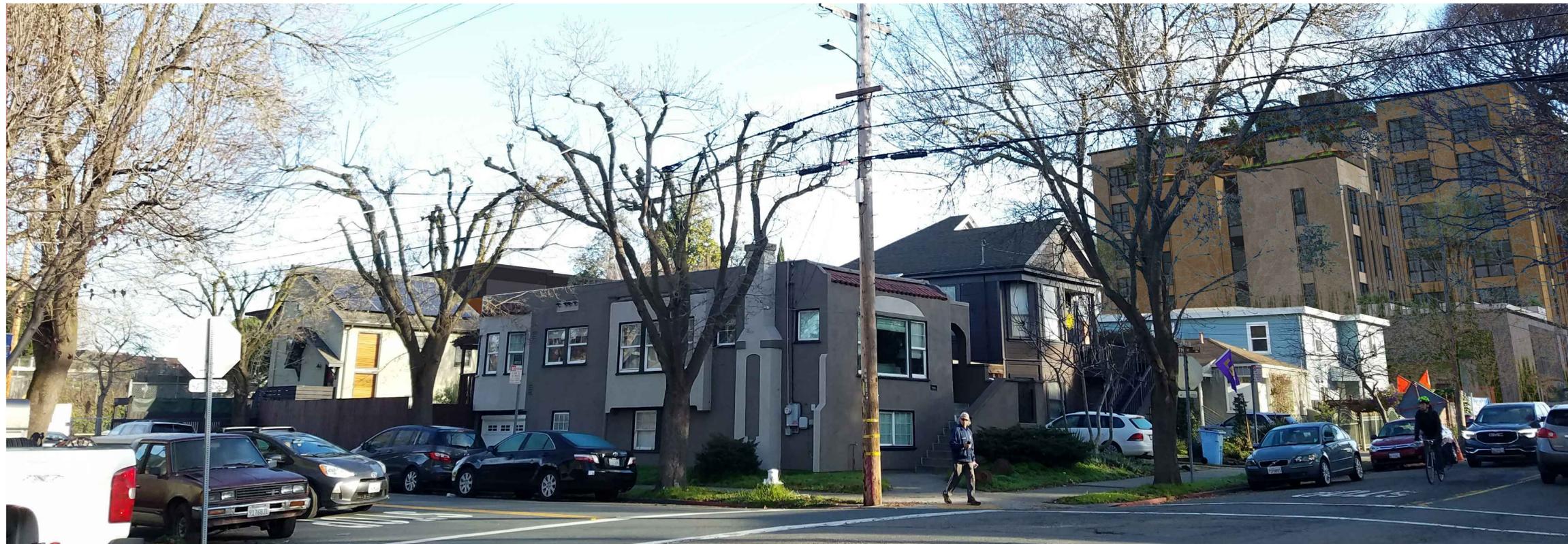
SHEET:

PHOTO CONTEXT
VIEWS

A3.7



2
ALLSTON LOOKING EAST - AFTER



1
ALLSTON LOOKING EAST - BEFORE

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SHEET:

PERSPECTIVE VIEW

A3.8



1 ALLSTON LOOKING EAST

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JOB: 1831

SHEET:

PERSPECTIVE VIEW

A3.8



1 SAN PABLO LOOKING SOUTHWEST

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SHEET:

PERSPECTIVE VIEW

A3.10



1 SAN PABLO LOOKING NORTHWEST

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SHEET:

PERSPECTIVE VIEW

A3.11



1 SIDEWALK VIEW - LOOKING NORTHWEST

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SHEET:

PERSPECTIVE VIEW

A3.12



GEORGE FLORENCE PARK LOOKING SOUTHEAST

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SHEET:

PERSPECTIVE VIEW

A3.13



GEORGE FLORENCE PARK LOOKING EAST

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PERSPECTIVE VIEW

A3.14

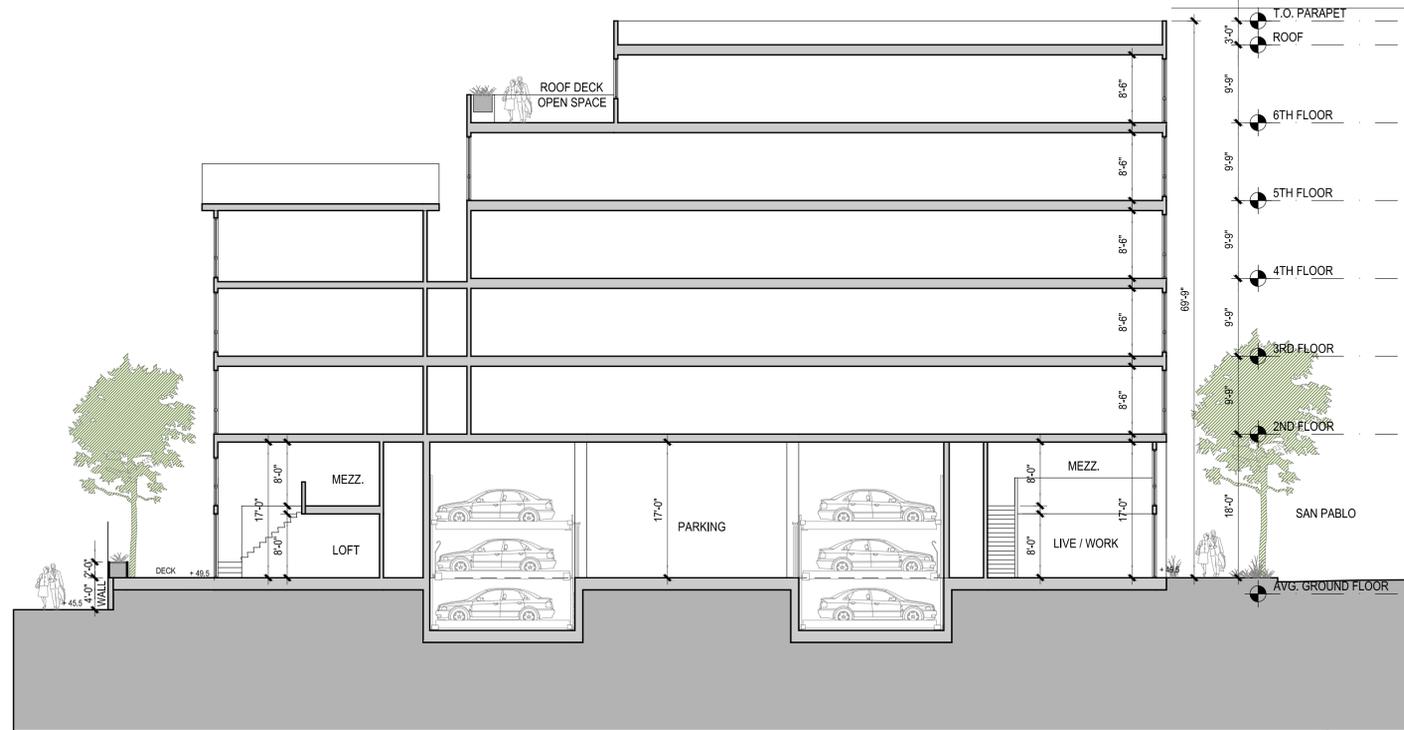


1
AERIAL VIEW

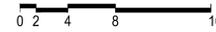
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**ALLSTON
 EXTENSION**



2
 -
E-W SECTION
 3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36



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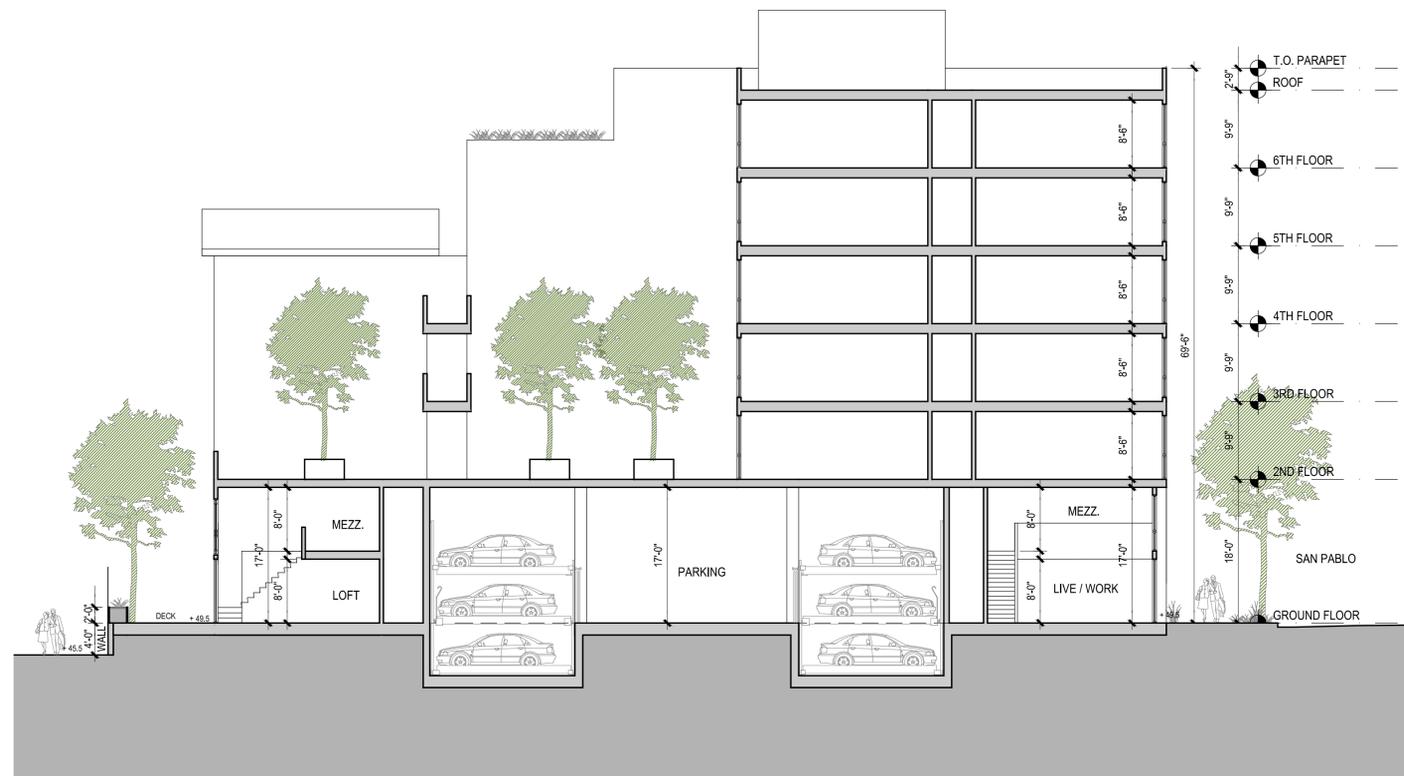
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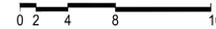
SHEET:

**BUILDING
 SECTION**

A4.1



1
 -
E-W SECTION THROUGH PODIUM GARDEN
 3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36





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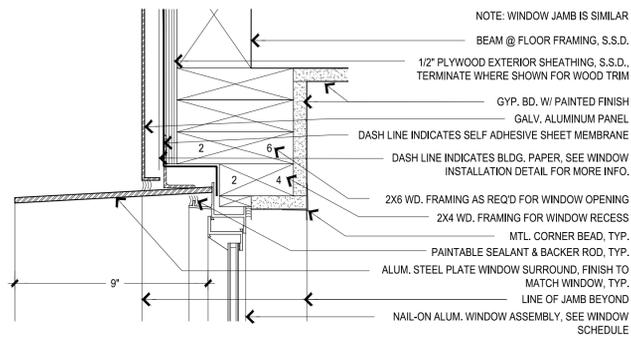
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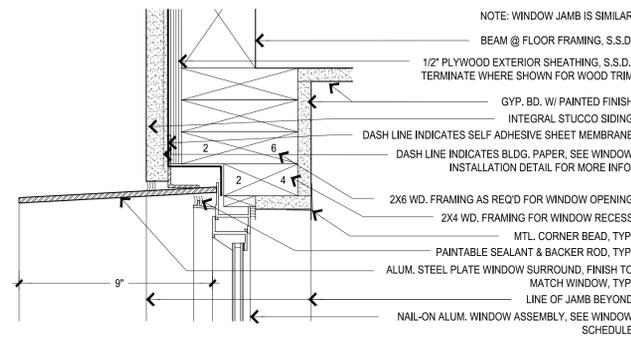
SHEET:

WALL SECTIONS & DETAILS

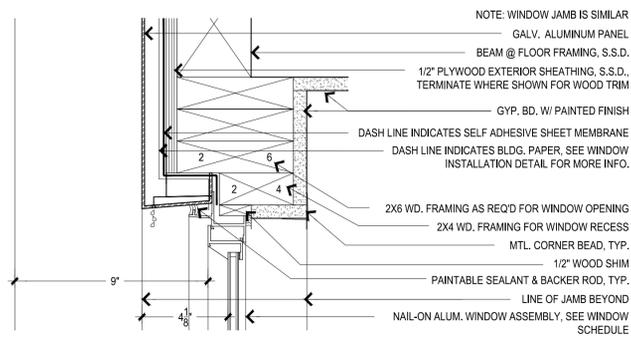
A4.2



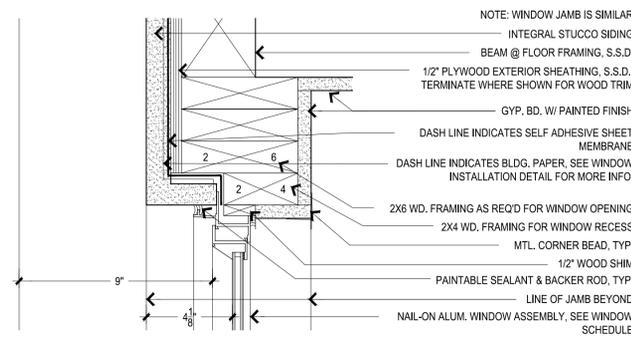
5 MTL. HEAD @ SURROUND
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



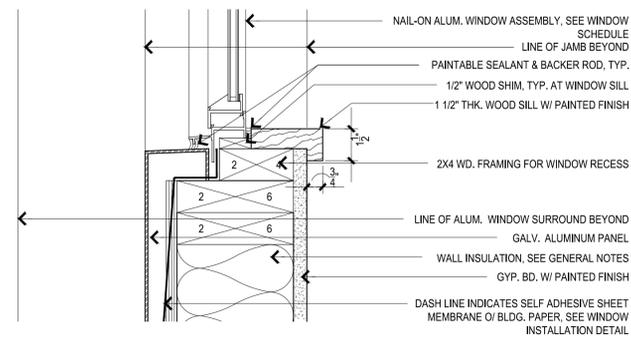
1 STUCCO HEAD @ SURROUND
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



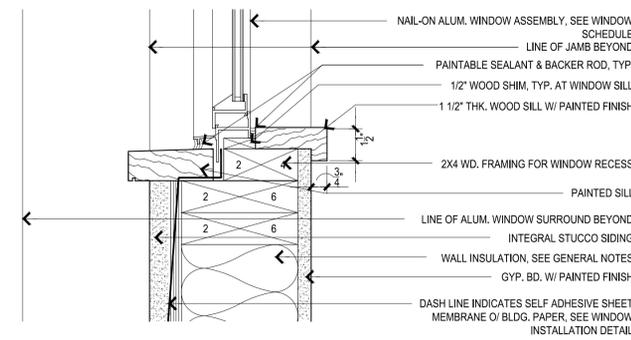
6 TYP. MTL. HEAD / JAMB
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



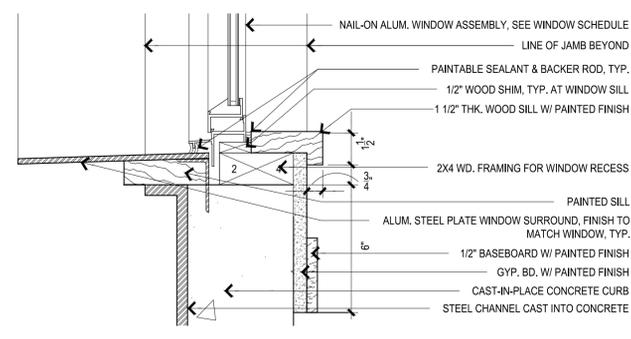
2 TYP. STUCCO HEAD / JAMB
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



