

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
NOVEMBER 14, 2024

0 Parker Street (APN 55-1829-11, “2215 Parker Street”)

Use Permit #ZP2024-0100 to construct a one story, 1,624 square foot single family residence with an average height of 14-feet and 11 inches on a vacant lot, and construct an 8-foot, 4-inch tall fence along the front and west-side property lines.

I. Background

A. Land Use Designations:

- General Plan: Medium-Density Residential (MDR)
- Zoning District: Restricted Multiple-Family Residential District (R-2A)

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.202.020 to construct a new single-family dwelling; and
- Administrative Use Permit pursuant to BMC Section 23.304.080.A to construct a fence over 6-feet in height.

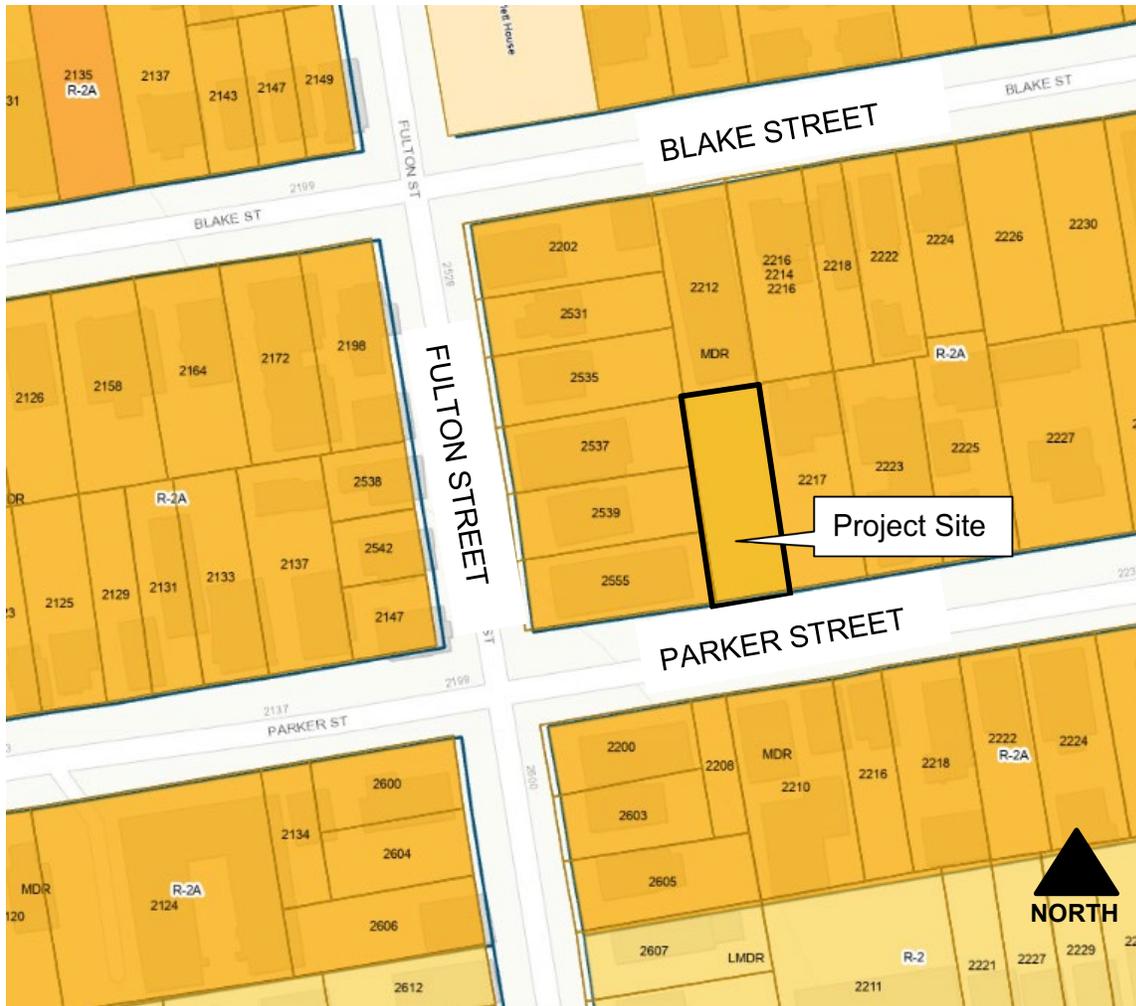
C. CEQA Recommendation:

It is staff’s recommendation to the Zoning Adjustments Board (ZAB) that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, Section 15000, et seq.) pursuant to CEQA Guidelines Section 15303 (“New Construction or Conversion of Small Structures”)

D. Parties Involved:

- Applicant: dsa architects, 1107 Virginia Street, Berkeley, CA
- Property Owner: Zsuzsanna Gille and Richard Esbenshade, 2217 Parker Street, Berkeley, CA

Figure 1: Vicinity and Zoning Districts Map

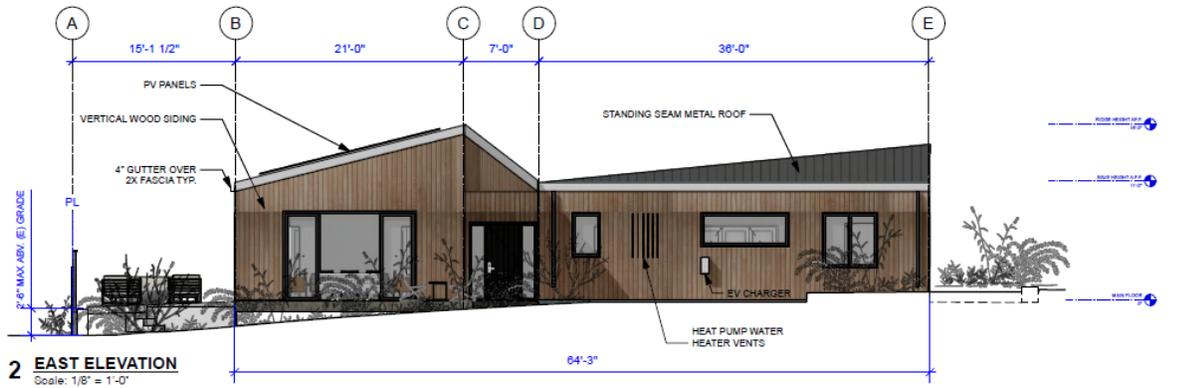


Legend :

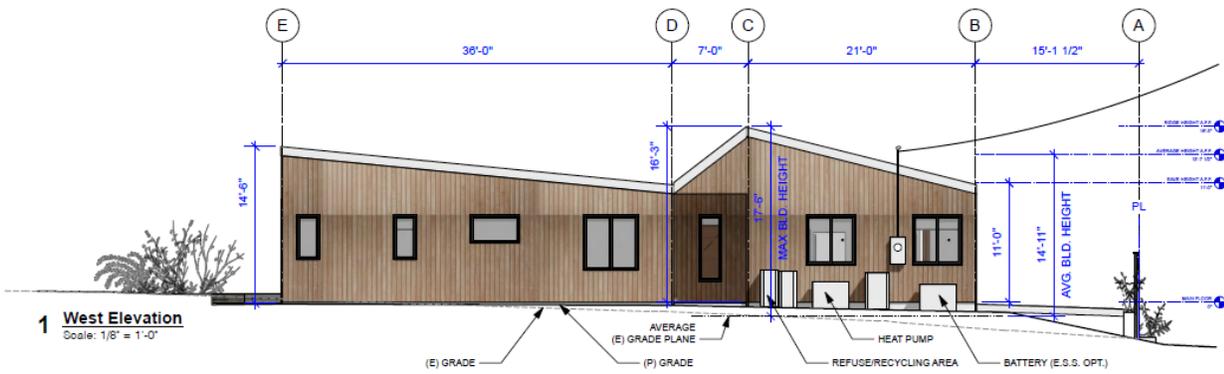
R-2A Restricted Multiple-Family Residential District

