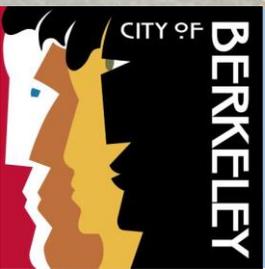


2600 Tenth Street

**Appeal of ZAB Denial of
Administrative Use Permit
#ZP2023-0031**



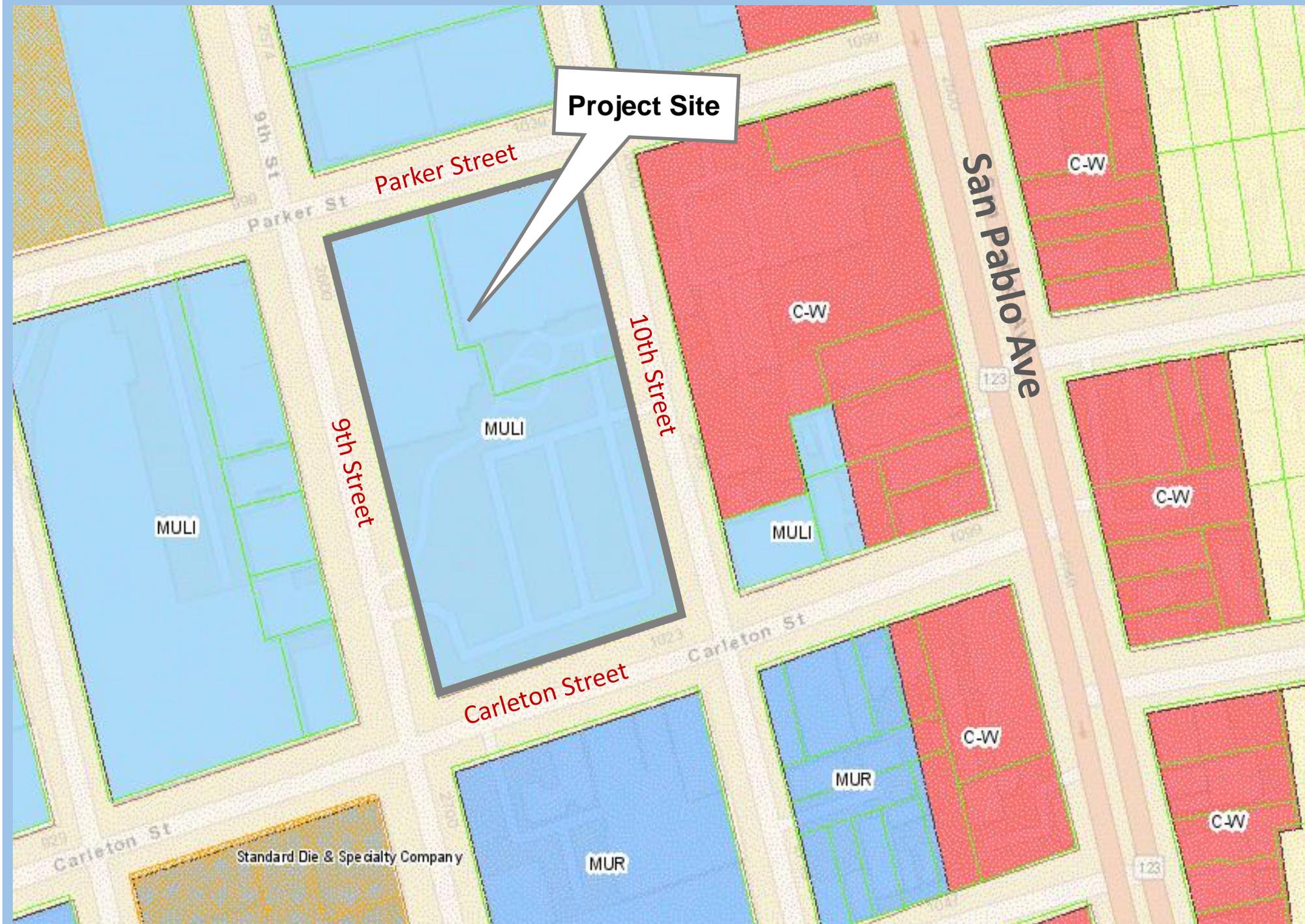
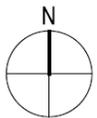
**CITY COUNCIL PUBLIC HEARING
July 30, 2024**