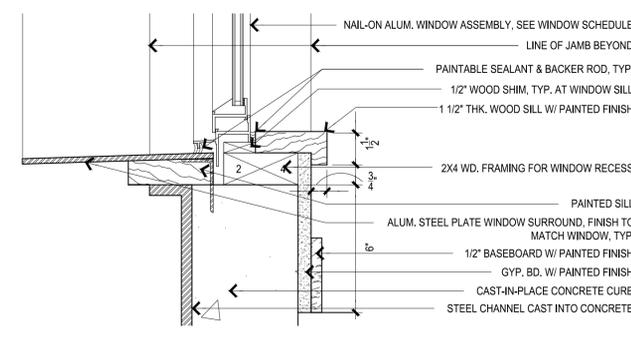
7 TYP. MTL. SILL
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



3 TYP. STUCCO SILL
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



8 MTL. SILL @ CONC. CURB
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



4 STUCCO SILL @ CONC. CURB
1 1/2"=1'-0" @ 11X17 3"=1'-0" @ 24X36



2 ELEVATION DETAIL
1/8"=1'-0" @ 11X17 1/4"=1'-0" @ 24X36

1 SECTION
1/8"=1'-0" @ 11X17 1/4"=1'-0" @ 24X36

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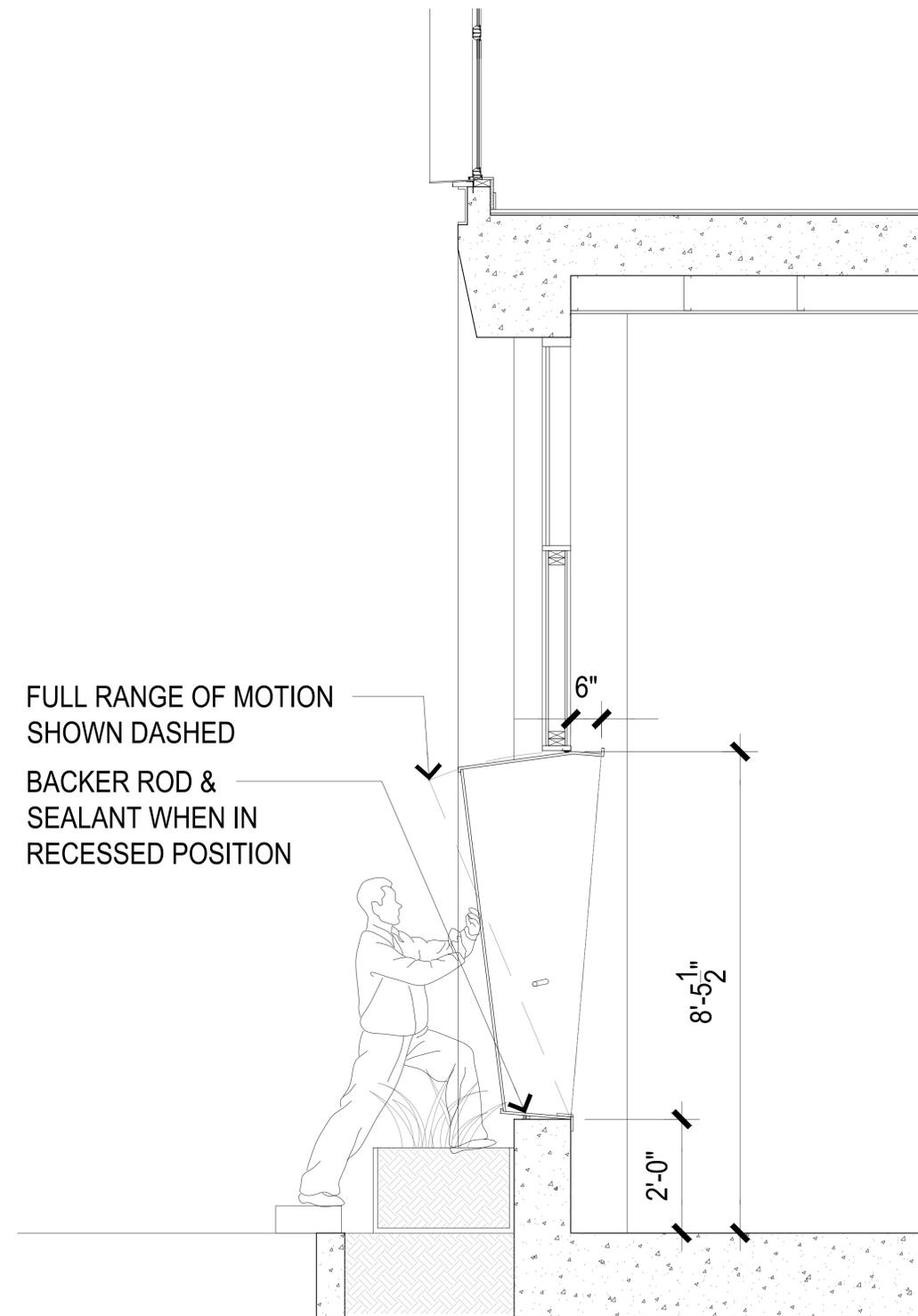
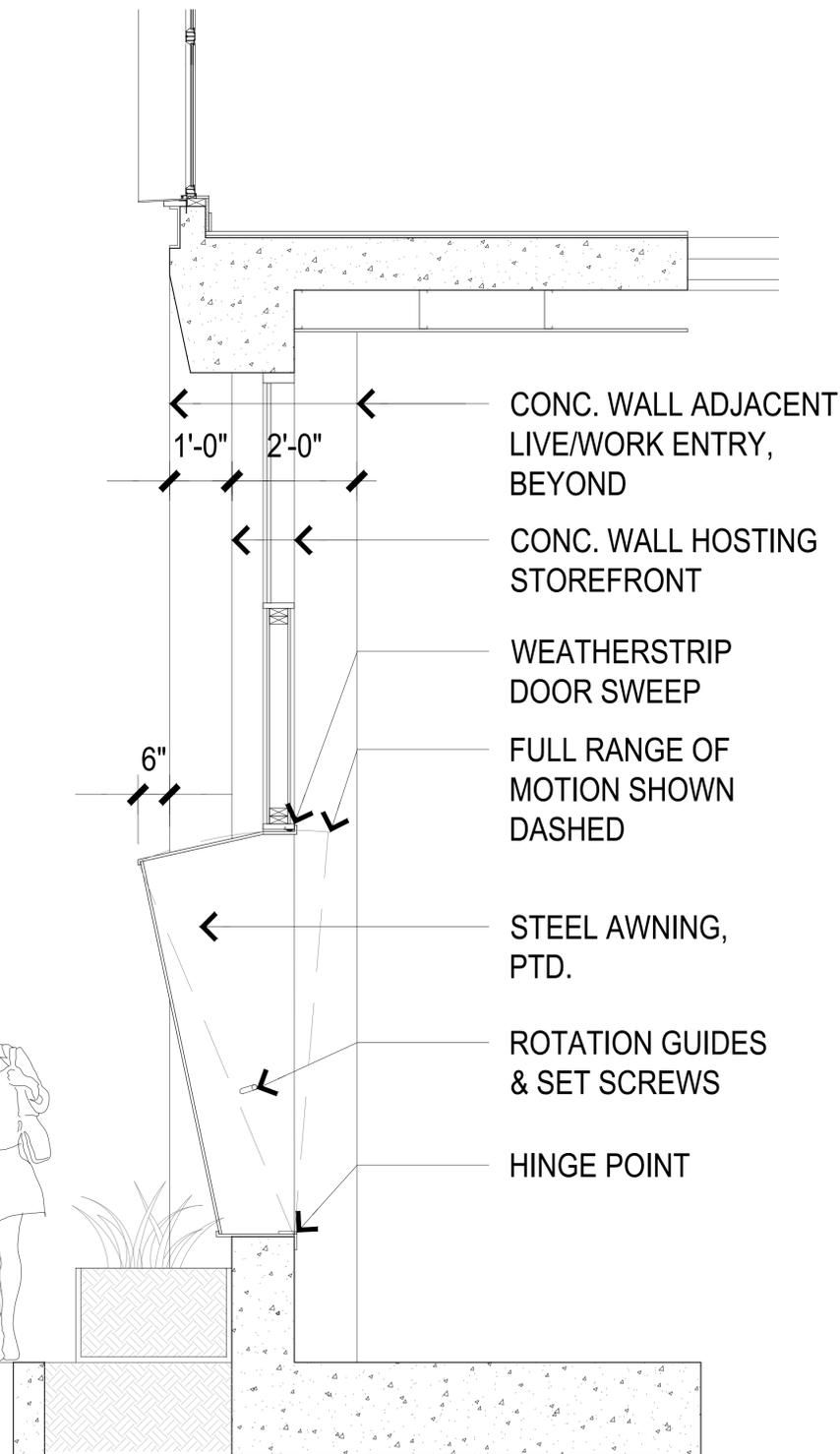
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JOB: 1831

SHEET:

**STOREFRONT
 AWNING SECTION**

A4.3



1 SECTION THRU STOREFRONT (OPEN)
 3/8"=1'-0" @ 11X17 3/4"=1'-0" @ 24X36



2 SECTION THRU STOREFRONT (RECESSED)
 3/8"=1'-0" @ 11X17 3/4"=1'-0" @ 24X36



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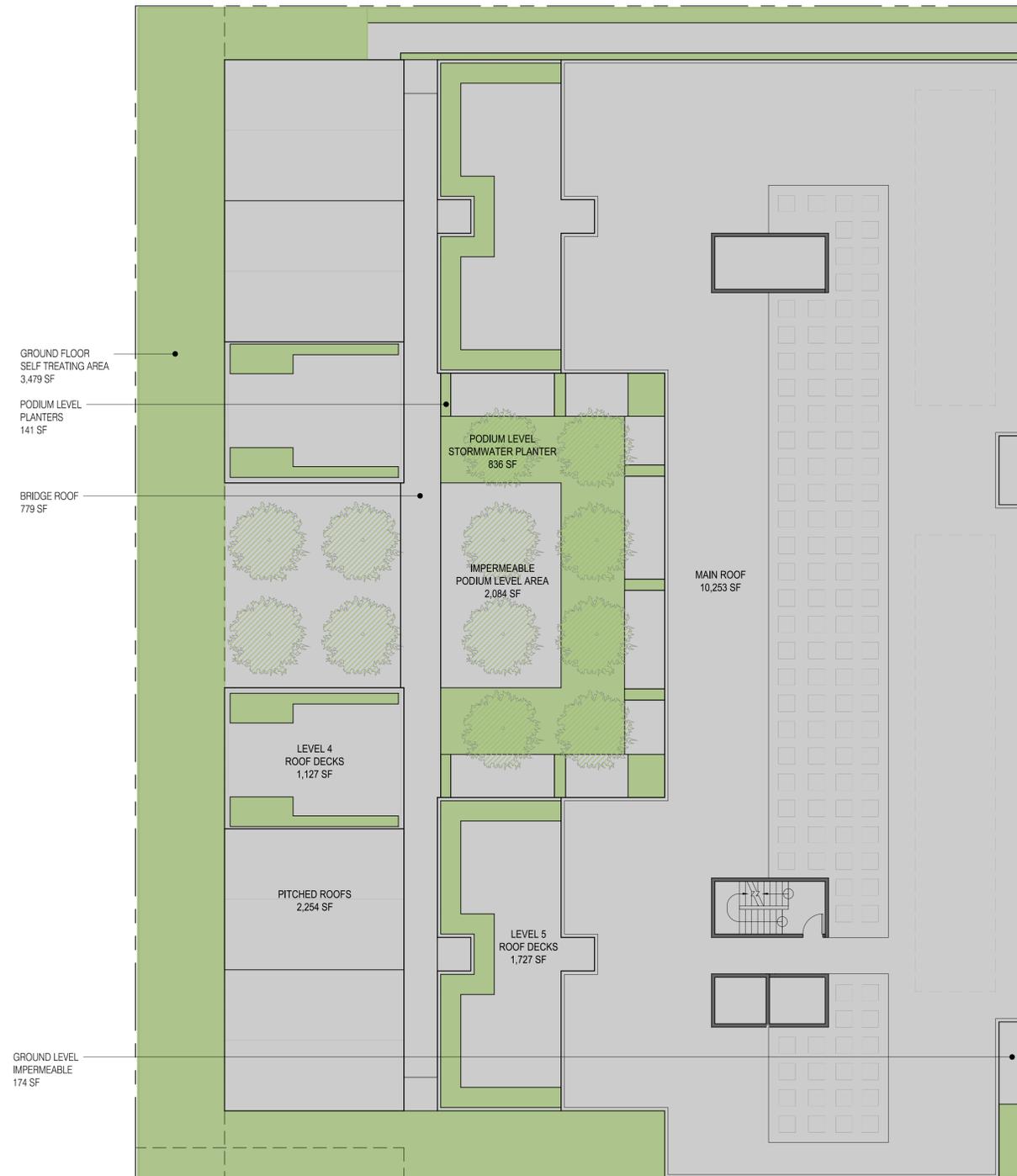
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SHEET:

PRELIMINARY STORMWATER MANAGEMENT PLAN

SW-1



2 PRELIMINARY STORMWATER MANAGEMENT PLAN
1/16"=1'-0" @ 11x17 1/8"=1'-0" @ 24x36
0 4 8 16

STORMWATER CALCULATIONS									
C3 APPLICABILITY									
TOTAL SITE AREA	23,301								
C3 THRESHOLD	10,000								
C3 REGULATED PROJECT	YES								
REQUIRED FLOW-THROUGH PLANTERS									
LOCATION	GROSS SF	SELF-TREATING AREA	TREATMENT AREA	%	TOTAL TREATMENT AREA	TOTAL PROVIDED PLANTER AREA	PERVIOUS PAVING	FILTER VAULT	
ROOFS	13286	0	13286	4%	531				
ROOF DECKS	2854	780	2074	4%	83				
PODIUM	3060	977	2083	4%	83	836			
GROUND LEVEL	4101	3479	622	4%	25				
TOTAL	23301	5236	18065	4%	723	836	0	0	
PROVIDED TREATMENT PLANTERS									
LEVEL	PLANTER				PLANTER AREA				
PODIUM LEVEL	P1				836				
TOTAL PLANTERS					836				
SPECIAL PROJECTS (Appendix K)									
CRITERIA FOR CATEGORY C (TRANSIT ORIENTED DEVELOPMENT) SPECIAL PROJECTS									
1. Be characterized as a non auto-related land use project. That is, Category C specifically excludes any Regulated Project that is a stand-alone surface parking lot; car dealership; auto and truck rental facility with onsite surface storage; fast-food restaurant, bank or pharmacy with drive-through lanes; gas station, car wash, auto repair and service facility; or other auto-related project unrelated to the concept of Transit-Oriented Development.									Yes
2. If a commercial, achieve at least an FAR of 2:1.									N/A
3. If a residential development project, achieve at least a density of 25 DU/Ac.									N/A
4. If a mixed use development project, achieve at least an FAR of 2:1 or a gross density of 25 DU/Ac.									Yes
LOCATION CREDITS									
% of the C.3.d Amount of Runoff that MayReceive Non-LID	Project Site Location							QUALIFIES	
50%	50% or more of the site is located within a ¼ mile radius of an existing or planned transit hub							N/A	
25%	50% or more of the site is located within a ½ mile radius of an existing or planned transit hub							YES	
25%	100% of the site is located within a PDA							N/A	
DENSITY CREDITS									
% of the C.3.d Amount of Runoff that MayReceive Non-LID	Land Use Type	Density Required to Obtain the Density Credit	PROPOSED	QUALIFIES					
10%	Commercial	2 FAR		N/A					
10%	Residential or Mixed Use	30 DU/Acre	217	YES					
20%	Commercial	4 FAR		N/A					
20%	Residential or Mixed Use	60 DU/Acre	217	YES					
30%	Commercial	6:1 FAR		N/A					
30%	Residential or Mixed Use	100 DU/Acre	217	YES					
MINIMIZED SURFACE PARKING CREDITS									
To qualify for any Minimized Surface Parking Credits, a Category C Special Project must first qualify for one of the Location Credits listed in Provision C.3.e.ii.(5)(c) above. (i) A Category C Special									
% of the C.3.d Amount of Runoff that MayReceive Non-LID	Percentage of the Total Post-Project Impervious Surface Dedicated to At-Grade, Surface Parking						PROPOSED	QUALIFIES	
10%	10% or less						0	YES	
20%	0% (except for emergency vehicle access, ADA accessibility and passenger and freight loading zones)						0	YES	
TOTAL CREDITS	75%								
LOCATION CREDITS	25%								
DENSITY CREDITS	30%								
MINIMIZED SURFACE PARKING CREDITS	20%								