R-2 Restricted Two-Family Residential District

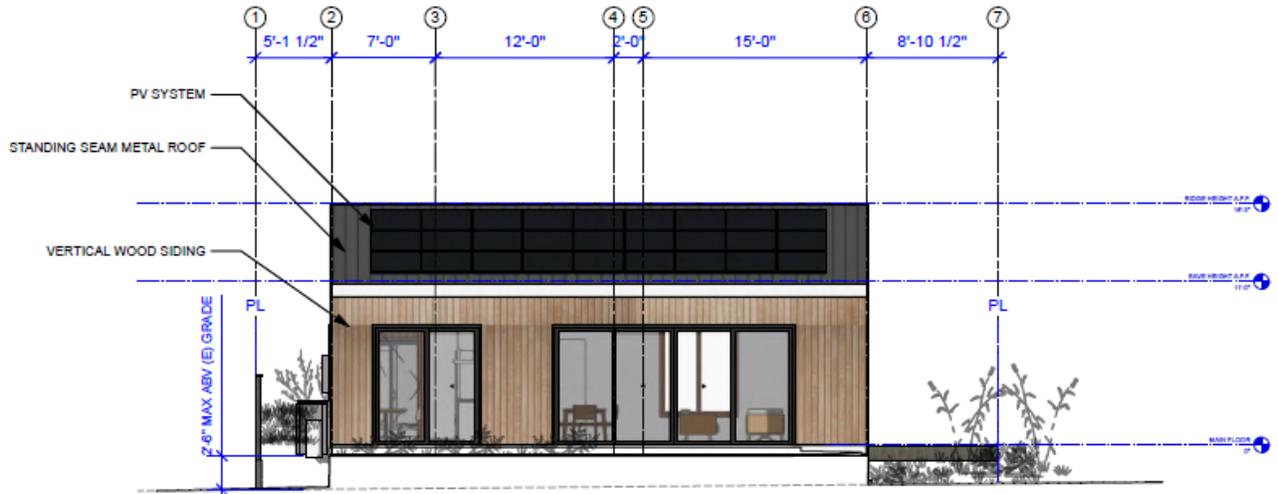
Figure 4: Elevations



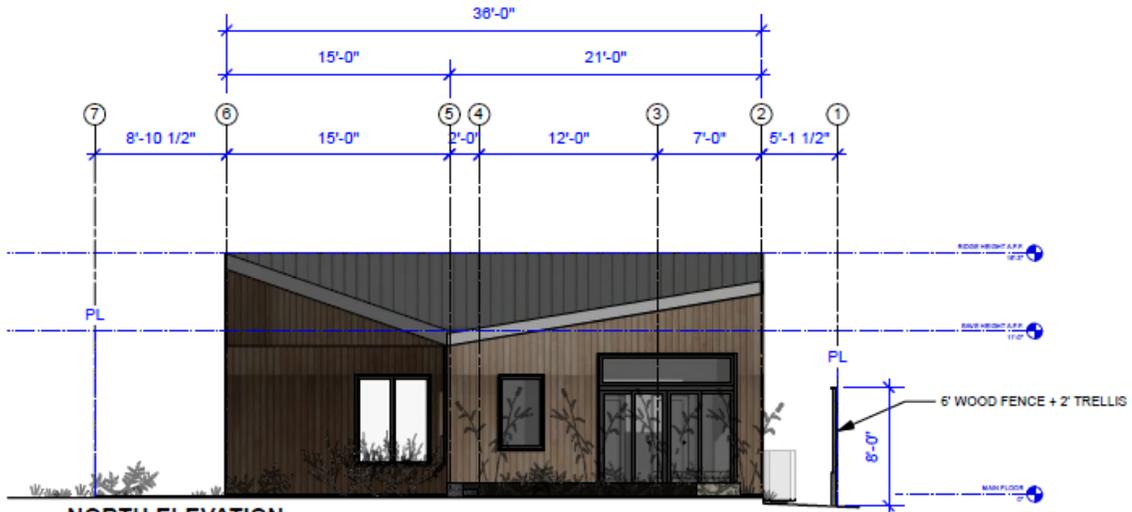
2 EAST ELEVATION
Scale: 1/8" = 1'-0"



1 West Elevation
Scale: 1/8" = 1'-0"



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



1 NORTH ELEVATION
 Scale: 1/8" = 1'-0"

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant Lot	R-2A	Medium Density Residential (MDR)
Surrounding Properties	North	13 Unit Apartment Building		
	South	Multi Family Residence		
	East	Single Family Residence		
	West	3 Parcels along Fulton Street: Mini-dorm, Multi-Family Residence, 8 Unit Apartment Building		

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 construct a single-family dwelling; therefore, the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	This fee applies to net newly constructed nonresidential gross floor area over 7,500 square feet. The project would construct a single-family dwelling; therefore, the fee does not apply.
Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328)	No	The project is a housing development project, as defined in BMC 23.328.020 ^a , with 5,000 square feet or less of residential unit floor area. The project is not part of a larger housing development project, and is exempt from the inclusionary housing provisions.
Coast Live Oak Trees (BMC Chapter 6.52)	Yes	There is one protected Coast Live Oak (<i>Quercus agrifolia</i>) tree on the project site. The proposed project is not within the drip line of the Coast Live Oak tree. As part of the Conditions of Approval, protective measures shall be taken to protect and preserve the tree.
Creeks	No	No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the project site.
Density Bonus	No	The project is not a density bonus project.
Historic Resources	No	The subject lot is currently vacant.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	No	The project does not meet the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). ^b A development has to consist of more than one unit to qualify under the HAA. Therefore, HAA does not apply to this project.
Housing Crisis Act of 2019 (SB 330)	No	The project does not meet the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). ^c The proposed project is for a single-family dwelling and does not meet the definition of "housing development project" and SB 330 does not apply.
Rent Controlled Units	No	There are no existing dwelling units on the site.

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Characteristic	Applicability	Explanation
Residential Preferred Parking (RPP)	No	The site is located in an RPP zone J. 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)	No	The project site is not located within an area susceptible to landslide/liquefaction/fault rupture as shown on the State Seismic Hazard Zones map. ^d
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area and is not on the Cortese List. ^e Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is located within two blocks from Shattuck Avenue where there is frequent Alameda-Contra Costa Transit (AC Transit) bus service, such as Line 18, 800, and F. Additionally, the site is located approximately 0.7 miles of the Downtown Berkeley BART station and 0.9 miles of the Ashby BART station.
<p>Notes:</p> <p>a. BMC 23.328.020(E) defines a "Housing Development Project" for purposes of inclusionary housing requirements as "a development project, including a Mixed-Use Residential project involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership or control shall be considered as a sole Housing Development Project and not as individual projects.</p> <p>b. 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>c. See footnote b.</p> <p>d. California Department of Conservation. DOC Maps: Geologic Hazards. Available: https://maps.conservation.ca.gov/geologichazards/</p> <p>e. 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
July 2, 2024	Use Permit Application submitted
July 18, 2024	Application deemed incomplete
August 6, 2024	Application resubmitted
August 8, 2024	Application deemed complete
October 31, 2024	Public hearing notices mailed/posted
November 14, 2024	ZAB hearing

**Table 4: R-2A Development Standards BMC Sections 23.202.090 and 23.322
Parking and Loading**

Standard		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		6,750 vacant lot	5,859 after lot line adjustment	5,000 min
Gross Floor Area (sq. ft.)		0	1,624	n/a
Dwelling Units	Total	0	1	1 unit per 1,650 sq. ft.
Building Height (ft. - in.)	Average	0	14 ft. – 11 in.	28 ft. max (35 ft. with AUP)
	Stories	0	1	3 max
Building Setbacks (ft. - in.)	Front (Parker Street)	0	15 ft.	15 min
	Rear	0	55 ft. – 9 in.	15 min
	Left Side	0	5 ft.	4 min
	Right Side	0	8 ft. - 9 in.	4 min
Lot Coverage (%)		0	29.6	45 max
Usable Open Space (sq. ft.)		6750	over 1500	300 min
Parking	Automobile	0	0	0 min
Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")				

II. Project Setting

A. Neighborhood/Area Description. The project site is located in a residential neighborhood one block east of Shattuck Avenue, three blocks west of Telegraph Avenue, and six blocks south of the UC Berkeley campus (Bancroft Way). The areas along Shattuck Avenue, Telegraph Avenue, and Bancroft Way have commercial uses, such as restaurants, stores, offices, and personal services. The immediate neighborhood is developed with a mix of one to three story buildings, including single family dwellings, multi-family apartments, and group living accommodations.

B. Site Conditions: The 6,750 square foot vacant lot is located on the north side of Parker Street and slopes up approximately 2-feet, 6 inches from the front property line to the rear property line. The lot is rectangular in shape, measuring 50 feet wide by 135 feet deep, with a protected Coast Live Oak tree in the rear, northwest corner of the lot. An approximately six-foot tall wood fence runs along the front, rear, and west-side of the site. There is no fence between the subject property and the property to the east at 2217 Parker Street because there is a driveway straddling the property line with a shared curb cut. The two parcels have the same owner; they share access from the public right-of-way which gives the appearance of one large lot.

III. Project Description

A. Proposed Project Details: The proposed project would construct a one-story 1,624 square foot dwelling unit with two bedrooms and two bathrooms on a vacant lot. The new dwelling would conform to development standards in the R-2A Zoning District for density, setbacks, lot coverage, open space, and height. The building would be located at the front of the lot to preserve the Coast Live Oak tree in the rear yard and to maintain conforming setbacks for a lot line adjustment application at 2217 Parker Street. An eight-foot tall privacy fence along the front and west-side property line is proposed, consisting of a 2-foot 6-inch retaining wall, 4-foot, 6-inch wood fence, and one-foot, 4-inch trellis on top. Under separate review, a lot line adjustment application would reduce the subject property by 891 square feet by reducing an 18-foot wide by 49-foot, 6-inch deep area from the rear of the lot; changing the shape of the parcel from rectangular to 'L'-shaped. This would create a conforming side setback for an expansion of the property located to the east at 2217 Parker Street. In addition, the shared curb cut would be reduced and the driveway would be shifted to be entirely on the neighboring parcel at 2217 Parker Street. The subject property would not have on-site parking.

IV. Community Discussion

A. Neighbor/Community Concerns:

A pre-application poster was installed on site by the applicant in August 2024. On October 31, 2024, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations. The City also posted notices within the neighborhood at nearby three locations. At the time of writing this report, staff had not received any communications regarding the project.

B. Landmark Preservation Commission / Design Review Committee Review:

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

V. Issues and Analysis

A. CEQA Approach and Recommendation

It is staff's recommendation that the project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303 ("New Construction or Conversion of Small Structures"). The project complies with this exemption because the project consists of one single-family residence in a residential zone. In addition, none of the exceptions to eligibility for a categorical exemption as listed under CEQA Guidelines Section 15300.2, apply to the project:

- The undeveloped project site is currently characterized as developed by the California Natural Diversity Database;¹ therefore, it is not located in an environmentally sensitive area;
- The cumulative impact of successive projects of the same type in the same place, over time would not be significant;
- There are no "unusual circumstances" at the project site that would result in significant environmental effects;
- There are no eligible or designated scenic highways within the City of Berkeley;² therefore, the project site is not in view of a state scenic highway;
- The site is not included on a list compiled pursuant to Government Code Section 65962.5;³ and
- The project would not result in a substantial adverse change in the significance of a historical resource.

The CEQA determination is made by ZAB, as the decision-making body.