Overview

- **The Project**
- **Project Timeline**
- **Ordinance Definitions**
- **Appeal Points**
- **Staff Recommendation**





Project Site

Parker Street

San Pablo Ave

MULI

C-W

C-W

9th Street

10th Street

C-W

MULI

MULI

Carleton Street

Carleton St

C-W

MUR

C-W

MUR

Standard Die & Specialty Company

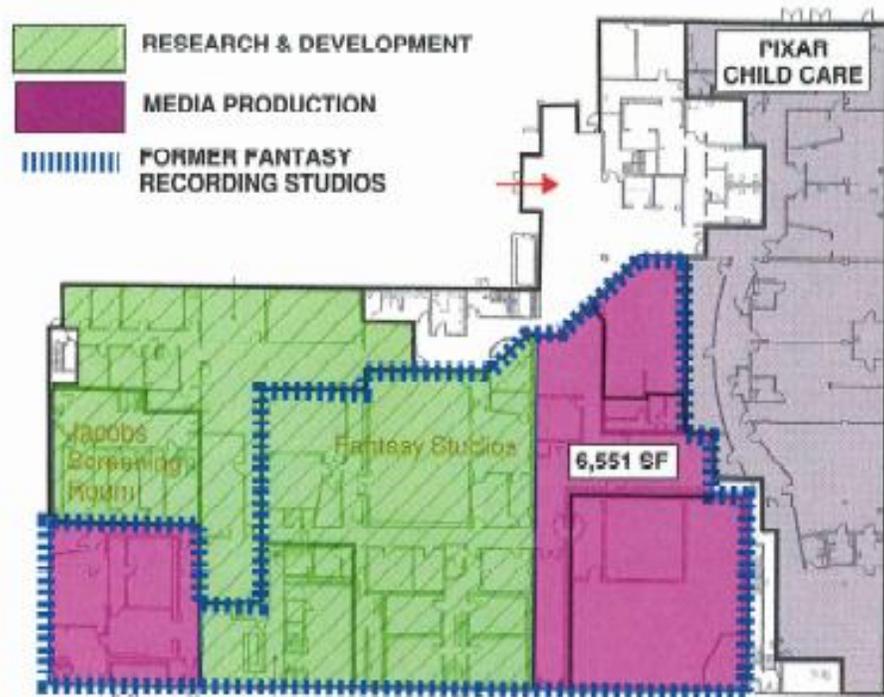
C-W

Fantasy Records Building

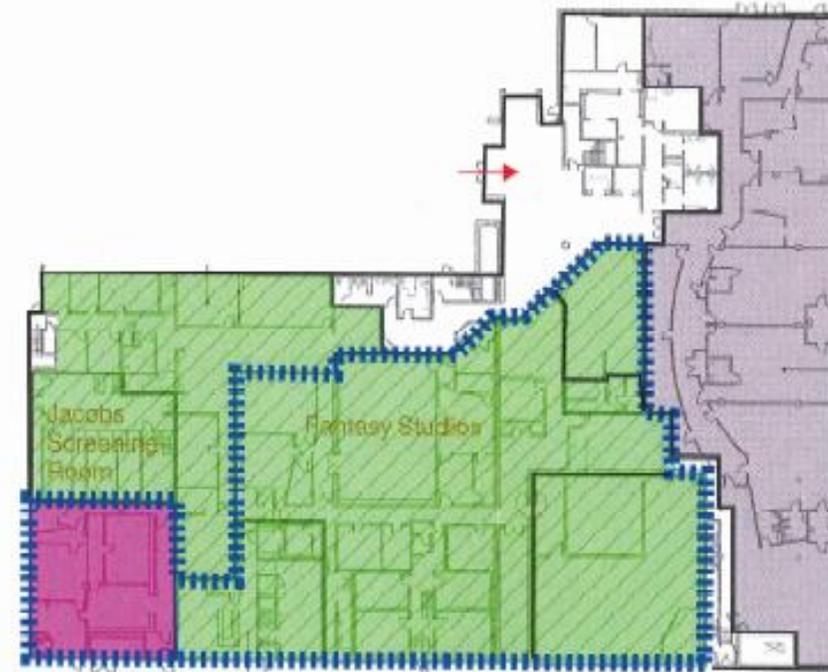
- **1971:** 2-story building constructed as a recording company and expanded to film production
- **1980:** expanded to a 7-story building and housed a film post-production center and a fourth recording studios (Saul Zaentz Media Center)
- **2004:** Fantasy Records was sold to Concord Records
- **2007:** Building and studios were sold to Wareham Development