1 STORMWATER MANAGEMENT DATA

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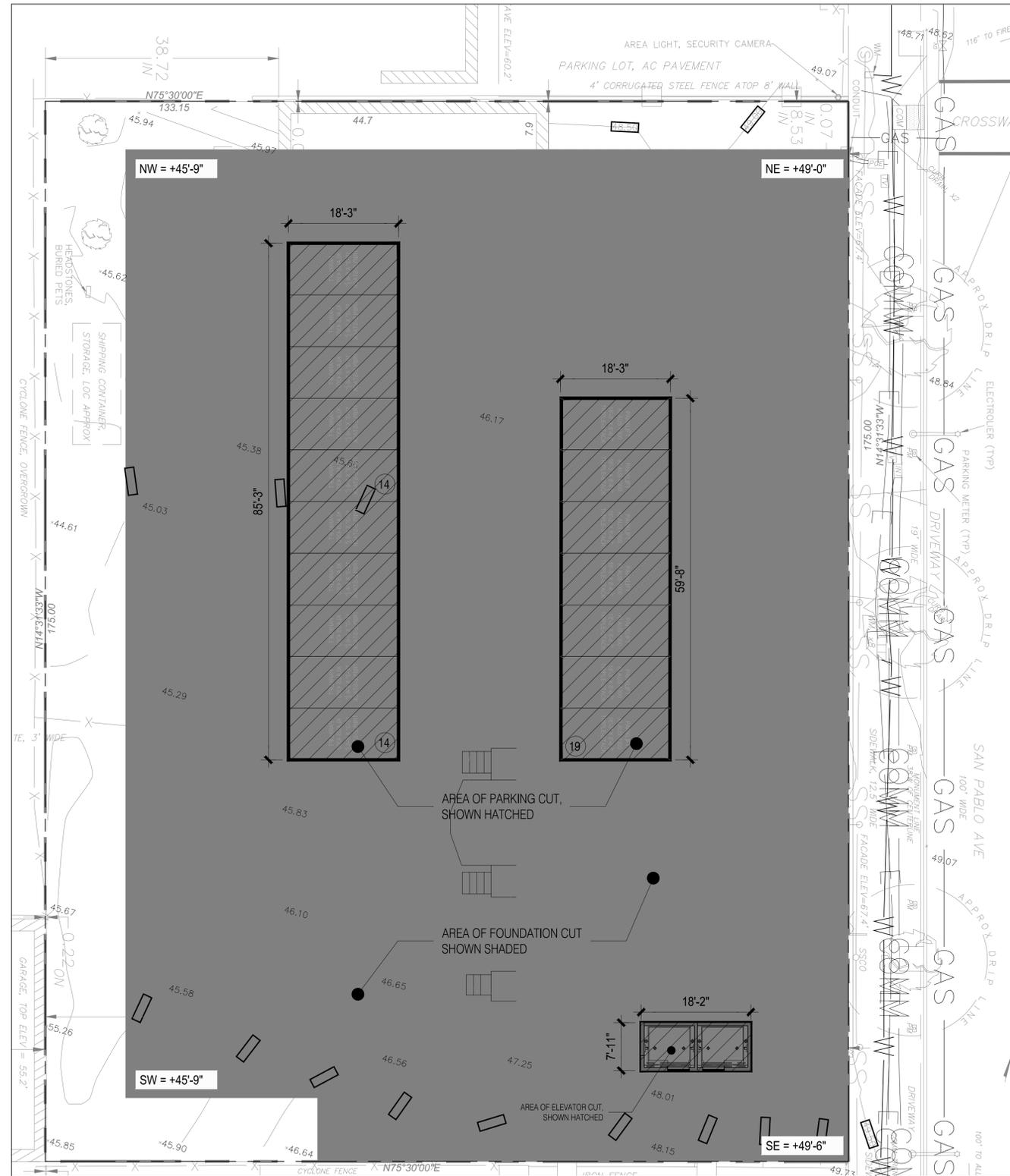
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SHEET:

**CONCEPTUAL
 GRADING PLAN**

G-1



ESTIMATED QUANTITIES AND LOCATIONS OF FOUNDATION CUTS

		FEET	YARDS
TOTAL CUBIC YARDS OF CUT			-364 (CUBIC YARDS)
TOTAL AREA OF CUT		19678	2186 (SQUARE YARDS)
AVERAGE DEPTH OF CUT	EXISTING ELEVATION (FT)	FINAL ELEVATION (FT)	-0.5
CORNER 1 - NW	45.75	48	-2.25
CORNER 2 - NE	49	48	1
CORNER 3 - SE	49.5	48	1.5
CORNER 4 - SW	45.75	48	-2.25

ESTIMATED QUANTITIES AND LOCATIONS OF PARKING & ELEVATOR PIT CUTS

		FEET	YARDS
TOTAL CUBIC YARDS OF CUT			695 (CUBIC YARDS)
TOTAL AREA OF CUT		2779	309 (SQUARE YARDS)
LOCATION OF CUT	EXISTING ELEVATION (FT)	FINAL ELEVATION (FT)	6.75
PARKING PIT	48	41.25	6.75
ELEVATOR PIT	48	43	5

CUMULATIVE EXCAVATED QUANTITIES

		FEET	YARDS
TOTAL CUBIC YARDS OF CUT			330 (CUBIC YARDS)

2 ESTIMATED CUT/FILL DATA

1 CONCEPTUAL GRADING PLAN

1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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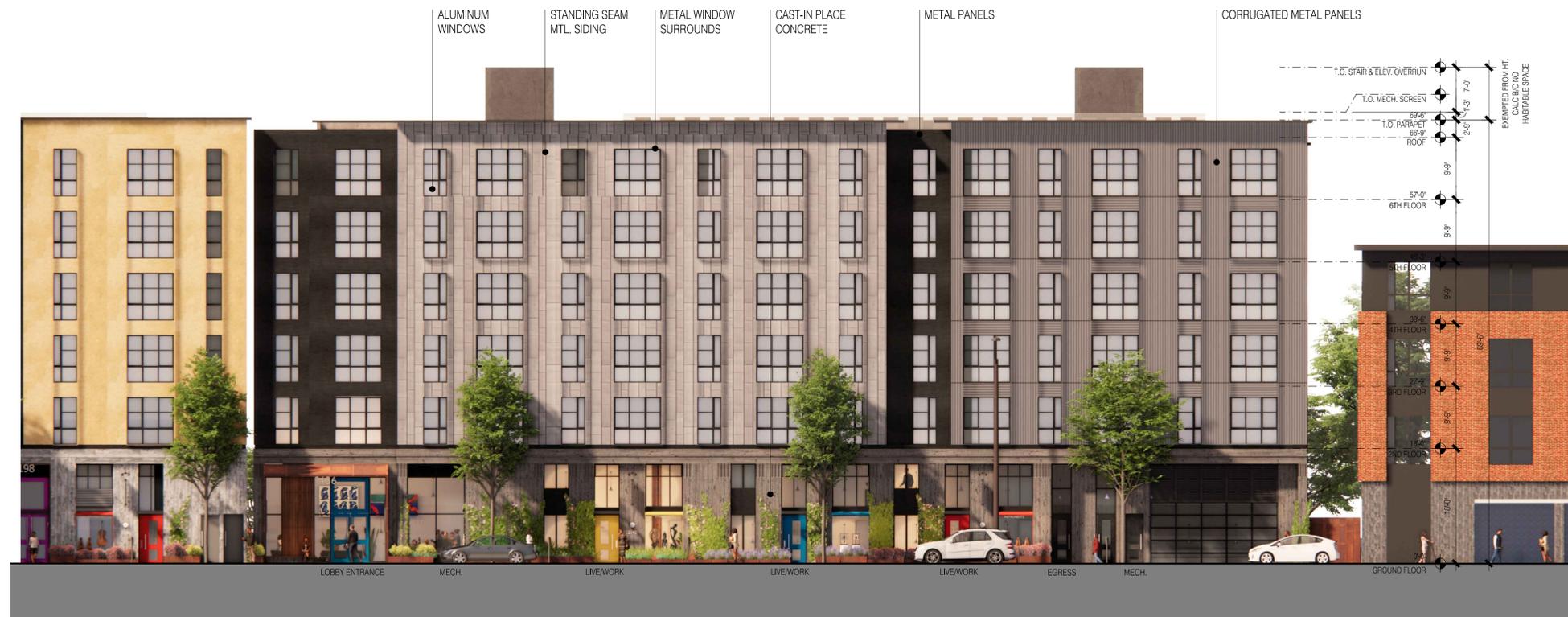
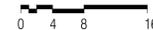
SHEET:

MATERIAL
BOARD

MAT



2 WEST ELEVATION
3/64"=1'-0" @ 11X17 3/32" = 1'-0" @ 24X36



1 EAST ELEVATION
3/64"=1'-0" @ 11X17 3/32" = 1'-0" @ 24X36



STANDING SEAM METAL SIDING



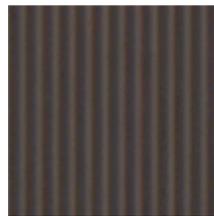
INTEGRAL COLOR STUCCO
STEEL HARD TROWEL FINISH



CAST-IN-PLACE CONCRETE



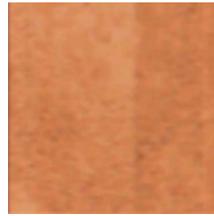
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STEEL HARD TROWEL FINISH



CORRUGATED METAL PANELS



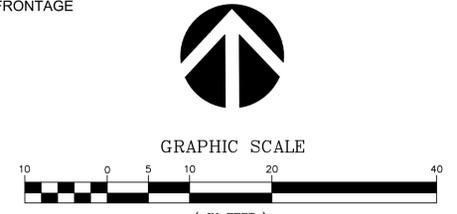
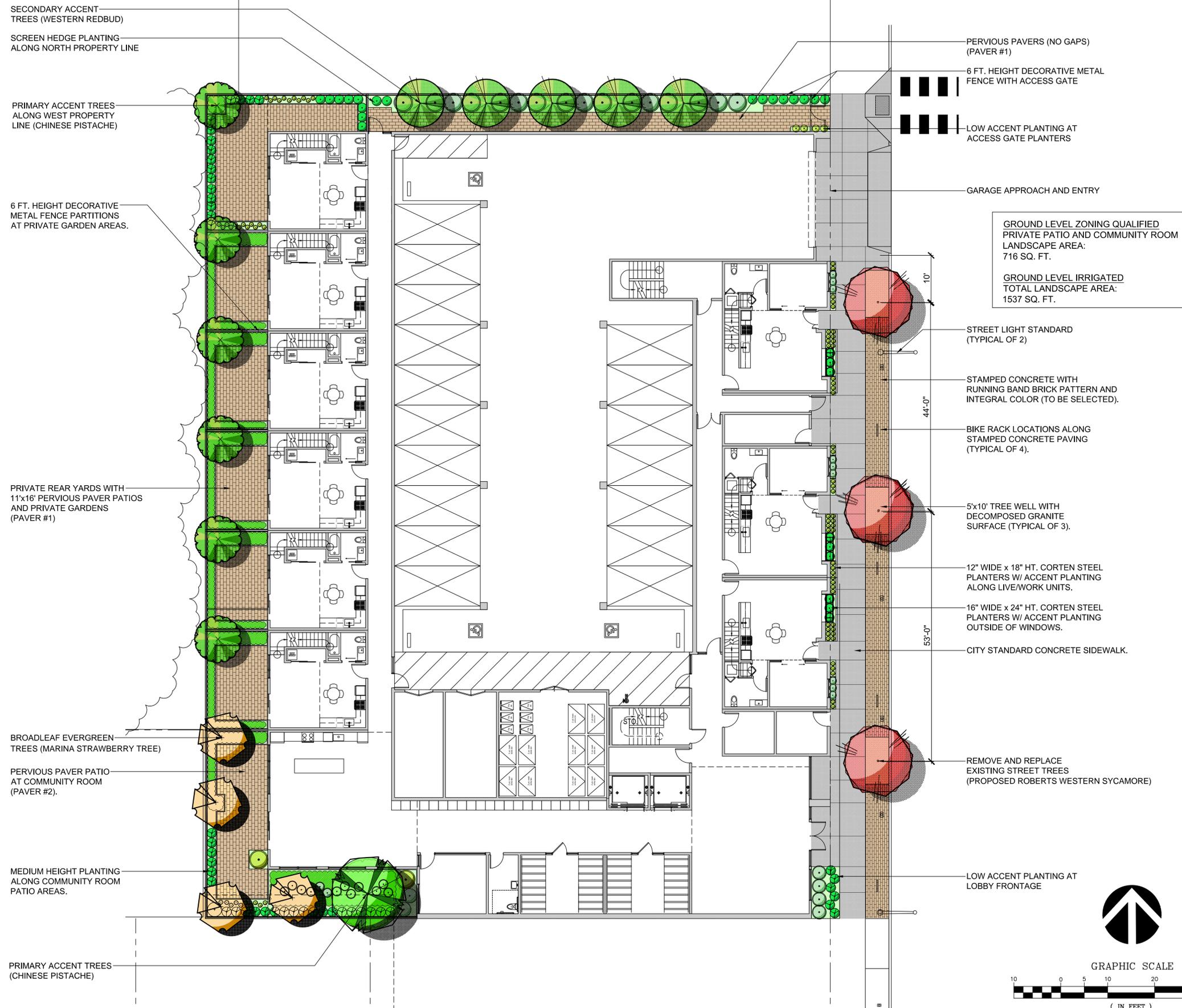
INTEGRAL COLOR STUCCO
STEEL HARD TROWEL FINISH



INTEGRAL COLOR STUCCO
STEEL HARD TROWEL FINISH



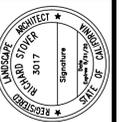
INTEGRAL COLOR STUCCO
STEEL HARD TROWEL FINISH



REFER TO SHEET L1.5 FOR IMAGES AND RECOMMENDED PLANT LIST.