B. 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. Views: The project site is located in a neighborhood that is generally flat and developed with one- to three- story dwellings that filter or obscure significant views. At an average height of 14-feet, 11-inches the project does not obstruct any significant view corridors as defined in BMC Section 23.502.020(V)(12).⁴
2. Shadows: The new shadows cast by the proposed project would primarily affect the abutting rear yards of the three parcels to the west along Fulton Street of which only one building would be affected. The affected building is on the south-west corner lot at 2555 Fulton Street which is closest in proximity to the highest point of the proposed project. New shadows would be cast the corner first floor. The new shading would only occur in the morning during the spring and summer. Because the average height

¹ California Department of Fish and Wildlife. California Natural Diversity Database. Available: <https://apps.wildlife.ca.gov/bios6/?tool=cnddbqv>

² California Department of Transportation. California Scenic Highway Program's Scenic Highway System List. Available: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>

³ California Environmental Protection Agency. Cortese List Data Resources. Available: <https://calepa.ca.gov/sitecleanup/corteselist/>

⁴ View Corridor - A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

of the proposed dwelling unit is 14-feet, 11-inches most of the new shadows cast would be into neighboring yards. Because the impact to these neighboring properties would occur on limited areas, and would only partially shade a neighboring building for a limited time during the year, and only for a few hours of the day, staff believes that shadow impacts from the project would be reasonable and not detrimental.

3. Privacy: The subject parcel abuts the rear lot lines of all neighboring properties except 2217 Parker Street. The building on 2217 Parker is located along the rear property line and the proposed project would be offset by developing near the front of the lot. Given the location of the parcel on the block and the proposed building being located on the front of the lot, there is a significant amount of building separation and privacy from all abutting lots. The nearest adjacent dwelling is over 15-feet away at 2555 Fulton Street, of which a covered on-site parking space buffers the building separation. In addition, existing mature vegetation, a Coast Live Oak tree, and a fence would provide privacy screening from adjacent properties at the rear and side. The fence along the front of the lot would provide privacy from the public right-of-way into the useable open space in the front yard and Staff believes that privacy impacts from the project would be reasonable and not detrimental.
4. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

C. R-2A District Purposes:

The proposed project would meet the following purposes of the Restricted Two-Family Residential District:

1. Implement the General Plan by encouraging the development of medium-density residential areas characterized by small multiple-family and garden-type apartment structures with a maximum of open space consistent with this type of development;
2. Make available housing for persons who desire apartment-type accommodations with a maximum of open space;
3. Protect adjacent properties from unreasonable obstruction of light and air; and
4. Permit only land use intensity which is compatible with existing low-density residential structures and is not detrimental to the immediate neighborhood.

Staff Analysis: The proposed project is consistent with the above purposes of the R-2A Zoning District because the project would add housing to a medium-density residential area and provide open space on the lot. The project would meet or exceed the development standards on the zoning district and not unreasonable obstruct sunlight,

air or views making it compatible with the existing low-density residential structures and not detrimental to the neighborhood.

D. Administrative Use Permit for Fence over six-feet in height within required setbacks

BMC Section 23.304.080(A) requires an Administrative Use Permit (AUP) for fences over six-feet in height located within required lot lint setbacks for main buildings. The project would include an eight-foot tall privacy fence along the front and west-side property line. The proposed fence design consists of a 2-foot 6-inch retaining wall, 4-foot, 6-inch wood fence, and one-foot, 4-inch trellis on top. The fence along the front property line would screen a patio area for the great room, where the living room, dining room, and kitchen are located. The front of the lot provides more privacy given two abutting properties at the rear are apartment buildings and the main building at 2117 Parker Street is adjacent to the rear yard. The AUP would allow the fence design to be tailored to the space with a not-to-exceed height of eight-feet.

VI. Other Considerations (Zoning and Land Use Considerations)

A. 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 UD-32 Shadows:** New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
- 3. Policy H-19 Regional Housing Needs:** Encourage adequate housing production to meet City needs and the City's share of regional housing needs.

Staff Analysis: The project is consistent with the above General Plan Policies because the infill development would construct one new dwelling unit and be consistent with neighboring land uses. The proposed size would be compatible with the existing scale of the neighborhood, and would be consistent with zoning requirements. Given the project is one story with ample building-to-building separation, shadow impacts would not be detrimental. By adding a dwelling, the project would support regional housing needs.

VII. 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:

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1. **FIND** that the project is categorically exempt from the provisions of the CEQA pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures"); and
2. **APPROVE** Use Permit #ZP2024-0100 pursuant to Section 23.406.040(D) and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received August 6, 2024
3. Notice of Public Hearing

Staff Planner: Vicky Schlepp, vschlepp@berkeleyca.gov, (510) 981-7422

ATTACHMENT 1

FINDINGS AND CONDITIONS

NOVEMBER 14, 2024

0 Parker Street (APN 55-1829-11, “2215 Parker Street”)

Use Permit #ZP2024-0100 to construct a one story, 1,624 square foot single family residence with an average height of 14-feet and 11 inches on a vacant lot and construct an 8-foot, 4-inch tall fence along the front and west-side property lines.

ZONING PERMITS REQUIRED

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.202.020 to construct a new single-family dwelling; and
- Administrative Use Permit pursuant to BMC Section 23.304.080.A to construct a fence over 6-feet in height.

I. CEQA FINDINGS

- A.** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).

II. 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. Views: The project site is located in a neighborhood that is generally flat and developed with one- to three- story dwellings that filter or obscure significant views. At an average height of 14-feet, 11-inches the project does not obstruct any significant view corridors as defined in BMC Section 23.502.020(V)(12)¹; and
 2. Shadows: The new shadows cast by the proposed project would primarily affect the abutting rear yards of the three parcels to the west along Fulton Street of which only one building would be affected. The affected building is on the south-west corner lot at 2555 Fulton Street which is closest in proximity to the highest point of the proposed project.

¹ View Corridor - A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

New shadows would be cast the corner first floor. The new shading would only occur in the morning during the spring and summer. Because the average height of the proposed dwelling unit is 14-feet, 11-inches most of the new shadows cast would be into neighboring yards. Because the impact to these neighboring properties would occur on limited areas, and would only partially shade a neighboring building for a limited time during the year, and only for a few hours of the day, staff believes that shadow impacts from the project would be reasonable and not detrimental.

3. Privacy: The subject parcel abuts the rear lot lines of all neighboring properties except 2217 Parker Street. The building on 2217 Parker is located along the rear property line and the proposed project would be offset by developing near the front of the lot. Given the location of the parcel on the block and the proposed building being located on the front of the lot, there is a significant amount of building separation and privacy from all abutting lots. The nearest adjacent dwelling is over 15-feet away at 2555 Fulton Street, of which a covered on-site parking space buffers the building separation. In addition, existing mature vegetation, a Coast Live Oak tree, and a fence would provide privacy screening from adjacent properties at the rear and side. The fence along the front of the lot would provide privacy from the public right-of-way into the useable open space in the front yard and Staff believes that privacy impacts from the project would be reasonable and not detrimental.

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

III. OTHER FINDINGS FOR APPROVAL

- A. BMC Section 23.304.080(A) requires an Administrative Use Permit (AUP) for fences over six-feet in height located within required lot lint setbacks for main buildings. The project would include an eight-foot tall privacy fence along the front and west-side property line. The proposed fence design consists of a 2-foot 6-inch retaining wall, 4-foot, 6-inch wood fence, and one-foot, 4-inch trellis on top. The fence along the front property line would screen a patio area for the great room, where the living room, dining room, and kitchen are located. The front of the lot provides more privacy given two abutting properties at the rear are apartment buildings and the main building at 2117 Parker Street is adjacent to the rear yard. The AUP would allow the fence design to be tailored to the space with a not-to-exceed height of eight-feet.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. **Conditions Shall be Printed on Plans.** The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings.
2. **Compliance Required (BMC Section 23.102.050).** All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.
3. **Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060(B)(1) and (2)):**
 - A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
 - B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To re-establish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.
4. **Conformance to Approved Plans (BMC Section 23.404.060(B)(4)).**

All work performed under an approved permit shall comply with the approved plans and any conditions of approval.
5. **Exercise and Expiration of Permits (BMC Section 23.404.060(C)):**
 - A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
 - B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
 - C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
 - D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

- 6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D)).** Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.
- 7. Permit Modifications (BMC Section 23.404.070).** No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.
- 8. Permit Revocation (BMC Section 23.404.080).** The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.
- 9. 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.

Prior to Submittal of Any Building Permit:

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

Project Liaison _____

Name	Phone #
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11. 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.

12. Coast Live Oak Tree Protection Plan and Guidelines. The applicant shall follow the [City of Berkeley Tree Protection Instructions for Development Projects](#). Tree protection measures shall be in place prior to the commencement of any construction activity and shall be maintained throughout the duration of the construction project. The coast live oak trees shall be protected from all injuries that could endanger their survival. Failure to adequately protect the existing oak trees from damage such that it is removed through negligence or intentional action shall require corrective measures as determined by the Zoning Officer.

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

13. 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.

14. 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

- 15. Parcel Merger/Lot Line Adjustment.** The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
- 16. 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.
- 17. 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.)
- 18. Water Efficient Landscaping.** Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
- 19. 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.
- 20. 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.

Prior to Demolition or Start of Construction:

- 21. 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:

- 22. Construction Hours.** Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

23. 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.

24. 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.

25. 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.

26. 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.)

27. 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.

28. 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.

29. 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.

- 30. 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.
- 31. 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.
- 32. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A.** The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B.** Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C.** Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge of 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.
 - I. 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.
 - J. 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.
 - K. 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.
- 33. 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.
- 34. 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.