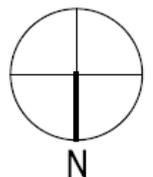
The Proposed Project First Floor



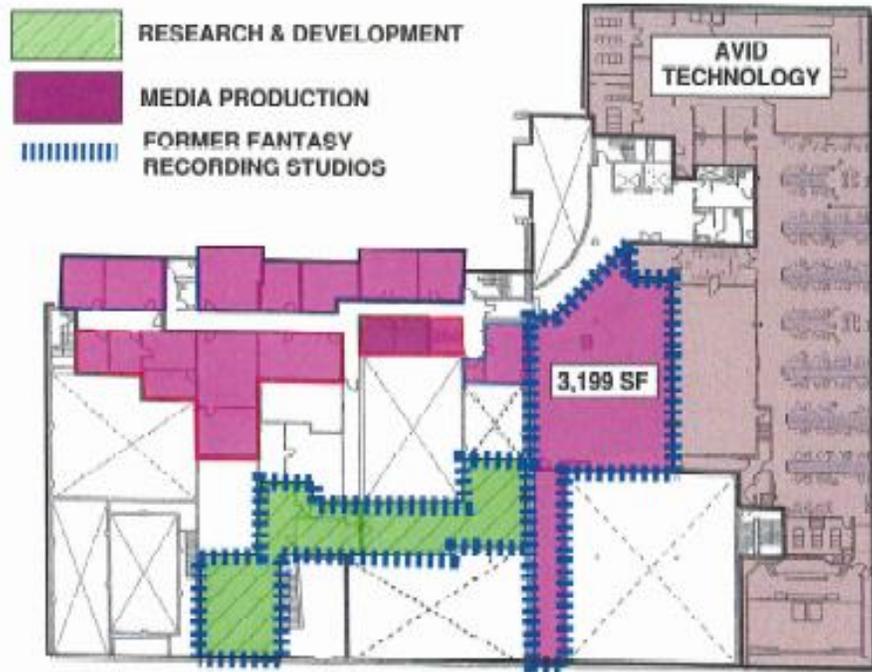
Existing First Floor



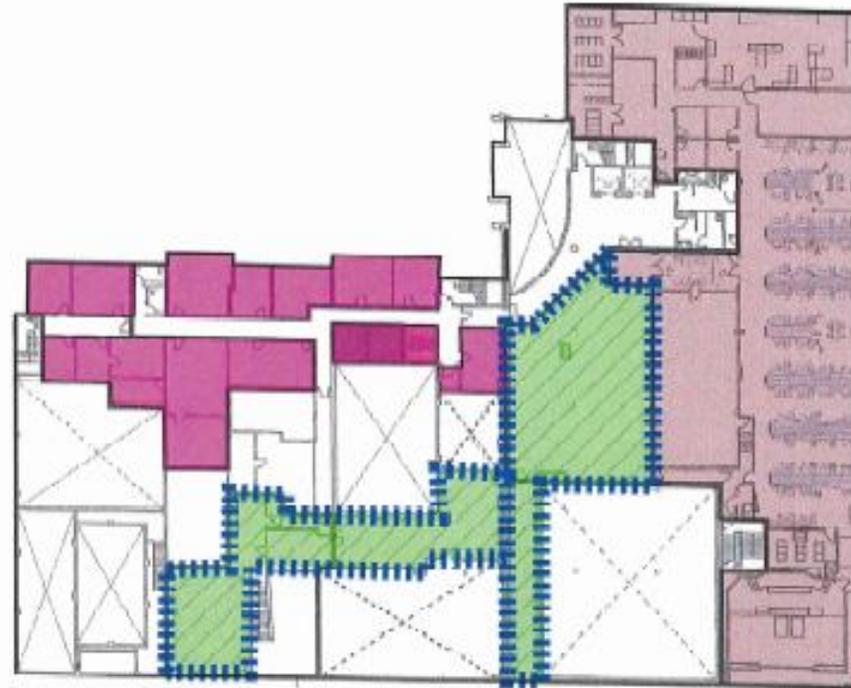
Proposed First Floor



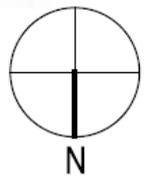
The Proposed Project



Existing Second Floor



Proposed Second Floor



Review History

Prior to AUP / May 2022

Zoning Certificate approved to change 19,553 sq. ft. from Media Production to Research and Development

March 2023

AUP application received to change 9,750 sq. ft. of Media Production to Research and Development.

November 2023

Zoning Officer approved the AUP

December 2023

AUP approval appealed to ZAB

April 25, 2024

ZAB denied the AUP

May 10, 2024

Appeal filed for City Council review by applicant

July 30, 2024

City Council Appeal Hearing

Definitions BMC 23.206.050(B)

Media Production

Commercial arts and art-related business services including audio and film recording and editing studios and services, film and video production, titling, video and film libraries, special effects production, motion picture and photograph processing, radio and television broadcast, and similar uses.

Art/Craft Studio

An establishment engaged in the creation of art or crafts that requires artistic skill.....

Examples include woodworkers, potters/ceramicists, costume makers, set designers, stained-glass makers, glassblowers, textile artists and weavers, jewelry makers, painters, fine art printmakers, photographers/filmmakers, leather workers, metal workers, musical instrument makers, model makers, papermakers, installation artists, sculptors, video artists, and other makers of art and crafts that the Zoning Officer determines to be consistent with this definition.

Art/Craft Studio as a Protected Use

**Art/Craft Studio is considered a Protected Non-Industrial use in the MULI provided that:
(BMC 23.206.050(B))**

(a) Was legally established as of **July 6, 1989**; and