REVISIONS	

Thomas Bank & Associates, L.L.P.
 Landscape Architects
 1000 University Ave, Suite 4
 Berkeley, CA 94702
 PH: 925.937.2583



ALLSTON EXTENSION
 2136-2154 SAN PABLO AVE
 BERKELEY, CALIFORNIA

GROUND LEVEL
 PRELIMINARY
 LANDSCAPE PLAN

DESIGNED:	DRAWN:
CHECKED:	JOB NO:
DATE 1-23-20	
SCALE	

SHEET
L1.1
 OF X SHEETS

REVISIONS	

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 PH: 925.937.2583

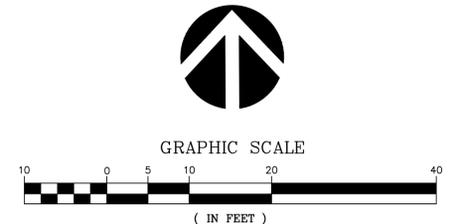
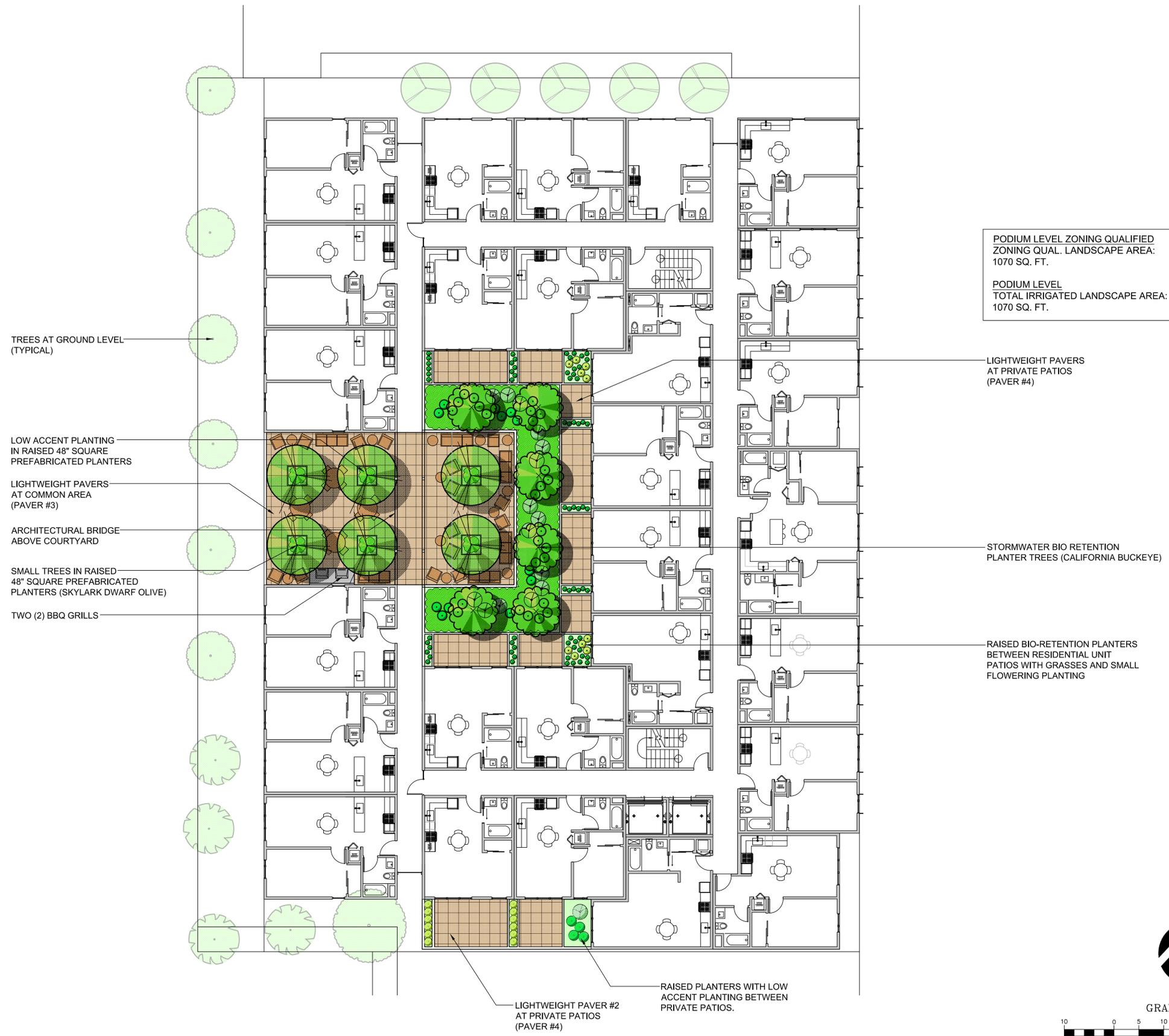


ALLSTON EXTENSION
2136-2154 SAN PABLO AVE
 BERKELEY, CALIFORNIA

**PODIUM LEVEL
 PRELIMINARY
 LANDSCAPE PLAN**

DESIGNED:	DRAWN:
CHECKED:	JOB NO:
DATE 1-23-20	
SCALE	

SHEET
L1.2
 OF X SHEETS



REFER TO SHEET L1.5 FOR IMAGES AND RECOMMENDED PLANT LIST.

42" HT. PREFABRICATED
 PLANTER WITH ACCENT
 PLANTING.

OUTDOOR PATIOS FOR
 RESIDENTIAL UNITS
 WITH ACCENT PAVER #5.

COVERED PATIO WITH TABLE
 AND COUCH SEATING
 (ACCENT PAVER #5).

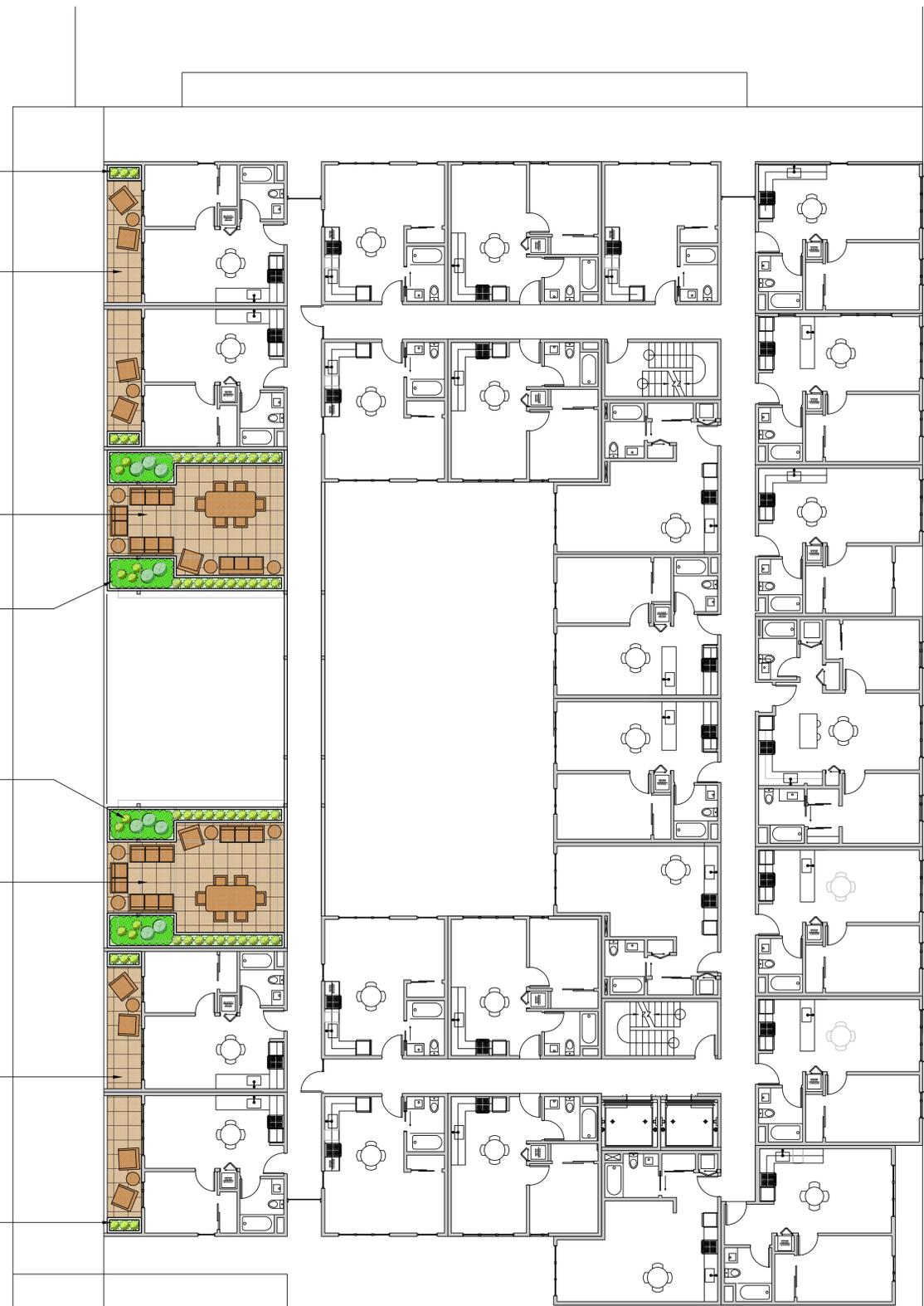
42" HT. PRECAST PLANTERS
 WITH LOW ACCENT PLANTING.

42" HT. PRECAST PLANTERS
 WITH LOW ACCENT PLANTING.

COVERED PATIO WITH TABLE
 AND COUCH SEATING
 (ACCENT PAVER #5).

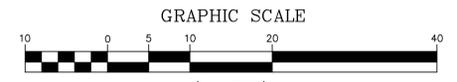
OUTDOOR PATIOS FOR
 RESIDENTIAL UNITS
 WITH ACCENT PAVER #5.

42" HT. PREFABRICATED
 PLANTER WITH ACCENT
 PLANTING.



FOURTH FLOOR LEVEL ZONING QUALIFIED
 ZONING QUALIFIED LANDSCAPE AREA:
 266 SQ. FT.

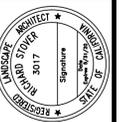
FOURTH FLOOR LEVEL
 TOTAL IRRIGATED LANDSCAPE AREA:
 294 SQ. FT.



REFER TO SHEET L1.5 FOR IMAGES AND
 RECOMMENDED PLANT LIST.

REVISIONS	

Thomas Bank & Associates, LLP
 Landscape Architects
 1000 University Ave, Suite 4
 Berkeley, CA 94702
 PH: 925.937.2583

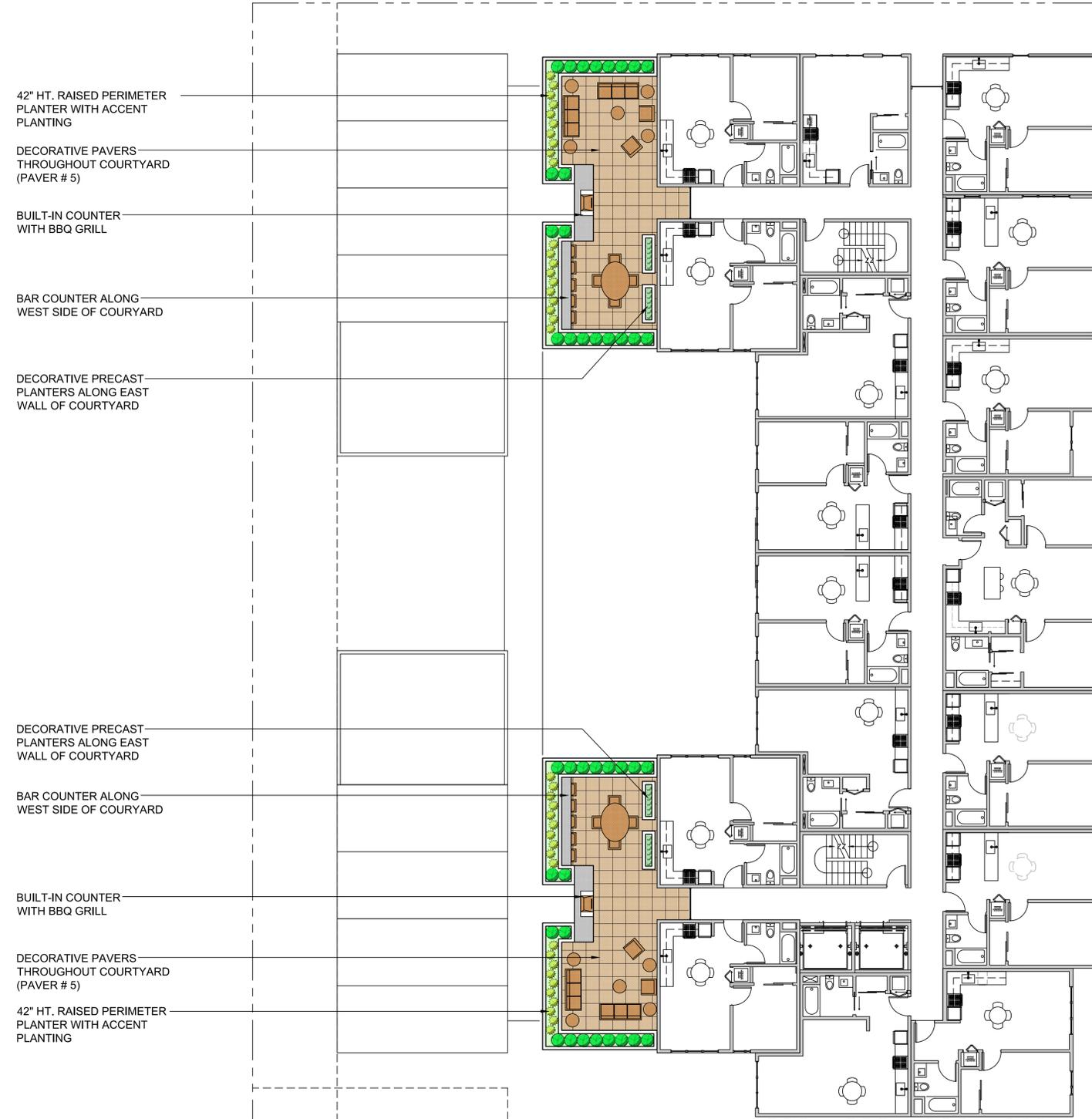


ALLSTON EXTENSION
 2136-2154 SAN PABLO AVE
 BERKELEY, CALIFORNIA

4TH FLOOR
 PRELIMINARY
 LANDSCAPE PLAN

DESIGNED:	DRAWN:
CHECKED:	JOB NO:
DATE 1-23-20	
SCALE	

SHEET
L1.3
 OF X SHEETS



42" HT. RAISED PERIMETER
 PLANTER WITH ACCENT
 PLANTING

DECORATIVE PAVERS
 THROUGHOUT COURTYARD
 (PAVER # 5)

BUILT-IN COUNTER
 WITH BBQ GRILL

BAR COUNTER ALONG
 WEST SIDE OF COURTYARD

DECORATIVE PRECAST
 PLANTERS ALONG EAST
 WALL OF COURTYARD

DECORATIVE PRECAST
 PLANTERS ALONG EAST
 WALL OF COURTYARD

BAR COUNTER ALONG
 WEST SIDE OF COURTYARD

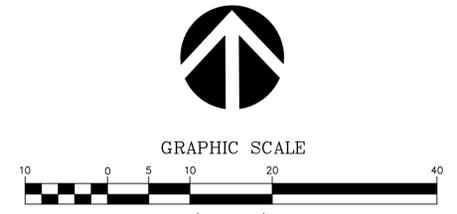
BUILT-IN COUNTER
 WITH BBQ GRILL

DECORATIVE PAVERS
 THROUGHOUT COURTYARD
 (PAVER # 5)

42" HT. RAISED PERIMETER
 PLANTER WITH ACCENT
 PLANTING

SIXTH FLOOR LEVEL ZONING QUALIFIED
 ZONING QUALIFIED LANDSCAPE AREA:
 307 SQ. FT.

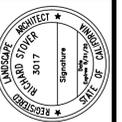
SIXTH FLOOR LEVEL
 TOTAL IRRIGATED LANDSCAPE AREA:
 307 SQ. FT.



REFER TO SHEET L1.5 FOR IMAGES AND
 RECOMMENDED PLANT LIST.