35. **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.
36. **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.
37. **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.
38. **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.
39. **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:

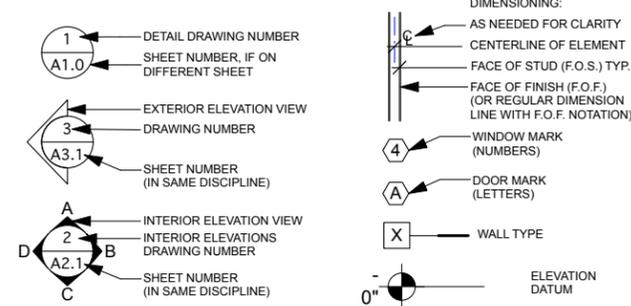
40. **Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
41. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 6, 2024.

At All Times:

42. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.
43. **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.
44. **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.
45. **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.
46. **Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
47. **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.

- 48. 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.

DRAWING LEGEND AND SYMBOLS



GILLE - ESBENSHADE RESIDENCE

2215 PARKER ST.
BERKELEY, CA-94704



ABBREVIATIONS - MAY BE USED WITH OR WITHOUT PERIOD SEPARATIONS

∅	Centerline	EQ.	Equal	N.T.S.	Not To Scale
∅	Diameter or Round	EXT.	Exterior	O.C.	On Center
#	Pound or Number	F.B.O.	Furnished By Owner	OPT.	Option(al)
A.B.	Anchor Bolt	F.D.	Floor Drain	PL.	Plate
A.D.A.	(per) Americans With Disabilities Act	F.F.	Finish Floor	PLY	Plywood
A.F.F.	Above Finish Floor	FIN.	Finish	R.C.P.	Reflected Ceiling Plan
ALT.	Alternate (-ive)	F.O.S.	Face of Stud	REQD.	Required
ARCH.	Architect(ural)	F.O.C.	Face of Concrete	R.O.	Rough Opening
BD.	Board	F.O.F.	Face of Finish	R.W.L.	Rain Water Leader
BLDG.	Building	FT.	Foot or Feet	S.F.	Square Feet
BLKG.	Blocking	GA.	Gauge	SIM.	Similar
BOT.	Bottom	GALV.	Galvanized	S.M.	Sheet Metal
C.J.	Control Joint	GR.	Grade	SPEC.	Specifications
CLG.	Ceiling	G.S.M.	Galvanized Sheet Metal	SQ.	Square
CLR.	Clear	GYP.BD.	Gypsum Board	S.S.D.	See Structural Drawing
COL.	Column	HDWD.	Hardwood	STD.	Standard
CONC.	Concrete	HORIZ.	Horizontal	SYM.	Symmetrical
CONT.	Continuous	HR.	Hour	T.M.E.	To Match Existing
CTR.	Center	HT.	Height	T.O.	Top Of
DBL.	Double	INSUL.	Insulation	T.P.H.	Toilet Paper Holder
DET.	Detail	LAV.	Lavatory	TYP.	Typical
DIA.	Diameter	LAV.	Lavatory	U.O.N.	Unless Otherwise Noted
DIM.	Dimension	M.C.	Medicine Cabinet	UTIL.	Utility
DN.	Down	MEP	Mechanical, Electrical, and/or Plumbing Manufacturer	VERT.	Vertical
DWG.	Drawing	MFR.	Manufacturer	V.I.F.	Verify In Field
(E)	Existing	MIN.	Minimum	W/	With
EA.	Each	MISC.	Miscellaneous	WD.	Wood
E.M.L.	Expanded Metal Lath	(N)	New	W/O	Without
E.P.	Electrical Panelboard	NOM.	Nominal	W.P.M.	Water Proof Membrane
				W.W.M.	Welded Wire Mesh

APPLICABLE CODES

THIS PROJECT SHALL COMPLY WITH THE 2022 CALIFORNIA RESIDENTIAL CODE, BUILDING CODE, MECHANICAL, ELECTRICAL, PLUMBING, ENERGY, HISTORICAL, EXISTING AND GREEN BUILDING STANDARDS CODE AS AMENDED BY THE CITY OF BERKELEY, AND AS APPLICABLE.

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2	A.1.1	SITE PLAN
3	B.1.0	LANDSCAPE PLAN
4	C.1.0	LOT COVERAGE
5	D.1.0	FLOOR PLAN
6	E.1.0	BLDG. ELEVATIONS
7	E.2.0	BLDG. ELEVATIONS
8	F.1.0	ST. ELEVATIONS
9	H.1.0	SURVEY
SECTION 3:		
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11	B.1	SHADOW STUDY
12	B.2	SHADOW STUDY
13	B.3	SHADOW STUDY



PROJECT LOCATION
2215 PARKER ST.

SCOPE
CONSTRUCTION OF 1 -STORY 1624 SF SINGLE FAMILY RESIDENCE ON VACANT LOT

AUP #

PROJECT OWNERS
ZSUZSANNA GILLE & RICHARD ESBENSHADE

ARCHITECT
dsa architects
DANIEL SMITH & ASSOCIATES
1107 VIRGINIA ST.
BERKELEY, CA 94702

CONTRACTOR

STRUCTURAL ENGINEER
VERDANT STRUCTURAL ENGINEERS

BUILDING INFORMATION

MAIN HOUSE
CONSTRUCTION TYPE VB
OCCUPANCY R-3
USE SFR

CONDITIONED SPACE

(N) 1624 SF
GROSS FLOOR AREA
(N) 1624 SF

ZONING INFORMATION

A.P.N. 55-1829-11
PARCEL SIZE 5859 SF
ZONING R-2A
FIRE ZONE 1
UNITS 1 SFR
HEIGHT MAX 17.5'
STORIES 1
PARKING SPACES 0 (0 RQD.)
FRONT SETBACK 15' (15' RQD.)
REAR SETBACK 40.9' (15' RQD.)
SIDE SETBACK 5' (4' RQD.)

LOT COVERAGE CALCULATIONS

LOT AREA = 5859 SF
45% COVERAGE = 2636 SF
MAIN HOUSE = 1624 SF
COVERED ENTRY= 64 SF
COVERED PATIO= 47 SF
(E) COVERAGE = 0 SF = 0%
(P) LOT COVERAGE = 1735 SF = 29.6%

1107 Virginia Street
Berkeley, CA 94702
(510)-526-1935
dsa@dsaarch.com

SEAL AND SIGNATURE

CONSULTANTS

ISSUE DATE

USE PERMIT application 6/25/24

PLOT DATE: 8/5/24

PROJECT TITLE

GILLE - ESBENSHADE RESIDENCE
2215 PARKER ST.
BERKELEY CA 94704

DRAWN / CHECKED: BW, SA / DL

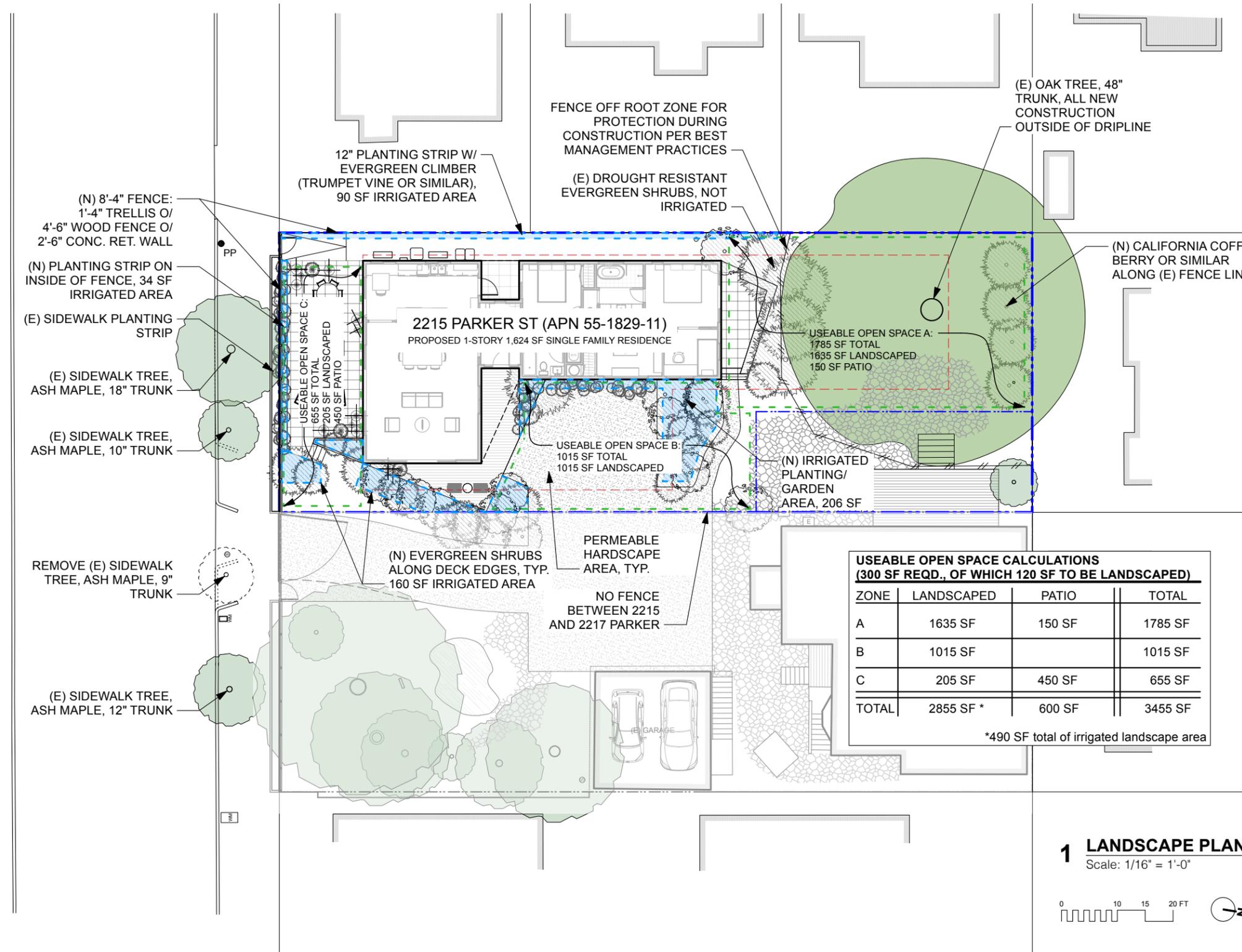
PROJECT ID: 2302

TITLE

COVER

SHEET # FORMAT 11X17

A.1.0



**USEABLE OPEN SPACE CALCULATIONS
 (300 SF REQ., OF WHICH 120 SF TO BE LANDSCAPED)**

ZONE	LANDSCAPED	PATIO	TOTAL
A	1635 SF	150 SF	1785 SF
B	1015 SF		1015 SF
C	205 SF	450 SF	655 SF
TOTAL	2855 SF *	600 SF	3455 SF