(b) Exists as a single **stand-alone** use or is **combined with residential use in a live/work unit.**

Established uses

On-Site established uses (before and after the cut-off date):

Uses prior to the July 6, 1989: record company, sound studio, offices, publishing company, computer software, video production, screening rooms and ...

Uses after the July 6, 1989 and after: Media Production, filmmaking, writing office, and television programming, as well as computer software design, general business office and ...

Analysis

Arts/Craft Studio (Protected)

Studio spaces for art production, performing art instruction, and rehearsal studios

Media Production (Not protected)

Commercial arts and art-related business services involving various media types

Staff's Conclusion

- **The established use as of July 6, 1989 and the existing film production use most accurately meets the Media Production definition.**
- **Since other commercial uses have shared the building with the existing use, it would not have been a single stand-alone use.**

Appeal Point 1

The existing established use meets the Media Production definition.

Analysis:

- **The established use as of July 6, 1989 was Media Production, which is not a Protected Non-Industrial use.**
- **The long-existing film and video production use is consistent with the current definition of Media Production.**
- **The Saul Zaentz Film Center was a commercial arts business service consisting of several recording and editing studios and office spaces for the purpose of producing various forms of media, including music and film.**

Appeal Point 2

Appendix B to the West Berkeley Area Plan distinguishes the film, video and record production companies located at the Fantasy Building from the identified Art/Craft Studios in West Berkeley.

Analysis: Despite the overlap of artistic work in both uses, the West Berkeley Plan considers two separate categories for Media Production and Art/Craft Studio use.