REVISIONS	

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 Berkeley, CA 94702
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ALLSTON EXTENSION
 2136-2154 SAN PABLO AVE
 BERKELEY, CALIFORNIA

6TH FLOOR
 PRELIMINARY
 LANDSCAPE PLAN

DESIGNED:	DRAWN:
CHECKED:	JOB NO:
DATE 1-23-20	
SCALE	

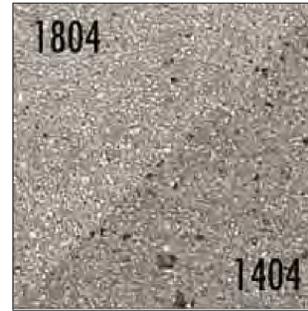
SHEET
L1.4



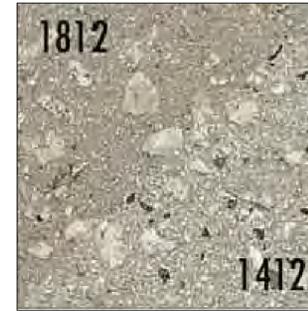
ACCENT PAVER #1:
PRIVATE PATIOS AND WALKWAY AT GROUND LEVEL
PACIFIC INTERLOCK
HYDROFLO 8"x16" PAVER



ACCENT PAVER #2:
COMMON AREA PATIO ON GROUND LEVEL
PACIFIC INTERLOCK
HYDROFLO 12" SQUARE PAVER



ACCENT PAVER #3:
COMMON AREA COURTYARD ON PODIUM LEVEL
STEPSTONE LIGHTWEIGHT PAVERS (12 PSF)
24" SQ. 'FRENCH GRAY' COLOR, LIGHT SANDBLAST #1404



ACCENT PAVER #4:
PRIVATE PATIO AREAS ON PODIUM LEVEL
STEPSTONE LIGHTWEIGHT PAVERS (12 PSF)
24" SQ. 'AGAVE' COLOR, MEDIUM SANDBLAST FINISH #1412



ACCENT PAVER #5:
COURTYARDS ON FIFTH FLOOR LEVEL
STEPSTONE LIGHTWEIGHT PAVERS (12 PSF)
24" SQ. 'KONA' COLOR, MEDIUM SANDBLAST FINISH #1421



Installation



ROOF PAVER PEDESTAL SYSTEM

RECOMMENDED PLANT PALETTE:

BOTANICAL NAME:	COMMON NAME:	WUCOLS WATER USE
TREES: (15 GALLON SIZE)		
*◦ AESCULUS CALIFORNICA	CALIFORNIA BUCKEYE	VERY LOW
*◦ ARBUTUS 'MARINA'	MARINA STRAWBERRY TREE	LOW
*◦ CERCIS OCCIDENTALIS	WESTERN REDBUD	VERY LOW
OLEA 'SKYLARK'	SKYLARK DWARF OLIVE	VERY LOW
PISTACIA CHINENSIS 'KEITH DAVEY'	CHINESE PISTACHE	LOW
* PLATANUS RACEMOSA 'ROBERTS'	ROBERTS WESTERN SYCAMORE	MED
MEDIUM SIZE SHRUBS: (5 GALLON SIZE)		
AGAVE 'BLUE GLOW'	BLUE GLOW AGAVE	LOW
*◦ BACCHARIS 'PIGEON POINT'	DWARF COYOTE BUSH	LOW
*◦ CEANOTHUS 'ANCHOR BAY'	CALIFORNIA LILAC	LOW
MYRTUS COMMUNIS 'COMPACTA'	DWARF MYRTLE	LOW
*◦ RHAMNUS CAL. 'MOUND SAN BRUNO'	COFFEEBERRY	VERY LOW
RHAPHIOLEPIS INDICA 'CLARA'	INDIAN HAWTHORN	LOW
*◦ SALVIA 'ALLEN CHICKERING'	CALIFORNIA BLUE SAGE	LOW
◦ WESTRINGIA 'BLUE GEM'	COAST ROSEMARY	LOW
ACCENT PERENNIALS AND GRASSES: (ONE GALLON SIZE)		
ANIGOZANTHOS SPECIES	KANGAROO PAW	LOW
* BOUTELOUA 'BLONDE AMBITION'	BLUE GRAMMA GRASS	LOW
*◦ EPILOBIUM CANUM 'MARIN PINK'	CALIFORNIA FUSHIA	LOW
ERIGERON KARVINSKIANUS	SANTA BARBARA DAISY	LOW
* FESTUCA 'SISKIYOU BLUE'	IDAHO FESCUE	LOW
*◦ IRIS DOUGLASIANA	DOUGLAS IRIS	LOW
LOMANDRA 'BREEZE'	DWARF MAT RUSH	LOW
*◦ MIMULUS AURANTHIACUS	STICKY MONKEY FLOWER	LOW
*◦ PENSTEMON 'MARGARITA BOP'	FOOTHILL PENSTEMON	LOW
STORMWATER TREATMENT FLOW THROUGH PLANTERS:		
*◦ ACHILLEA MILLEFOLIUM	COMMON YARROW	LOW
* FESTUCA CALIFORNICA	CALIFORNIA FESCUE	LOW
* JUNCUS PATENS	GRAY RUSH	LOW
* MAHONIA 'ORANGE FLAME'	MAHONIA	LOW
* MUHLENBERGIA RIGENS	DEER GRASS	LOW
◦ SALVIA MEXICANA	MEXICAN SAGE	LOW
CLIMBING VINES (5 GALLON SIZE):		
DISTICTIS BUCCINATORIA	BLOOD-RED TRUMPET VINE	LOW
GELSEMIUM SEMPERVIRENS	YELLOW JESSAMINE	LOW

* CA Native ◦ Pollinator-Friendly



SKLARK DWARF OLIVE
(SMALL TREE)



CALIFORNIA BUCKEYE *◦
(BIO-RETENTION BASIN TREE)



CHINESE PISTACHE
(PRIMARY ACCENT TREE)



WESTERN REDBUD *◦
(SECONDARY ACCENT TREE)



MARINA STRAWBERRY TREE *◦
(BROADLEAF EVERGREEN TREE)



WESTERN SYCAMORE *
(STREET TREE)

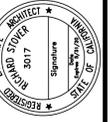
WATER EFFICIENT LANDSCAPE WORKSHEET

REFERENCE EVAPOTRANSPIRATION (ETo):	41.8									
HYDROZONE #	HYDROZONE / (PLANT WATER USE)	PLANT TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY (IE)	ETAF (PF / IE)	LANDSCAPE AREA (sq. ft.)	ETAF x AREA	ESTIMATED TOTAL WATER USE (ETWU)	% OF TOTAL LANDSCAPE AREA
REGULAR LANDSCAPE AREA:										
1	LOW WATER USE	SHRUBS	0.3	DRIP	0.81	0.37037037	2938	1088.148148	28200.4	92%
3	MEDIUM WATER USE	TREES	0.5	BUBBLER	0.81	0.61728395	270	166.6666667	4319.3	8%
							TOTALS:	3208	1255	100%
SPECIAL LANDSCAPE AREAS:										
REC. AREA							1	0	0	
POOL							1	0	0	
WATER FEATURE 2							1	0	0	
							TOTALS:	0	0	
							ETWU TOTAL:		32,520	
							MAXIMUM ALLOWED WATER ALLOWANCE (MAWA):		37,412	
ETAF CALCULATIONS:										
REGULAR LANDSCAPE AREAS:										
TOTAL ETAF x AREA						1,255				
TOTAL LANDSCAPE AREA						3,208				
AVERAGE ETAF						0.39				
ALL LANDSCAPE AREAS:										
TOTAL ETAF x AREA						1,255				
TOTAL LANDSCAPE AREA						3,208				
SITEWIDE ETAF						0.39				

NOTE: AVERAGE ETAF FOR REGULAR LANDSCAPE AREAS MUST BE 0.55 OR BELOW FOR RESIDENTIAL AREAS, AND 0.45 OR BELOW FOR NON-RESIDENTIAL AREAS.

REVISIONS

Thomas Bank & Associates, LLP
Landscape Architects
1000 University Ave, Suite 4
Berkeley, CA 94702
PH: 925.937.2583



ALLSTON EXTENSION
2136-2154 SAN PABLO AVE
BERKELEY, CALIFORNIA

IMAGES AND
RECOMMENDED
PLANT LIST

DESIGNED:	DRAWN:
CHECKED:	JOB NO:
DATE	
1-23-20	
SCALE	

SHEET
L1.5



L A N D M A R K S
P R E S E R V A T I O N
C O M M I S S I O N

N O T I C E O F D E C I S I O N

DATE OF BOARD DECISION: October 6, 2020
DATE NOTICE MAILED: November 16, 2020
APPEAL PERIOD EXPIRATION: December 1, 2020
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): December 2, 2020¹

2136-54 San Pablo Avenue - The Borg Building

Landmark application (#LMSAP2020-0004) for consideration of City Landmark or Structure of Merit designation status for a single-story commercial building constructed in 1923 – APN 056-1977-011-01.

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

- City Landmark designation status, pursuant to Berkeley Municipal Code Section 3.24.110

APPLICANT: Fran Cappelletti/Berkeley Architectural Heritage Association, P. O. Box 1137, Berkeley, CA

ZONING DISTRICT: West Berkeley Commercial (C-W)

ENVIRONMENTAL REVIEW STATUS: Categorically exempt pursuant to Section 15061 of the CEQA Guidelines for Review for Exemption.

The application materials for this project are available online at:
<http://www.cityofberkeley.info/zoningapplications>

¹ Pursuant to BMC Section 3.24190, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 15-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
City Landmark designation status - #LMIN2020-0004
2136-54 – The Borg Building
November 16, 2020
Page 2 of 4

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 5-0-3-1

YES: ABRANCHES DA SILVA, ADAMS, ALLEN, ENCHILL, FINACOM

NO: None

ABSTAIN: JOHNSON, MONTGOMERY, SCHWARTZ

ABSENT: CRANDALL

Note New Methods for Submitting Appeals during Shelter-In-Place Order

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

To appeal a decision of the Landmarks Preservation Commission to the City Council during the 2020 City Council Shelter-In-Place Order, you must:

1. Mail a letter clearly and concisely setting forth the grounds for the appeal with a check or money order for required fees to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley, 94704. The City Clerk's telephone number is (510) 981-6900.

OR

Alternatively, you may email your complete appeal and all attachments to the Planning Department at planning@cityofberkeley.info and include a telephone number where you can be reached during the day. Planning Department staff will call you within three business days to obtain payment information for the required fees by credit card *only*.

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

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
City Landmark designation status - #LMIN2020-0004
2136-54 – The Borg Building
November 16, 2020
Page 3 of 4

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

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

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

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

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
City Landmark designation status - #LMIN2020-0004
2136-54 – The Borg Building
November 16, 2020
Page 4 of 4

- 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.

PUBLIC COMMENT:

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

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info or lpc@cityofberkeley.info

ATTACHMENTS:

- 1. Findings and Conditions
- 2. Landmark application



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

Cc: City Clerk
Fran Cappelletti/Berkeley Architectural Heritage Association, applicant
Cassandra Willis & Mary Blankstein, property owners
Justin Zucker/Reuben, Junius & Rose, LLP, property owners' representative

ATTACHMENT 1 , PART 2

FINDINGS FOR DESIGNATION

OCTOBER 1, 2020

2136-2154 San Pablo Avenue – The Borg Building

Landmark application #LMIN2020-0004 for the consideration of City Landmark or Structure of Merit designation status for a single-story commercial building constructed in 1923 – APN 056-1977-011-01

PROJECT DESCRIPTION

City Landmark designation of the property at 2136-2154 San Pablo Avenue, The Borg Building

CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

LANDMARK PRESERVATION ORDINANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A.1.b of the Landmarks Preservation Ordinance (LPO), the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the subject main building exhibits architectural merit as an example of the Classical Revival/Beaux-Arts architectural style during Berkeley's commercial development in the early decades of the 20th century. The extant building was constructed in 1923 and retains many of its character-defining features, including: horizontal massing; symmetrical façade; classical architectural forms and arrangements, such as pilasters featuring bases and Corinthian capitals, and a three-part decorative entablature spanning the length of the façade; ornamental building details, cast and crafted embellishments, and mosaic tile entryway floors, all reflective of classical design. The building is in fair condition and retains integrity of design, materials and workmanship.

FEATURES TO BE PRESERVED

This designation shall apply to the subject property and the following distinguishing feature of the main building shall be preserved, and missing features shall be restored to the extent possible:

1. Seven clerestory windows, six of them divided into 13 vertical rectangular panes surmounted by 13 square panes, and one divided into 7 vertical rectangular panes surmounted by 7 square panes.
2. Protruding and inset vertical and horizontal details on the front facade:
 - Nine square pilasters with Corinthian capitals and molded bases.
 - Architrave and frieze with shield motifs above the first and last pilasters and decorative festoons resembling garlands draped over rosettes above each interior pilaster.
 - Cornice element projecting across entire front of building.
3. Mosaic tile work in entryways, each with small white hexagonal tiles within a trapeze, or isosceles trapezoid-shaped, double green border containing square tiles in a Greek key pattern.
4. Storefronts 1 through 4 (2148-2154 San Pablo Avenue) should be preserved and remaining storefronts should be restored to the extent possible.

City of Berkeley Ordinance #4694 N.S.

LANDMARK APPLICATION

The Borg Building

2136-2154 San Pablo Avenue, Berkeley, CA 94702



1. Street Address: 2136 to 2154 San Pablo Avenue
County: Alameda
City: Berkeley
Zip Code: 94702
2. Assessor's Parcel Number: 56-1977-11-1
Historically (Lots 13-19, Block 101)
Tract: Allston Tract
Dimensions: 175 x 133 feet
Cross Streets: Addison Street, Allston Way
3. Is property on the State Historic Resource Inventory? No
Is property on the Berkeley Urban Conservation Survey? Yes
Neighborhood Conservation Survey, Form # 20133

4. Application for Landmark includes: Building
 - a. Building(s): Yes Garden: No Other Feature(s): No
 - b. Landscape or Open Space: No
 - c. Historic Site: No
 - d. District: No
 - e. Other: Entire Property
5. Historic Name: None
6. Date of Construction: 1923
Factual: Yes
Source: Building Permit Application Number 13361, January 27, 1923.
7. Architect: Schirmer Bugbee and Company (William E. Schirmer and Arthur S. Bugbee)
8. Builder: Christian Texdahl
9. Style: 1920s one-story Commercial with Classic Revival features
10. Original Owner: Lawrence Borg
Original Use: Commercial
11. Present Owners: Cassandra Willis, Mary Blankstein
Present Occupants: West Wind Kung-Fu Karate and Boxing, TD Garage.
12. Present Use: Commercial
Current Zoning: C-W, West Berkeley Commercial
13. Present Condition of Property:
Exterior: Fair to Good, Interior: Fair to Good, Grounds: Good
Has the property's exterior been altered? Yes

14. DESCRIPTION

This one story reinforced concrete commercial building centers the west side of San Pablo Avenue, between Allston Way and Addison Street. The building is a 1920s one-story Commercial building with Classic Revival features, more elaborate than many storefront buildings in Berkeley and unique in design.

Seven of eight original storefronts are present, with the eighth, modified in 1935, housing TD Garage, a Subaru automotive and repair shop. West Wind Kung-Fu Karate and Boxing occupies four of the storefronts and two storefronts were vacated by the Sink Factory in 2020.

No original photos are available, but color slides from 1965 and 1967 are available for comparison to 2020 photos.



1967 Photo of Borg Building, Humphrey Slide Collection, BAHA



2020 Photo of Borg Building, BAHA

With the exception of the 1967 Mustang billboard, the front façade is easily recognizable over fifty years later.

Facing the building, from left to right, south to north, the storefronts appear as follows:

- Storefronts 1 and 2 have recessed entryways with mosaic tile on the ground and display windows on each side of the doors.



1967 view, Humphrey Slide Collection, BAHA



2020 view, Fran Cappelletti

- Storefront 3 is not recessed and has 2 doors with display windows on each side. The doors and windows are consistent in appearance from 1967 to 2020.



1967 view, Humphrey Slide Collection, BAHA



2020 view, Fran Cappelletti

- Storefront 4 has a recessed entryway with mosaic tile on the ground and display windows on each side of two doors.



1967 view, Humphrey Slide Collection, BAHA



2020 view, Fran Cappelletti

- Storefront 5 has a large garage door with vehicle access for an auto service and repair business. Windows above, present in 1967, are no longer present or are covered.
- Storefront 6 has a recessed entryway with mosaic tile on the ground and display windows on each side of two doors, each entering a different store.



1967 view, Humphrey Slide Collection, BAHA



2020 view, Fran Cappelletti

- Storefront 7 does not have a recessed entryway. There is a window set in a wood front. Mosaic tile is visible under the existing door, suggesting it was once recessed and a 1965 photo confirms this.
- Storefront 8 has a recessed entryway with mosaic tile on the ground and a wooden front covers display window space on each side of the single door. This is consistent with 1965 and 1967.