*490 SF total of irrigated landscape area

1 LANDSCAPE PLAN
 Scale: 1/16" = 1'-0"

dsa architects
 1107 Virginia Street
 Berkeley, CA 94702
 (510)-526-1935
 dsa@dsaarch.com

SEAL AND SIGNATURE

CONSULTANTS

ISSUE DATE
 USE PERMIT application 6/25/24

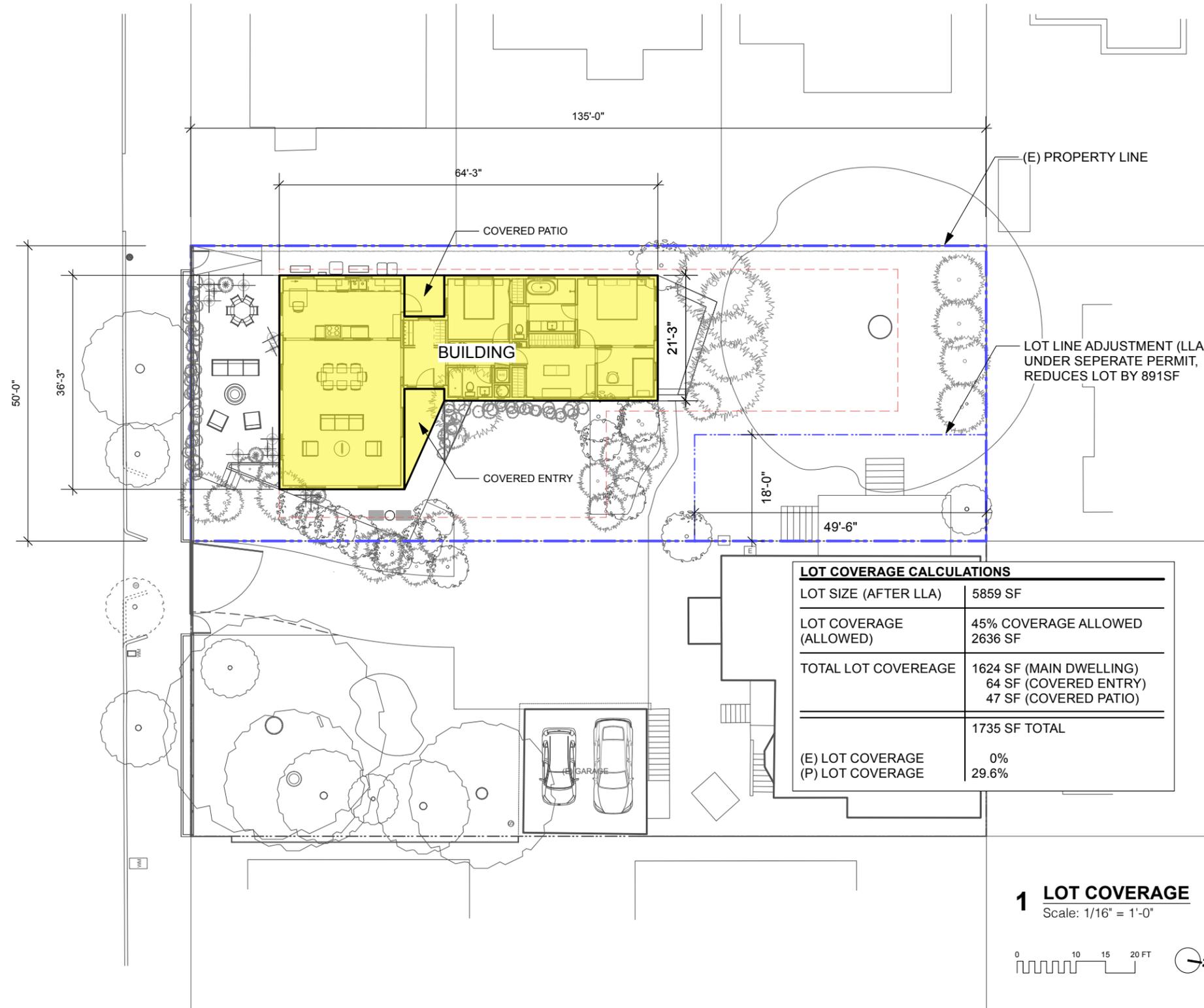
PLOT DATE: 8/6/24

PROJECT TITLE
**GILLE -
 ESBENSHADE
 RESIDENCE**
 2215 PARKER ST.
 BERKELEY CA 94704

DRAWN / CHECKED: BW, SA / DL
 PROJECT ID: 2302

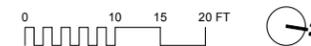
TITLE
LANDSCAPE PLAN

SHEET # FORMAT 11X17
B.1.0



LOT COVERAGE CALCULATIONS	
LOT SIZE (AFTER LLA)	5859 SF
LOT COVERAGE (ALLOWED)	45% COVERAGE ALLOWED 2636 SF
TOTAL LOT COVERAGE	1624 SF (MAIN DWELLING) 64 SF (COVERED ENTRY) 47 SF (COVERED PATIO)
	1735 SF TOTAL
(E) LOT COVERAGE	0%
(P) LOT COVERAGE	29.6%