West Berkeley Plan, Appendix B

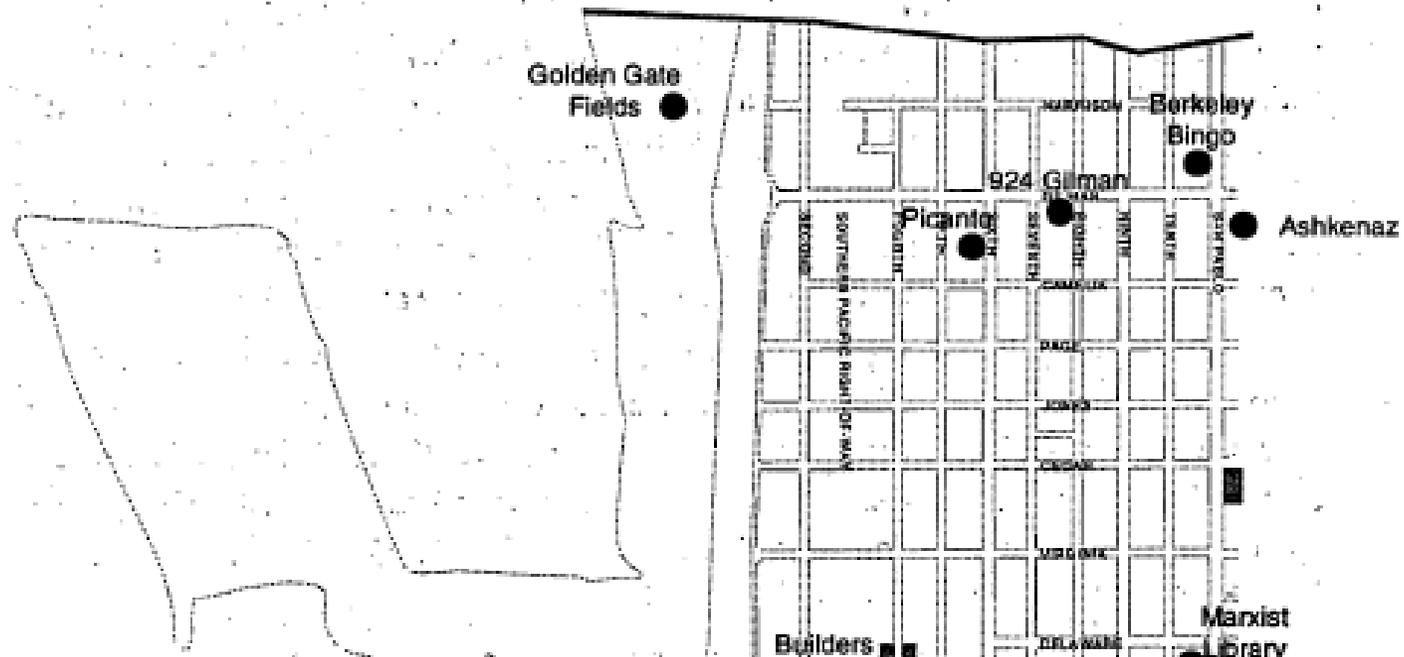
Cultural Resources of West Berkeley

WEST BERKELEY PLAN

There has been a public bathhouse in West Berkeley for decades.

In addition to being a locale where culture is enjoyed, it is also one where cultural products are created and produced. In addition to art and craft studios, there are also film, video, and record production companies in West Berkeley, at the Fantasy Building (10th & Carleton) and in other locations. West Berkeley is home to most of Berkeley's printing industry, and to some publishers, such as Nolo Press and Ten Speed Press.

Figure 1: Cultural Resources of West Berkeley, 1993



Recommendations

A. Uphold the appeal and reverse the Zoning Adjustment Board (ZAB) decision, thereby approving Administrative Use Permit #ZP2023-0031; or

B. Deny the appeal and affirm the Zoning Adjustment Board (ZAB) decision, thereby denying Administrative Use Permit #ZP2023-0031.