1965 view, Humphrey Slide Collection, BAHA



2020 view, Fran Cappelletti

Sets of symmetric clerestory windows, 13 vertical panes with tall and short panes for each of the eight storefronts are above the doorways for all but the auto service business. In that case, 7 of the 13 panes remain.



Window panes and storefronts 2 and 3, 2020, BAHA

Mosaic tile work is present in several doorways. Each has small white hexagonal tiles within a trapeze, or isosceles trapezoid-shaped, double green border containing square tiles in a Greek key pattern. Each entryway has a slightly different key pattern. This feature is found in a 1968 photo.



Entryway, Borg Building, 1968, Humphrey Collection, BAHA



Entryway detail, Borg Building, 2020, Fran Cappelletti



Entryway, Borg Building, 2020, Fran Cappelletti

The Borg Building has a symmetric façade. Nine pilasters appear as columns with Corinthian capitals and their traditional acanthus leaves. An entablature, consisting of architrave, frieze and cornice, tops the pilasters across the entire front. The architrave decorated with two horizontal bands. The frieze contains shield motifs above the first and last pilasters and decorative festoons resembling garlands draped over rosettes above each interior pilaster.



Pilaster, Garland and Shield on Borg Building, 2020, Fran Cappelletti

A cornice, projecting outward across the front, completes the classical theme. Such influences paid tribute to Ancient Rome, but perhaps other influences were at work, to be discussed later. Above the cornice is a simple, non-descript parapet surrounding the entire building.



Architrave and Parapet, Borg Building, 2020, Fran Cappelletti

The original building permit, number 13361, was submitted on January 27, 1923. The owner was L. Borg, architects are Schirmer and Bugbee and builder is C. Texdahl. Estimated cost was \$21,950.

Application for Building Permit.

CLASS A-B AND C BUILDING

Application is hereby made to the Department of Buildings and Inspections of the City of Berkeley for permission to build a One story 5 story room class C building, on the W side of San Pablo Ave street 118 feet N of Alston Way street. Being Lot No. Block. Tract.

According to plans and specifications herewith submitted. All provisions of the Building Law will be complied with in the erection, of said building whether specified herein or not.

Estimated entire cost of building \$ 21,950 Extremes height of building 22 ft.
 Size of Lot 179 by 133 feet. Size of proposed building 179 ft. by 65 ft.
 Building to be occupied as Store by (No.) families.

	WALLS			PIERS OR COLUMNS		JOISTS			GIRDERS			
	HEIGHT	MATERIAL	THICKNESS AND FINISH	MATERIAL	SIZE	MATERIAL	SIZE	LONGEST SPAN	MATERIAL	SIZE	LONGEST SPAN	
Foundations	as per Plans Consult											
Basement												
1st story	According to plans and specifications											
2nd story												
3rd story												
4th story												
5th story												
6th story												
7th story												
8th story												

Light shaft wall covering to be of

Roof covered with Asph & Shave Pitch

Chimneys of none lined with any patent flues? none

Gas grate flues to be patent chimney or brick?

Any dumb waiters or chutes? none Any elevator (freight or passenger)

Cove brackets will be sold.

Name of Owner of Ground L. Borg Res. Address

Name of Owner of Building same Res. Address

Name of Lessee of Building Res. Address

Name of Architect or Designer Schirmer & Bugbee Res. Address

Name of Builder C. Texdahl Bus Address 5375 Belgrave place

I hereby agree to save, indemnify and keep harmless the City of Berkeley against all liabilities, judgments, costs and expenses which may in any wise accrue against said City in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sidewalk space by virtue thereof, and will in all things strictly comply with the conditions of this permit and Ordinances of the City of Berkeley.

1334-36-40-42-46-48-52-54 C. Texdahl
San Pablo Address
 Signature of Owner, Architect or Builder.

This Permit expires one year from date unless sooner revoked by the City Council.

Date JAN 27 1923 Permit No. 13361

Building Permit Application for the Borg Building, BAHA

A 1923 announcement in Building and Engineering News provided more details.

STORE BLDG.
(333) W SAN PABLO AVE 75 N Alls-
ton Way, Berkeley. All work for
one-story reinforced concrete (8)
store building.
Owner—Lawrence Borg, Berkeley.
Architect—Schirmer Bugbee & Co.,
Thayer Bldg., Oakland.
Contractor—C. Texdahl, 5375 Belgrave
Place, Oakland.
Filed Jan. 24, '23. Dated Jan. 17, '23.
Form up to ceiling joists....\$4115.75
Poured and joists set..... 4115.75
Plastered 4115.75
Completed and accepted..... 4115.75
Usual 35 days..... 5487.50
TOTAL COST, \$21,950.00
Bond, none. Limit, 100 days. Forfeit,
none.- Plans and specifications filed.

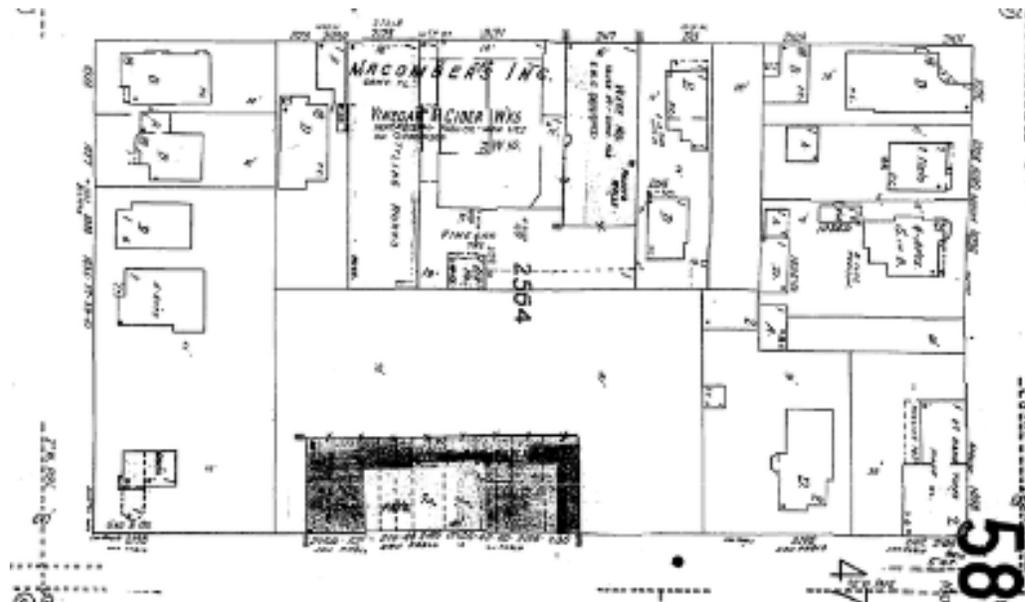
Building and Engineering News, January 27, 1923, 29.

A 1947 aerial view shows the two blocks south of University Avenue.



Aerial photo of 2100 Block of San Pablo Avenue, Key System Transit Lines (Calif.), Clyde H. Sunderland Institute of Transportation Studies Library (Harmer E. Davis Transportation Library) at the University of California, Berkeley.

By 1950, little had changed on the block.



1950 Sanborn, 2100 blocks of San Pablo Avenue and 10th Street, Berkeley, CA

Today, the Cider Works site is George Florence Park and the corners on both sides of the Borg Building are slated for development with the demolition of a vacant U Haul location and the still-operating convenience store and family business, the St. Helena Wine Company.

Features to be Preserved

The significant features to be preserved are the following, as described below:

- Seven clerestory windows, six of them divided into 13 vertical rectangular panes surmounted by 13 square panes, and one divided into into 7 vertical rectangular panes surmounted by 7 square panes.
- Protruding and inset vertical and horizontal details on the front facade:
 - Nine square pilasters with Corinthian capitals and molded bases.
 - Architrave and frieze with shield motifs above the first and last pilasters and decorative festoons resembling garlands draped over rosettes above each interior pilaster.
 - Cornice element projecting across entire front of building.
- Mosaic tile work in entryways, each with small white hexagonal tiles within a trapeze, or isosceles trapezoid-shaped, double green border containing square tiles in a Greek key pattern.
- Storefronts 1 through 4 should be preserved and remaining storefronts should be restored to the extent possible.

15. History

The Ohlone Period

Before the arrival of Europeans, the Native Americans living in today's Berkeley and the East Bay were part of a larger group that lived for thousands of years from the San Francisco Bay to Monterey. The Spanish referred to them as Costanoan or 'Indians of the coast' and they were later termed Ohlone, the name accepted by most today. Made up of distinct groups, they had similar languages and cultures. Physical evidence of their presence in Berkeley remains in shellmounds and burial sites that range from the coast to the hills.

European arrival brought disease and displacement, with much of the population pulled into the local Missions by the early 1800s. Despite the many hardships and being labelled extinct, descendants remain throughout the San Francisco Bay Area, active in preserving their name, culture, and history.

Rancho San Antonio

According to M.W. Wood's History of Alameda County, California, the Rancho San Antonio, a nearly 45-thousand-acre Spanish land grant, was made to Luis María Peralta by Spanish governor Pablo Vicente de Sol on August 16, 1820. Peralta had served forty years in the Spanish military. The grant included present-day Albany, Berkeley, Oakland, and northern San Leandro. In 1842, he divided the land among his four sons. One of them, Domingo, would receive all of what is present-day Albany and Berkeley and a small portion of northern Oakland. He built an adobe house in 1841 at the present-day site of 1304 Albina and it is a California point of historic interest.

According to the Peralta Family History at <http://www.peraltahacienda.org>, annexation of California by the United States in 1848 and the Gold Rush of 1849 brought significant change. While the Peraltas and their fellow Californios were promised recognition and protection of their property rights, squatters on the land and theft of cattle became a problem as new settlers arrived from around the world. A further burden came with the 1851 U.S. Federal Land, which required the Californios to prove their land titles in court, requiring much time and expense.

In 1852-1853, Domingo started selling parcels of his land, mostly to pay off debts. The parcels were defined on a map surveyed by Julius Kellersberger, hired to survey the northern part of Rancho San Antonio. Surveyed in 1853, the map covers Albany, Berkeley, Emeryville, and part of Oakland. This view of the parcels shows the site of the building in the upper center of No. 62.



Map of the Ranchos of Vincente & Domingo Peralta. Containing 16970.68 Acres. Surveyed by Julius Kellersberger, 1853. Courtesy of Barry Lawrence Ruderman Antique Maps, Inc. <http://www.raremaps.com>

Ocean View

In 1850, early settlement included James Jacobs with his boat landing and Captain William Bowen's Inn. There soon followed Everding and Rammelsburg's Mill and Heywood's lumber yard. Residents moved in, primarily foreign-born immigrants and second-generation Americans. Growth was not dramatic until the 1873 establishment of the new campus of the University of California.

In 1874, the area was part of the Berkeley Land and Town Improvement Association. This was organized by neighborhood leaders to facilitate the further development of Ocean View, with wharf and ferry services and industrial growth. This development, along with the University, led to new factories and a ten-fold increase in population.

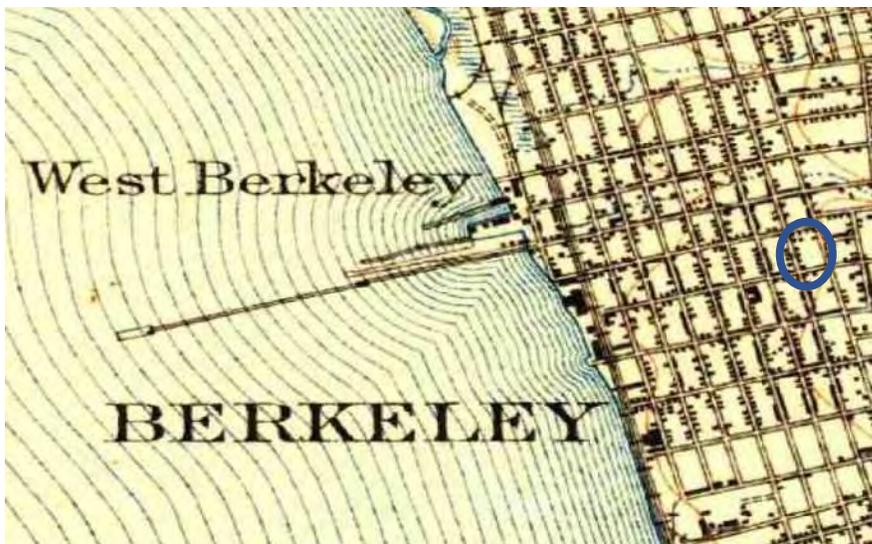
For a comprehensive history of Ocean View, see *Victorian Berkeley: The Community of Ocean View*, Karen Jorgensen-Esmaili and The Berkeley Historical Society, 1981.

With the joining of the two distinct communities as Berkeley in 1878, further growth followed, but the differences remained, and today's common label of West Berkeley was already established. By the 1890s, the Borg Building site was in the Allston Tract, Block 101.



Map of Oakland and vicinity, Showing Real Estate & Electric Railways, Dingee, William J., 1891.

In 1915, West Berkeley was filling in, but with room to grow.