1 LOT COVERAGE
 Scale: 1/16" = 1'-0"



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 dsa@dsaarch.com

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CONSULTANTS

ISSUE	DATE
USE PERMIT application	6/25/24

PLOT DATE: 6/25/24

PROJECT TITLE

**GILLE -
 ESBENSHADE
 RESIDENCE**

2215 PARKER ST.
 BERKELEY CA 94704

DRAWN / CHECKED: BW, SA / DL

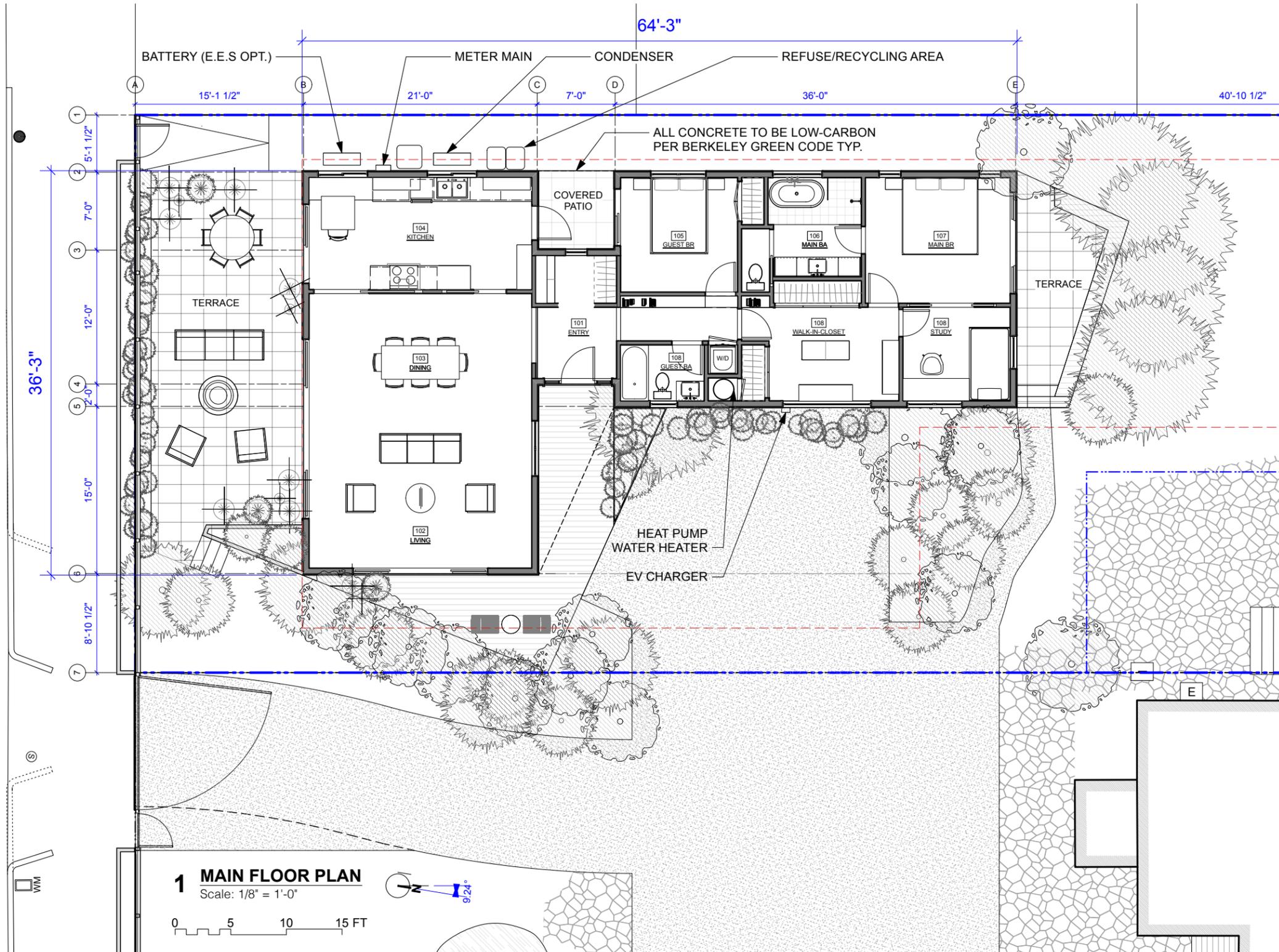
PROJECT ID: 2302

TITLE

LOT COVERAGE

SHEET # FORMAT 11X17

C.1.0



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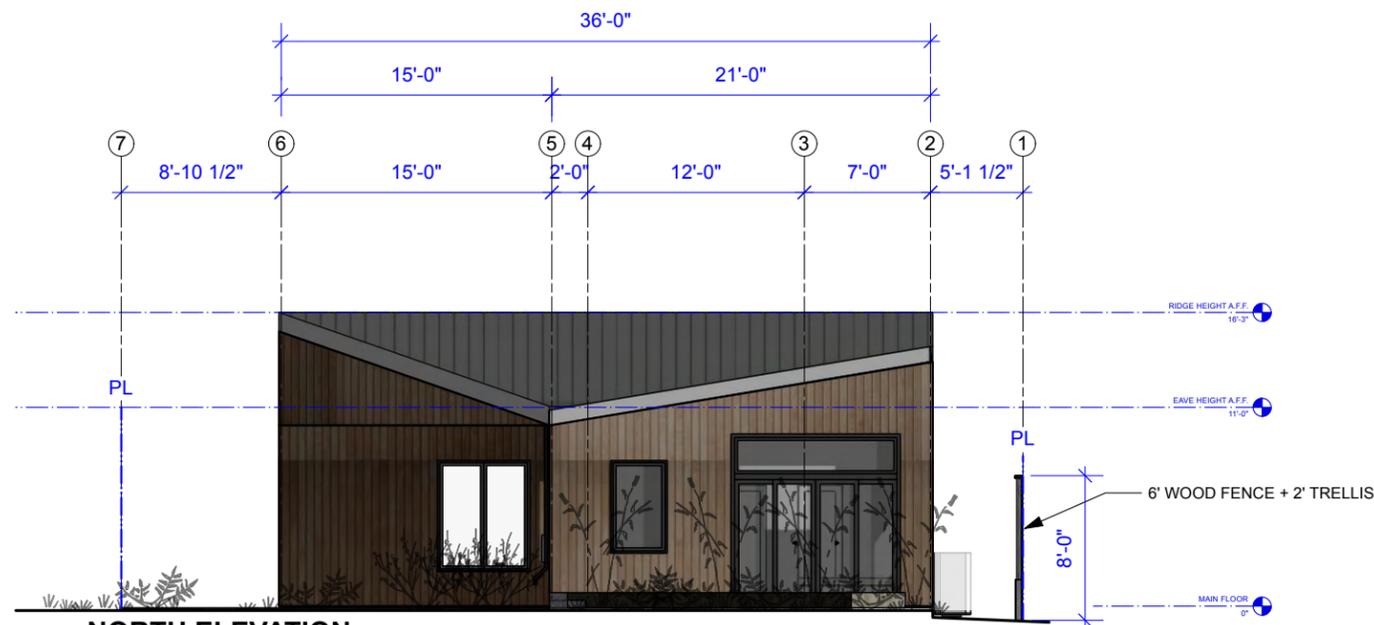
CONSULTANTS

ISSUE	DATE
USE PERMIT application	6/25/24
PLOT DATE:	8/6/24
PROJECT TITLE	GILLE - ESBENSHADE RESIDENCE 2215 PARKER ST. BERKELEY CA 94704
DRAWN / CHECKED:	BW, SA / DL
PROJECT ID:	2302
TITLE	FLOOR PLAN
SHEET #	FORMAT 11X17

D.1.0



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



1 NORTH ELEVATION
 Scale: 1/8" = 1'-0"

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CONSULTANTS

ISSUE DATE

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PLOT DATE: 8/6/24

PROJECT TITLE

**GILLE -
 ESBENSHADE
 RESIDENCE**
 2215 PARKER ST.
 BERKELEY CA 94704

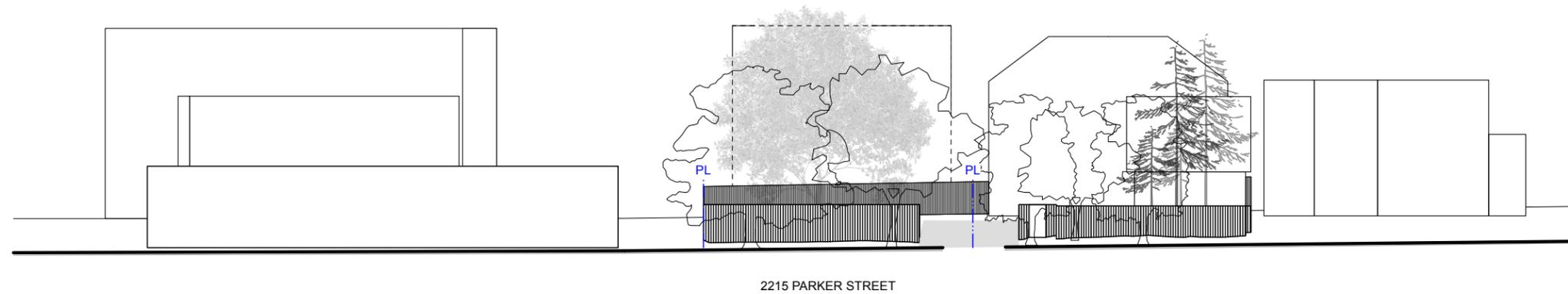
DRAWN / CHECKED: BW, SA / DL

PROJECT ID: 2302

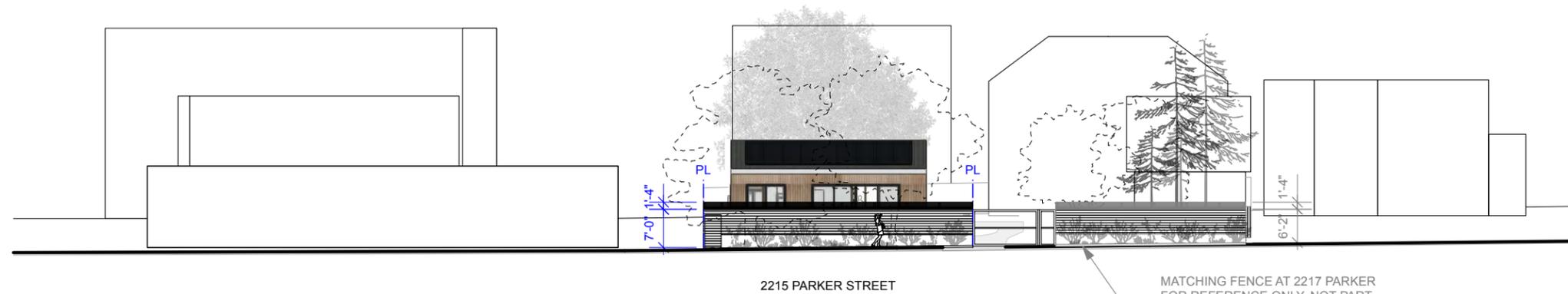
TITLE
BLDG. ELEVATIONS

SHEET # FORMAT 11X17

E.2.0



1 (E) STREET ELEVATION
 Scale: 1:250



2 (P) STREET ELEVATION
 Scale: 1:250

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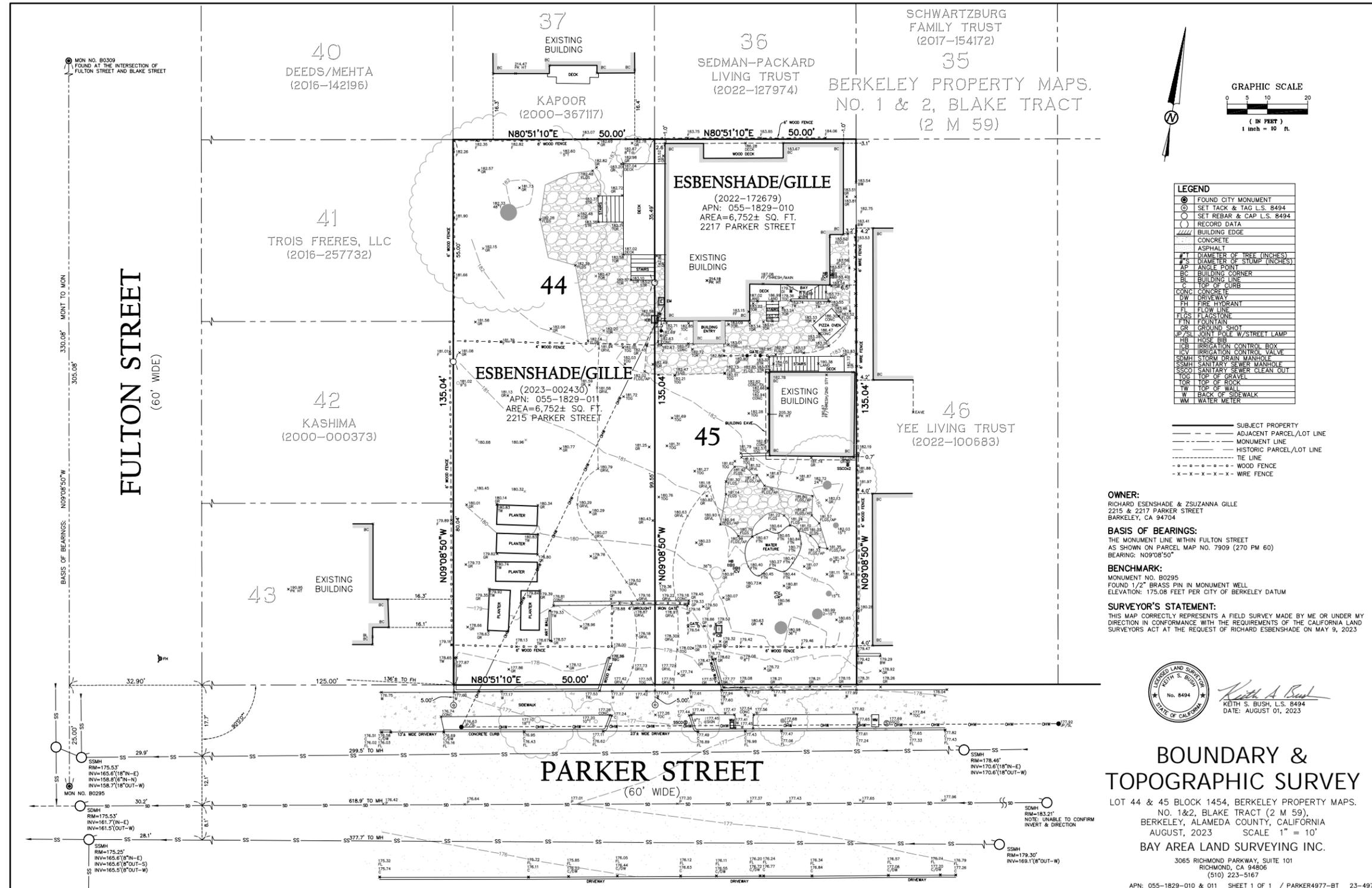
1107 Virginia Street
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 (510)-526-1935
 dsa@dsaarch.com

SEAL AND SIGNATURE

CONSULTANTS

ISSUE	DATE
USE PERMIT application	6/25/24
PLOT DATE:	6/25/24
PROJECT TITLE	GILLE - ESBENSHADE RESIDENCE 2215 PARKER ST. BERKELEY CA 94704
DRAWN / CHECKED:	BW, SA / DL
PROJECT ID:	2302
TITLE	ST. ELEVATIONS
SHEET #	FORMAT 11X17

F.1.0



LEGEND

⊙	FOUND CITY MONUMENT
⊗	SET TACK & TAG L.S. 8494
⊕	SET REBAR & CAP L.S. 8494
○	RECORD DATA
▭	BUILDING EDGE
▨	CONCRETE
▩	ASPHALT
⊕	DIAMETER OF TREE (INCHES)
⊕	DIAMETER OF STUMP (INCHES)
AP	ANGLE POINT
BC	BUILDING CORNER
BL	BUILDING LINE
C	TOP OF CURB
CONC	CONCRETE
DW	DRIVEWAY
FH	FIRE HYDRANT
FL	FLOW LINE
FLGS	FLAGSTONE
FIN	FOUNTAIN
GR	GROUND SHOT
JP/SJ	JOINT POLE W/STREET LAMP
HB	HOSE BIB
ICB	IRRIGATION CONTROL BOX
ICV	IRRIGATION CONTROL VALVE
SSMH	STORM DRAIN MANHOLE
SSWH	SANITARY SEWER MANHOLE
SSCO	SANITARY SEWER CLEAN OUT
TC	TOP OF GRAVEL
TR	TOP OF ROCK
TW	TOP OF WALL
W	TRACK OF SIDEWALK
WM	WATER METER

— SUBJECT PROPERTY
 - - - ADJACENT PARCEL/LOT LINE
 - - - MONUMENT LINE
 - - - HISTORIC PARCEL/LOT LINE
 - - - TIE LINE
 - - - - - WOOD FENCE
 - x - x - x - WIRE FENCE

OWNER:
 RICHARD ESENSHADE & ZSUZANNA GILLE
 2215 & 2217 PARKER STREET
 BERKELEY, CA 94704

BASIS OF BEARINGS:
 THE MONUMENT LINE WITHIN FULTON STREET
 AS SHOWN ON PARCEL MAP NO. 7909 (270 PM 60)
 BEARING: N09°08'50"

BENCHMARK:
 MONUMENT NO. B0295
 FOUND 1/2" BRASS PIN IN MONUMENT WELL
 ELEVATION: 175.08 FEET PER CITY OF BERKELEY DATUM

SURVEYOR'S STATEMENT:
 THIS MAP CORRECTLY REPRESENTS A FIELD SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA LAND SURVEYORS ACT AT THE REQUEST OF RICHARD ESENSHADE ON MAY 9, 2023

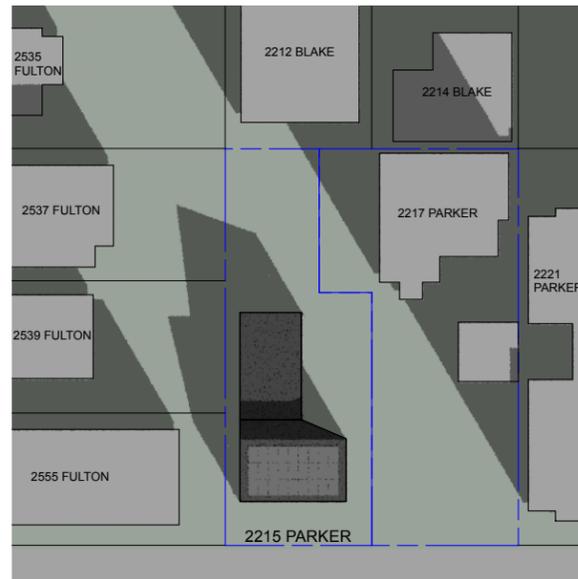


BOUNDARY & TOPOGRAPHIC SURVEY

LOT 44 & 45 BLOCK 1454, BERKELEY PROPERTY MAPS.
 NO. 1&2, BLAKE TRACT (2 M 59),
 BERKELEY, ALAMEDA COUNTY, CALIFORNIA
 AUGUST, 2023 SCALE 1" = 10'
 BAY AREA LAND SURVEYING INC.
 3065 RICHMOND PARKWAY, SUITE 101
 RICHMOND, CA 94806
 (510) 223-5167

APN: 055-1829-010 & 011 SHEET 1 OF 1 / PARKER4977-BT 23-4977

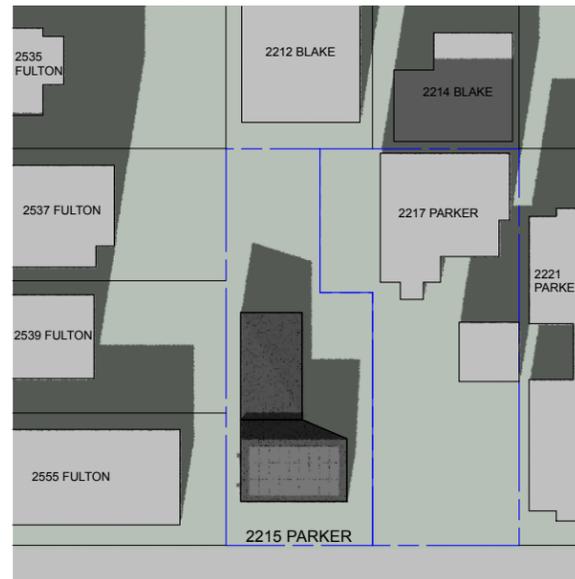
PLAN SHADOW STUDIES OF 2215 PARKER STREET; DST = DAYLIGHT SAVINGS TIME



DECEMBER 21ST 9:21 AM

ROOMS AFFECTED BY NEW CONSTRUCTION

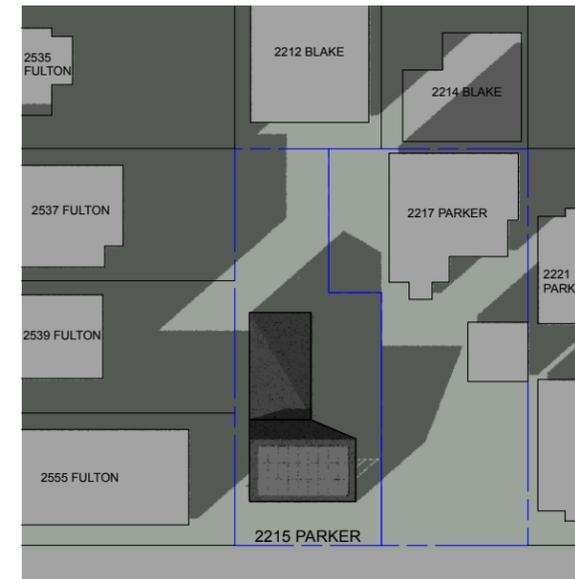
N/A



DECEMBER 21ST 12:07 PM

ROOMS AFFECTED BY NEW CONSTRUCTION

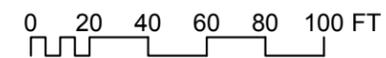
N/A



DECEMBER 21ST 2:53 PM

ROOMS AFFECTED BY NEW CONSTRUCTION

N/A



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 dsa@dsaarch.com

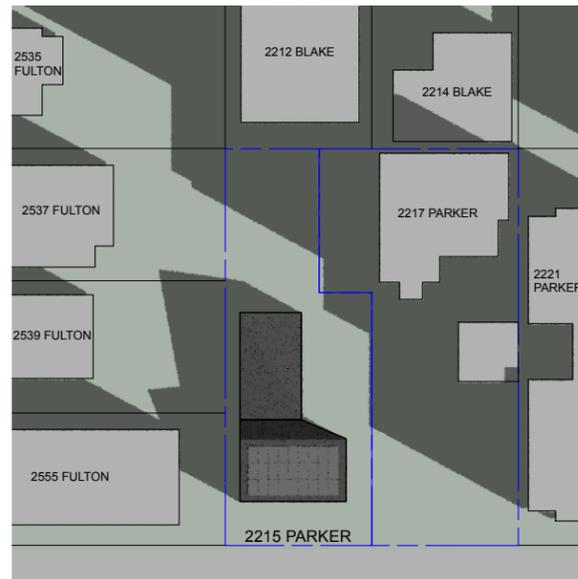
SEAL AND SIGNATURE

CONSULTANTS

ISSUE	DATE
USE PERMIT application	6/25/24
PLOT DATE:	6/25/24
PROJECT TITLE	
GILLE - ESBENSHADE RESIDENCE 2215 PARKER ST. BERKELEY CA 94704	
DRAWN / CHECKED:	BW, SA / DL
PROJECT ID:	2302
TITLE	
SHADOW STUDY	
SHEET #	FORMAT 11X17
3.B.1	