Portion of Map of Berkeley, 1915

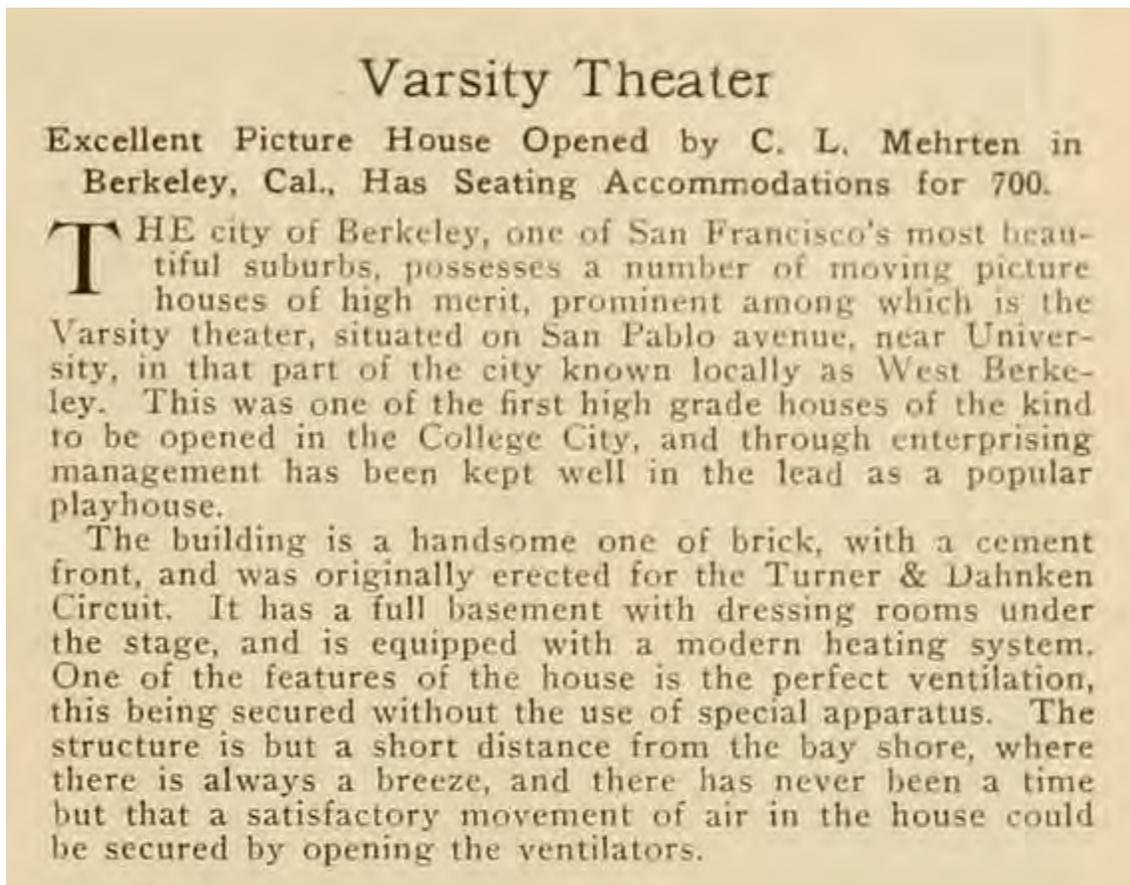
The Original Owner: Lawrence Borg

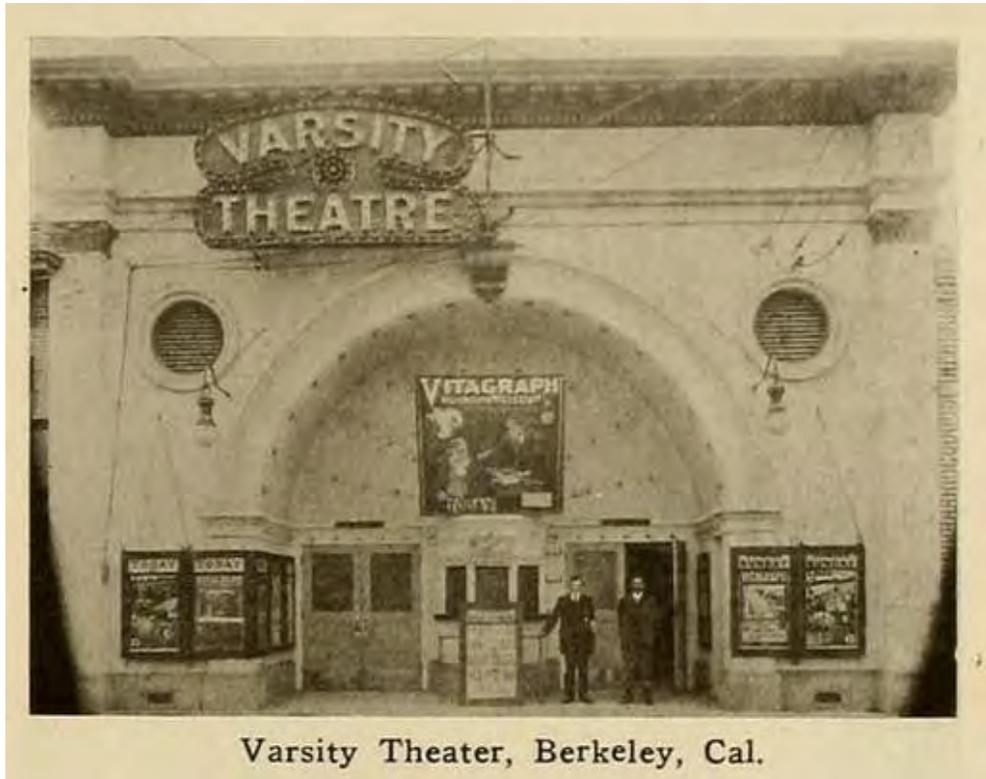
The story of Lawrence Borg is one of an immigrant arriving, working and achieving success. Born in Malta in 1890, he immigrated via Sydney, Australia, to San Francisco, California in 1916 at the age of 26. In his declaration of intention to become a U.S. citizen, he noted his occupation as a cabinet maker. Five years later he submitted his petition for naturalization, then living at 1039 Bancroft Way in Berkeley and employed in a Moving Picture House.

The U.S. Census indicates this career in moving picture showings, from listing as an exhibitor in 1920 to theatre owner by 1930. In the early 1920s, Lawrence Borg was manager of the Varsity Theatre at 2064 San Pablo Avenue. According to the publication Moving Picture World of November 6, 1920,

Lawrence Borg has taken over the Varsity Theatre at Berkeley, California, located at 2024 San Pablo street.

The Varsity has a long history in Berkeley. The Moving Picture World, an industry publication, reported on it in their September 5, 1914 issue:





Varsity Theater, Berkeley, Cal.

The Varsity theater is conducted by C. L. Mehrten, a pioneer in the moving picture business in California. That the programs are always appreciated may be judged from the fact that an addition is now being made to the rear of the building, which, when completed, will increase the seating capacity to over 700.

Fine projection and an excellent selection of pictures are two of the features that have made this house popular with amusement lovers. Mr. Mehrten is an expert operator and attends personally to this important work. The music is in charge of a splendid pianist and is one of the attractions of the place. The prices are 10 cents for adults and 5 cents for children, with occasionally a feature at 15 and 10 cents.

Mr. Mehrten enjoys the distinction of having been in the moving picture business in the State before there was a theater in either San Francisco or Los Angeles devoted exclusively to pictures. Conditions have rapidly changed during the past few years, but this exhibitor has kept pace with them and is one of the best informed men in the business. He has a wide acquaintance in the trade and his popularity is such that he has been called upon to fill the position of treasurer of the Motion Picture Exhibitors' League of California, in the work of which organization he takes a keen interest.

The Moving Picture World, September 5, 1914, 1385.

Borg was active in the West Berkeley Merchant's Association, promoting local growth in West Berkeley. Managing the theatre had its risks, as noted in a 1924 Berkeley Daily Gazette article noting that he was beaten by three youths and sent to the hospital after ejecting one from the business for creating a disturbance.

As of this writing, the building that housed the Varsity Theatre, now 2072 San Pablo Avenue, is vacant, but future development is expected. It was established in 1912 and has a storied history. Its listing in the California State Historic Resources Inventory codes the building as "Appears eligible for [listing in the] National Register of Historic Places as an individual property through survey evaluation."

Beyond managing the Varsity, Borg had designs on a theatre of his own making. That was a motivation for constructing the Borg Building, numbered 2136 to 2154 San Pablo Avenue, along with hosting other retail business.

Looking at the Varsity Theatre then and now, observe the Classical features of the two columns, likely an influence on Borg's new building.



Varsity Theatre, Early 20th Century, BAHA Block Files



Varsity Theatre, 1978, BAHA Block Files



Varsity Theatre, July 2020, Fran Cappelletti

Borg only owned his newly constructed building for a short time, selling it in late 1924 to the Walter Hardman Realty Company for \$41,500. As noted earlier, the cost of construction was approximately \$22,000. Borg abandoned plans for a theatre in part of the building, instead considered enlarging and upgrading the Varsity Theatre. An even bigger opportunity came when he invested with the Golden State Theatre Corporation in the new Rivoli Theatre two blocks north at 1931 San Pablo Avenue where he was manager and part owner.

The old Varsity Theatre in West Berkeley, for years conducted by Charles Mehrten, but more recently owned by Lawrence Borg, will shortly close its doors and will be replaced by the 1,500-seat Rivoli Theatre, nearing completion at a cost of about \$250,000. This house will be conducted by Lawrence Borg and the Golden State Theatre and Realty Corp. and will be managed by Mr. Borg personally. The location is at San Pablo and University avenues.

Closing Varsity and Opening Rivoli, The Moving Picture World, October 30, 1926, 555.

Today, the Rivoli is a 99 Cents Only store, but the original ceiling and walls are still visible above the non-descript main floor of this budget-friendly retail operation. It's life as a theatre was relatively brief as it was converted to a supermarket in the 1950s.

Beyond operating theatres, Borg invested in property throughout California. He eventually moved to the San Francisco Peninsula. He died in 1954, leaving his wife, Marjorie, and many relatives.



Consider that the Borg Building provided through its sale the start of an expansion in Borg's career as he later opened many theatres in Oakland, Richmond, San Jose, Salinas and Napa. From a small island nation in the Mediterranean to a modest house on Bancroft way in Berkeley, to San Francisco and retirement on the Peninsula, his life and career presents a true example of the "American Dream" that too often is a myth.

Lawrence and Marjorie Borg, Courtesy of Andrew DeBorgia

The Present Owners: The Pagonis Family

In 1943, the Borg Building was acquired by the Pagonis family. Headed by Miltiades, also known as Peter, and wife Katherine. Born in Greece, they moved to the United States near the turn of the 20th Century. Miltiades worked for the Southern Pacific, building and repairing train cars in the West Oakland shops. They lived on University Avenue for several years and later moved to a house in Oakland’s Fruitvale District. They had three children, five grandchildren and at least eight great grandchildren.

BAHA records first show their daughter Mary listed in ownership records and she was directly involved with the San Pablo Avenue building until at least 2011 and family members still own the property at the present time.

The Architects

Schirmer and Bugbee were based in Oakland. The Borg Building is one of only a few Schirmer-Bugbee commercial buildings in Berkeley, but it was designed during a productive period for the partners, William E. Schirmer and A.S. Bugbee. Highly regarded for their residential and commercial work in the teens and twenties. Sweet’s Ballroom is credited to them in the same year.

Oakland credits from 1920 to 1929 include the following buildings, courtesy of the Oakland Cultural Heritage Survey:

Schirmer-Bugbee Co

415 Euclid Ave	1920	Arthur Tucker and Edward & Pearl Nelson apt
432-50 Euclid Ave	1921	Dr. J.L. Hobbs, Neill apartments
3901-11 Piedmont Ave	1923-24	L. Jensen, apartments and stores
105-25 12 th Street	1923-24	Merguire-Ritchie Chevrolet showroom
1921-33 Broadway	1923-24	J.F. Hassler-J.J. Newberry Building
1437-45 Franklin St	1924	William Cranston-Mark Brownell Building
2343 Broadway	1924-25	Arthur Kiel auto showroom

William E. Schirmer

363-69 13 th St	1929	Central Building & Loan Association Building
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SWEET'S BALLROOM BEAUTIFUL AND BROWNLOW'S RESTAURANT



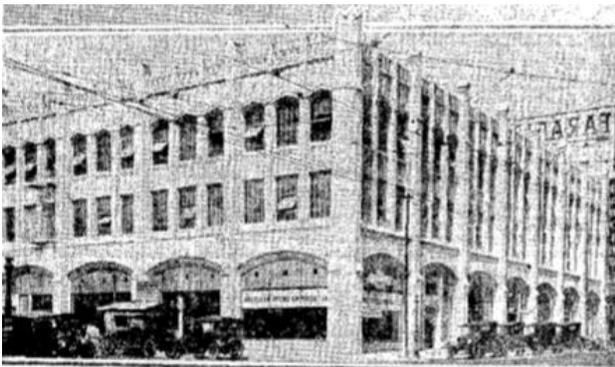
Upper Broadway Scores Again Another Splendid Addition To Oakland's New Shopping Center

BY W. E. SCHIRMER—THE ARCHITECT

Upper Broadway may well be proud of this splendid new edifice; Sweet's Ballroom Beautiful—an aesthetic monument to dancing. The following salient features are caught by even a cursory glimpse. The thick heavy rugs and draperies; the rich old tapestries adorning the walls; the luxurious furnishings; the mirror-like floor; the indirect even lighting, flooding the room from above, with a luminous aureole effect; enriched by the deep subdued tones from the wall and center gurchment shades; the long and spacious promenade and foyer; the airy alcove—all typically French, of the Louis 14th period. The tea room and refreshment are a delightful retreat. Brownlow's restaurant downstairs, finished in Spanish effect, offers an unusual and refreshing contrast—all strictly fire-proof throughout. Sweet's Ball-Room Beautiful can unequivocally lay claim to being the Finest Ball-Room in the West.

SCHIRMER-BUGBEE CO. WERE THE ARCHITECTS

The Merguire-Ritchie building at 12th and Oak Streets, also known as the M.F. Smith Building, opened in 1924. It was a Chevrolet showroom and had the Paradise ballroom upstairs. It is now the Alameda County Law Library.



New Building and Ballroom, Oakland Tribune, June 8, 1924

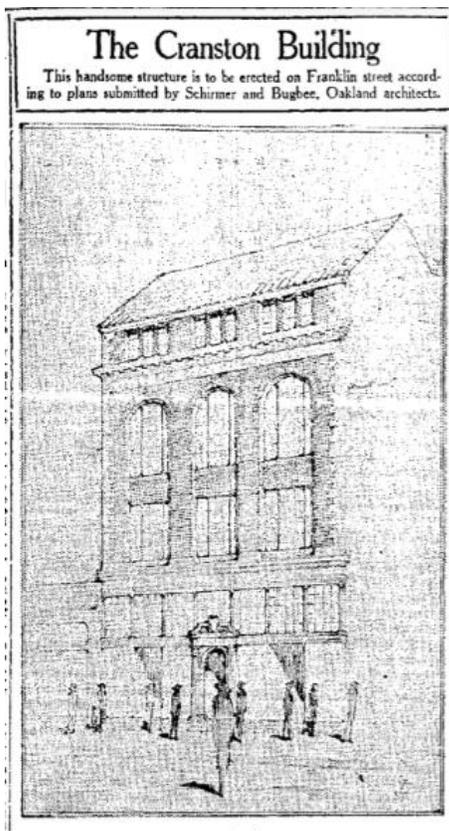


Fran Cappelletti, 2020

Two of the listed buildings are noted in the Downtown Oakland Historic District nomination document, the Cranston Building and the Central Building and Loan Building.

From 1924, 1437-45 Franklin Street is the Cranston Building. Described as a Beaux Arts derivative commercial building, this four-story store and office building of reinforced concrete construction with a somewhat Venetian façade is designed in a three-part vertical composition with a two-story shaft and a fourth-floor capital. The ground floor has two tall recessed storefront bays flanking a recessed upper floor entry. The three upper floors are clad in variegated red pressed brick with mottled terra cotta quoins and other trim. The shaft has three two-story semicircular arched bays with tripartite Chicago-type windows and diamond pattern brickwork on the spandrels. The top floor has three group of three arched windows separated by twisted engaged columns, and a dark red tile roof. Occupants of this speculative building included the Press Club and the Fifty-Fifty Club. A distinguished design of polychrome brick and terra cotta, the building harmonizes well with the arcaded Oakland Title Insurance Building next door.

At the present time, the first-floor façade has lost its original appearance due to remodeling, but the upper floors retain several original features.



Oakland Tribune, May 4, 1924



Fran Cappelletti, 2020

363-69 13th street, the Central Building and Loan Building, is a tall, narrow one-story steel-frame reinforced concrete Art Deco bank building. Designed by Schirmer in 1929, the façade is designed as a massive vault, penetrated by a tall deeply recessed entry with a semicircular compound arched top. Surface materials are cast concrete slabs with a polished black granite base. The stepped top has at its center a large square bas-relief panel depicting heroic male figures trading or doing business, and a vertically grooved frieze.

Central Building and Loan was an Alameda-based firm, founded in 1909. Its Oakland branch building, by an important Oakland architect of the Period Revival and Art Deco era, is an outstanding example of Deco design adapted to a financial institution. It is similar in size and vocabulary to the Income Securities Building a block away at 360-64 14th Street.



Fran Cappelletti, 2020

At the present time, the original Art Deco entry doors and tall multi-paned window in the arch have been replaced with an aluminum window and new entry doors. “Central Building and Loan Association” in incised Deco letters below the frieze has been plastered over.

Dave Weinstein devoted one of his many Signature Style articles in the San Francisco Chronicle to Schirmer on August 2, 2008. Titled Serious craftsmanship, it tells of Schirmer’s work and life. <https://www.sfgate.com/bayarea/article/Serious-craftsmanship-3201625.php#photo-2342216>

Schirmer designed several magnificent residences in Oakland and Piedmont. Berkeley has two fine examples, 118 Alvarado Road and 3005 Garber Road, that have been featured on past BAHA Spring House tours. Schirmer was later part of the design team for the Alameda County Courthouse.

The Many Tenants

After completion in 1923, businesses immediately moved in.

In 1924 Varsity Bakery was at 2136. It did make it into the Berkeley Daily Gazette in 1927 with a reported robbery in which \$8, eight pies, two cakes and a dozen doughnuts were taken. Frederick Grattan's Cleaners was at 2146.

In 1925, new businesses include the California Radio Service at 2142, Household Hardware at 2144, a branch store for the Mutual Creamery at 2152 and the Western Grocery Company, run by Frank and Joseph Ciraulo, was at 2154.

Berkeley Daily Gazette Ads, 1940s



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OPEN MONDAY—LABOR DAY

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and CHICKEN PAPRIKA**

Your "MUST" Dining Place in Berkeley

Mike's Hungarian Restaurant opened at 2138 in 1940, touted as West Berkeley's first Hungarian restaurant in the February 14, 1940 Berkeley Daily Gazette. Mike was Michael Hirt, a native of Vienna.

The Steppenwolf

Author Tom Dalzell noted in his Berkeley e-Plaque designation on San Pablo Avenue Folk Music Clubs, <https://berkeleyplaques.org/e-plaque/san-pablo-avenue-folk-music-clubs/> :

In 1958 Max Scherr purchased and operated a local hangout, the *Steppenwolf*, a club that dabbled in both folk music and theatre. Scherr later sold it to launch an underground newspaper, the *Berkeley Barb*.

A 1965 photo shows Casa Moreno and The Steppenwolf



Borg Building, 1965, Humphrey Slide Collection, BAHA

In 1967, Casa Moreno is gone, but The Steppenwolf is still open for business.



Borg Building, 1967, Humphrey Slide Collection, BAHA

As Nathan Spooner writes on the Berkeley E-plaque web site, <https://berkeleyplaques.org/e-plaque/steppenwolf-bar-and-music-club/> provides his first person recollection:

On the west side of San Pablo Ave., a few blocks south of University Ave., there is a one-story, nondescript building of storefronts, including the Sink Factory, now relocating a few blocks north. In the 1960s it was home of the Steppenwolf bar, a well-known night spot run by local activist [Max Scherr](#). Students, professors, chess players and whomever else wandered in were served on tables made from wood planks over barrels. Beer was \$1.25, lighting was dim, the air smoky and the classical music, loud. One night, I walked in to the emotional pleading of a Shostakovich violin concerto at full blast.

Painted on the north side of the exterior wall of the building were lines from Hermann Hesse's, *Der Steppenwolf*, referring to the sign over a door in the novel that protagonist, Henry Haller, sees during a walk in the old quarter of his town: "Magic Theatre – For Madmen Only – Price of Admission – Your Mind." The words aptly express the essence of this off-beat club which was a part of the energy of the time.

Max Scherr was best known for his *Berkeley Barb*, a counter-cultural New Left voice of everything from politics to sex to rock music that circulated both locally and nationally. [Bill Miller](#) proprietor of a Telegraph Avenue head shop, The General Store, and one-time Berkeley mayoral candidate, later managed the business.

When I worked at the Steppenwolf, Bill was the owner. [Mario Savio](#) worked there too. Mario and I had an undergraduate philosophy class together before he dropped out to become the eloquent spokesperson for the Free Speech Movement that was so much a part of the 60s paradigm shift in cultural awareness.

Over time the Steppenwolf morphed from a place to hear Shostakovich to a well-regarded popular West Coast venue for country, folk, rhythm and blues and rock—one of a number of such [clubs](#) along San Pablo Avenue. One night when I was working the door to collect a couple of dollars admission for the Loading Zone, a Berkeley rock-soul band, and jazz, whom I had unwittingly charged.

The doors of the Steppenwolf were closed by the time I left for Alaska in 1975. When I returned, I could still make out the faded letters of Hesse's works, but just barely.

At BAHA, a collection of color slides displays the 1967 interior of the Steppenwolf, further noting the atmosphere of the times.



Interior of The Steppenwolf, 1967, Humphrey Slide Collection, BAHA

The 'Room where it happened', History of the Magic Theatre, 1967

John Lion, a Graduate student at U.C. Berkeley working under the tutelage of Professor Jan Kott, directed Ionesco's *THE LESSON* at the Steppenwolf Bar.

The company named itself "Magic Theatre" from the scene in Herman Hesse's novel, *STEPPENWOLF*, where the central character Harry Haller is invited to attend an "Anarchist Evening at the Magic Theatre, For Madmen Only, Price of Admission Your Mind"

As the Finding Aid to the Magic Theatre records at the Bancroft Library notes:

The Magic Theatre was founded in 1967 in Berkeley, Calif., with a production of Eugene Ionesco's, *The Lesson*, by a group of University of California, Berkeley graduate students, headed by John Lion, who had an interest in the newly emerging, avant-garde European playwrights, including Ionesco, Genet, and Beckett. They had no intention of starting a theatre, but with the success of *The Lesson*, the company moved into the Steppenwolf Bar on San Pablo Avenue in Berkeley, and began producing plays as the Magic Theatre, a name adopted from Hesse's novel, *Steppenwolf*.



1968 Advertisement

European playwrights dominated the Magic Theatre's early productions, but these were soon augmented by American authors emerging from the political, social, and artistic ferment of the 1960s, including Leroi Jones, Michael McClure, and Sam Shepard. The work of the Magic Theatre reflected the social upheaval of the time, with the intention of presenting different aspects of a chaotic world without becoming polarized to one point of view. Magic Theatre's goal was to concentrate its efforts on newly scripted works, with the purpose of developing new playwrights and giving an alternative, experimental forum to established writers. They drew not only from the theatrical community but from the talents of people in many areas of the arts -- painters, sculptors, film makers, poets, musicians, and dancers, and deliberately represented no particular political point of view except that of free expression.

Over the past twenty-five years, the Magic Theatre was housed in some ten locations, not including touring bookings. There were several stints each at Steppenwolf and Mandrake's Bars in Berkeley. They also performed at the University Art Museum, and in a theatre the staff built in an old building at the corner of University and Shattuck Avenues until 1972, when the company moved permanently to San Francisco. It was located briefly in the Firehouse Theatre (now the Lumier Cinema), the Museum of Erotic Art (now defunct), the Intersection Theatre, and the Rose and Thistle Pub on California and Polk Streets. In 1977, the Magic Theatre finally moved to a permanent home at Fort Mason, and eventually built two playhouses of its own.

From the very beginning, John Lion assumed the role of general and artistic director, and brought the theatre from a group of college students with no base and no funding to become the Bay Area's leading producer of new plays. In 1976, Lion recruited the British theatre critic and essayist, Martin Esslin, as dramaturg. His early books on Brecht, the theatre of the absurd, and avant-garde European plays had been the strongest guidelines to the originators of the Magic Theatre.



1957 Phone Directory Advertisement

Further changes would come in the 1950s and 1960s. The rest of the block in 1967 had the Lucky Dog Pet Shop, Zodiac, Cooper-Hawkins Refrigeration and a Barber Shop. While most would not stay, Lucky Dog would remain in place for decades, well into the 21st Century. The shop made the news in 2011 with an eviction dispute.

Another venerable tenant was the Sink Factory. Founded in 1979, they were a fixture in the building for four decades.



North side of Borg Building, Fran Cappelletti, July 2020

Owner Ragnar Boreson started as an employee and became the owner in 1989. From a showroom with a range of antique and modern parts to a workshop for repair, restoration and fabrication of plumbing parts they have become a lasting part of Berkeley. A visit with Philip Maldewin at the old showroom provided a glimpse of the past with some art still on the walls. Despite the need to leave during a pandemic, they reopened 3 blocks north at 1826 San Pablo Avenue, continuing their long history in West Berkeley.

West Wind Schools, occupying several of the original storefronts, has been active in Bay Area martial arts education for over 48 years. Services include fitness, self-discipline, self-defense, whole health, boxing, weight loss, karate, balance for all ages. Their space is open and well-maintained, providing a shining example of the great potential for the building in use and appearance.

16. Significance

From Chapter 3.24 of the Landmarks Preservation Ordinance:

3.24.110 A. Landmarks and historic districts. General criteria which the commission shall use when considering structures, sites and areas for landmark or historic district designation are:

1. Architectural merit:
 - b. Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder; or
 - c. Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.
2. Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City;
3. Educational value: Structures worth preserving for their usefulness as an educational force;
4. Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States.
5. Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.

Under both **3.24.110 A.1.b.**, and **3.24.110 A.1.c.**, the Borg Building qualifies as a significant and meaningful example of a one-story Commercial building with Classic Revival features, designed by William Schirmer and Arthur Bugbee in their early period of work. In addition to their successful and lasting collaborations, Schirmer became famous for his residential work in Oakland, Piedmont, and Berkeley. The Borg Building exhibits several classical elements found in other Berkeley business districts and is one of a few intact examples left on an ever-changing San Pablo Avenue. While examples of their commercial work survive in Oakland, important features of two of their notable buildings in that city have been lost.

In addition to this application, the Historical Resources Inventory Form (DPR Form 523) prepared by Mark Hulbert in 2019 indicated significance under California Register criterion 3 for architecture embodying distinctive characteristics of its type and period.

While the author determined no other significance for the building, contrary to our findings of significance, we do agree with this finding.

Under **3.24.110 A.2**, the Borg Building qualifies for its cultural value and under **3.24.110 A.4** for its historic value. Culturally and historically, hosted several businesses serving local residents, the counterculture of the sixties and seventies. Built by Christian Texdahl, it was a relatively late project for a prolific Berkeley contractor. In contrast, building owner Lawrence Borg, was a young owner and manager of the well-established Varsity Theatre one block north with dreams of locating a new theatre in the structure. However, the building instead served as a wise investment, fetching nearly double the cost of the building within two years and leading to further development of West Berkeley with the Rivoli Theatre, which he owned in partnership with the Golden State chain. Many businesses came and went, including pets, paint, baked goods, and Hungarian food. From a post Free Speech Movement Mario Savio tending bar to the origination of the Magic Theatre, the Steppenwolf was one of several venues popular along the Avenue in the 1960s and 1970s for music and drama. Most recently the same space was the long-time home of the Sink Factory, relocated a few blocks north. West Wind Kung-Fu Karate and Boxing presently occupies a large portion of the building and TD Garage is still operating an essential business in a time of pandemic.

While the building has seen updates over time, the overall appearance has changed little and the building continues to provide valuable service to residents of Berkeley and the East Bay.

Period of Significance: 1923 – Present, location of several significant tenants in succession.

17. Is the property endangered? Yes

18. Photographs:

Dates: 1965, 1967, 1968, 2020

Repository: Berkeley Architectural Heritage Association (BAHA)

Photographer: Various (BAHA, Fran Cappelletti)

19. Bibliography

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- West Wind Schools, <https://www.westwindschools.com/>
- Mark Hulbert, Historical Resources Inventory Form (DPR Form 523), 2136-2154 San Pablo Avenue, October 23, 2019

Acknowledgements

Daniella Thompson and Anthony Bruce, editorial and technical assistance

Andrew DeBorgia, photos and historical information on Lawrence Borg

The Sink Factory, historical information and inspiration

20. Recorder: Fran Cappelletti Date: August 13, 2020

Organization: Berkeley Architectural Heritage Association (BAHA)



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

2136-2154 San Pablo Avenue

Use Permit #ZP2021-0046 to demolish an existing one-story, non-residential building and construct a six-story (69 feet, 6 inches), 82,824-square-foot, mixed-use building with 122 dwelling units (including 10 Very Low-Income, Density Bonus qualifying units), three live/work units (2,490 square feet of commercial space) and a ground-floor parking garage with 50 spaces.

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

When: Thursday, March 28, 2024, 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: Avenue Commercial (AC)
- Zoning District: West Berkeley Commercial (C-W)

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential building or structure
- Use Permit pursuant to BMC Section 23.204.140(B)(2)(a) to construct a mixed-use development over 20,000 square feet
- Use Permit pursuant to BMC Section 23.204.020(A) for construction of dwelling units
- Use Permit pursuant to BMC Section 23.204.030(B) to construct new gross floor area of 5,000 square feet or more
- Administrative Use Permit pursuant to BMC Section 23.304.050(A) to construct architectural elements that exceed the Zoning District's height limit
- Administrative Use Permit pursuant to BMC Section 23.312.030(C)(3)(a) to establish live/work units
- Use Permit pursuant to BMC Section 23.312.040(A)(3) to allow customer visits to live/work units

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

- Concessions – none requested
- Waiver of BMC Section 23.204.140(E)(1) for maximum height to be 69 feet, 6 inches, where 50 feet is the maximum, and six stories where four stories is the maximum
- Waiver of BMC Section 23.204.140(E)(1) to have 3.6 floor to area ratio (FAR), where 3.0 is the maximum
- Waiver of BMC Section 23.304.090(B)(7)(a) to provide 37 percent of the usable open space as landscaped area, where 40 percent is required

C. CEQA Recommendation: Certification of the Final Environmental Impact Report (EIR) and adoption of the Mitigation, Monitoring and Reporting Program (MMRP) prepared pursuant to Article 7 of the CEQA Guidelines.

D. Parties Involved:

- Applicant/Owner San Pablo Investors Two LLC, 200 Spectrum Center Drive, Suite 1450, Irvine, CA 92618

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, Sharon Gong, at (510) 981-7429 or sgong@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 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 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 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.

TO: ZAB

FROM: Parks, Recreation and Waterfront (PRW) Commission

Subject: Special Consideration for Development at 2136 San Pablo Ave. Due to Adjacency to a Public Park or Open Space

DATE: 3/13/24

HISTORY

George Florence Mini Park was built in 1979, and is a very small park of approximately .51 acre. It received Phase One, T1 renovation funding in 2018 that included two new playgrounds for tots and school-age children, and a picnic area. In 2020, volunteers planted one of the first COB park area California native-plant pollinator gardens along the eastern edge. These native plantings also extend to both the south and north boundaries as well. CA-native trees and shrubs—including Coast Live Oak, Elderberry, Toyon, Coffeeberry, California Fremontia, Fuchsia-flowered Gooseberry, and more—are interspersed in the pollinator garden to provide habitat and attract birds. This park is well used by the public including families with small and young children, picnickers, nearby school groups and dog walkers and, importantly, is the *only* mini park in the area west of San Pablo Ave.

While there are many neighborhood parks in Berkeley that are close to housing and residences including Ohlone, Willard, Rose and San Pablo Parks but at the DRC it was noted that there are none, in recent memory, where a new multi-unit housing development have been proposed that is directly adjacent to a park. And while there are both state and local laws that dictate design standards and other criteria that, at times include impact fees, there is little that the city has put in place that would govern this particular situation, including no impact fees that are devoted to green space and public parkland.

Impacts on wildlife. Development impacts wildlife. Birds are of special concern as their populations are in steep decline. Collisions with window glass and light pollution are major contributors to these losses.

The project at 2136 San Pablo abuts a park where considerable effort has been made to increase the habitat value, which will attract birds. The project as currently proposed doesn't include bird-safe glass, which will result in unnecessary bird deaths, especially at sunset when the reflection off the westward park-facing glass is strongest. Moreover, lower elevations are some of the most dangerous, as they reflect images of nearby trees and vegetation.

To protect declining and threatened bird populations, bird-safe glass should be installed on all sides of the building, per the Ordinance passed by the City Council on June 6, 2023. If those protections are not implemented, mitigations from the West Berkeley Project EIR 2012 should be applied. These mitigations are relevant and have precedent as they were included among ZAB's Condition of Approval on March 30, 2023 for a mixed-use project by this same development team, at 2190 Shattuck Ave, with these 3 conditions (See Appendix for details), namely:

(1) visual markers up to 12 meters, (2) reduced light pollution, and (3) 100% protection for glass walls/balconies/windscreens.

RECOMMENDATIONS

At the March 13, 2024, meeting of the PRW Commission we had a very lively discussion about issues related to developments adjacent to parkland and public open space, including the possible impacts to the parks, the benefits to the residents of the development, and the need to provide adequate open space in a growing city. But while a list similar to the one from the DRC that included a native planting suggestion and access issues was proposed at the Commission, we were only able to reach consensus on two items, namely the following:

1. Concurrence with the DRC that the development applicant must have further meetings with the PRW Department director and the stakeholders in that community and reach a consensus agreement.
2. Require that bird-safe glass be required throughout the entire development, with special attention to the west side of the building.

CONTACT PERSONS:

Claudia Kawczynska, Chair of the PRW Commission

Erin Diehm, Vice-Chair of the PRW

Vote – **Ayes:** Allan Abshez (8), Claudia Kawczynska (2), Gordon Wozniak (mayor), Erin Diehm (4), Gianna Ranuzzi (3), Reichi Lee (2) – **Abstain:** Brennan Cox (5) – **Not Present:** Alyssa Hurtado (7)

APPENDIX