29

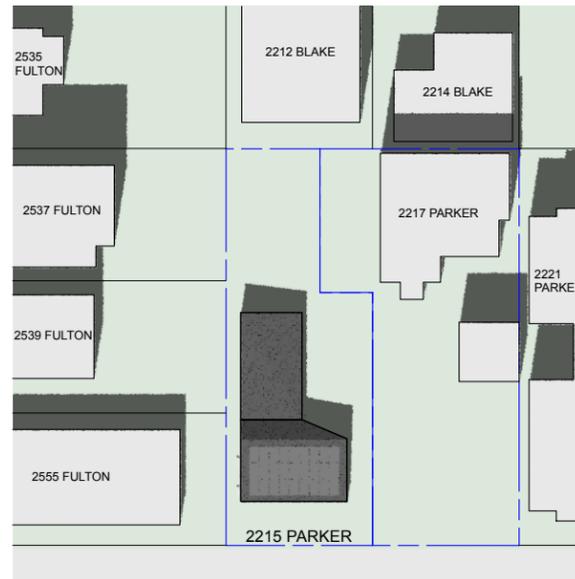
PLAN SHADOW STUDIES OF 2215 PARKER STREET; DST = DAYLIGHT SAVINGS TIME



MARCH 21ST 9:15 AM DST (8:15 SOLAR)

ROOMS AFFECTED BY NEW CONSTRUCTION

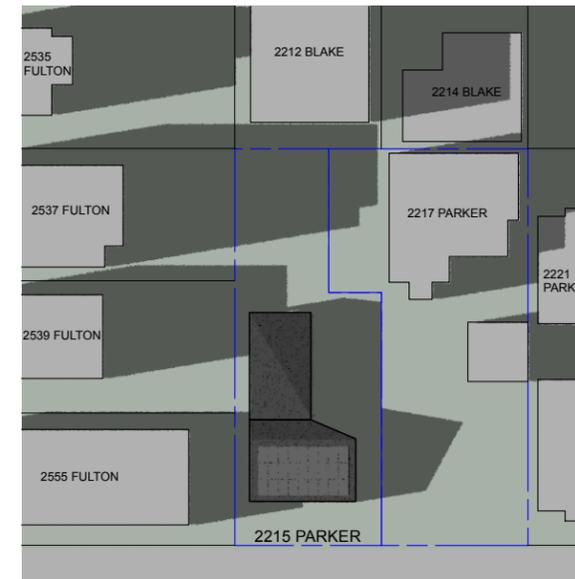
2555 FULTON: TRELLIS AREA AT REAR OF BUILDING AND NE CORNER OF FIRST FLOOR (UNDERSTOOD TO BE STORAGE AND UTILITY SPACE)



MARCH 21ST 1:16 PM DST (12:16 SOLAR)

ROOMS AFFECTED BY NEW CONSTRUCTION

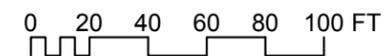
N/A



MARCH 21ST 5:22 PM DST (4:22 SOLAR)

ROOMS AFFECTED BY NEW CONSTRUCTION

N/A



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 (510)-526-1935
 dsa@dsaarch.com

SEAL AND SIGNATURE

CONSULTANTS

ISSUE DATE

USE PERMIT application 6/25/24

PLOT DATE: 6/25/24

PROJECT TITLE

**GILLE -
 ESBENSHADE
 RESIDENCE**

2215 PARKER ST.
 BERKELEY CA 94704

DRAWN / CHECKED: BW, SA / DL

PROJECT ID: 2302

TITLE

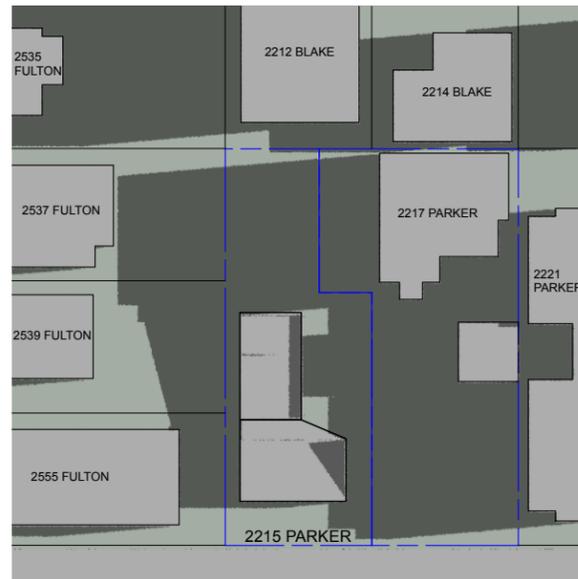
SHADOW STUDY

SHEET # FORMAT 11X17

3.B.2

29

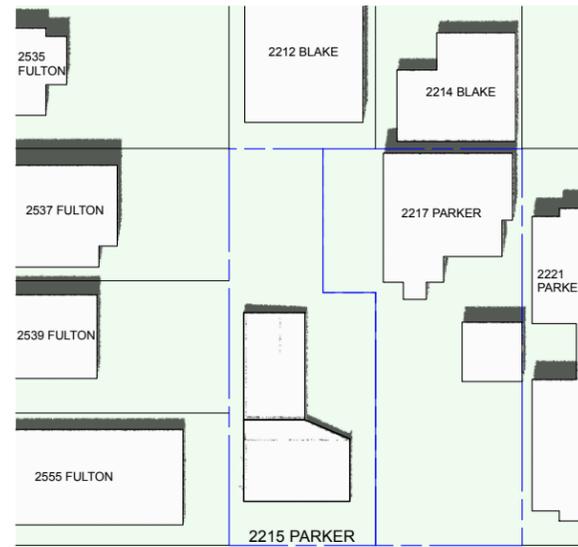
PLAN SHADOW STUDIES OF 2215 PARKER STREET; DST = DAYLIGHT SAVINGS TIME



JUNE 21ST 7:47 AM DST (6:47 SOLAR)

ROOMS AFFECTED BY NEW CONSTRUCTION

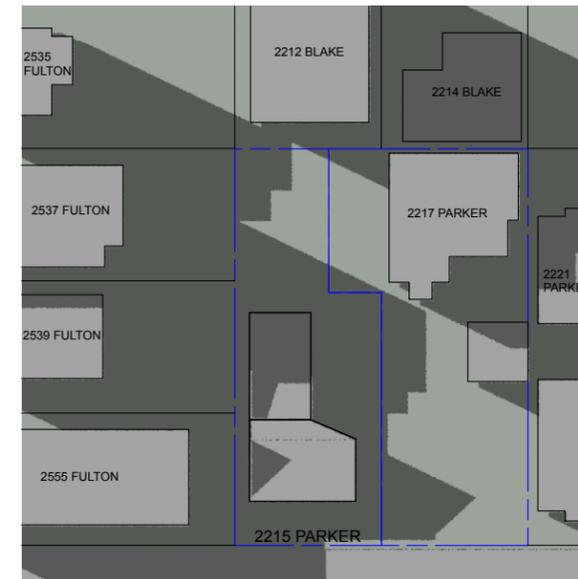
2555 FULTON: TRELLIS AREA AT REAR OF BUILDING AND NE CORNER OF FIRST FLOOR (UNDERSTOOD TO BE STORAGE AND UTILITY SPACE)



JUNE 21ST 1:11 PM DST (12:11 SOLAR)

ROOMS AFFECTED BY NEW CONSTRUCTION

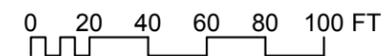
N/A



JUNE 21ST 6:53 PM DST (5:53 SOLAR)

ROOMS AFFECTED BY NEW CONSTRUCTION

N/A



dsa
 architects

1107 Virginia Street
 Berkeley, CA 94702
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 dsa@dsaarch.com

SEAL AND SIGNATURE

CONSULTANTS

ISSUE DATE
 USE PERMIT application 6/25/24

PLOT DATE: 6/25/24

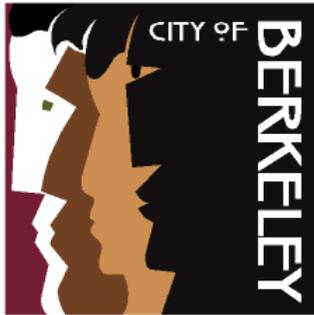
PROJECT TITLE
**GILLE -
 ESBENSHADE
 RESIDENCE**
 2215 PARKER ST.
 BERKELEY CA 94704

DRAWN / CHECKED: BW, SA / DL
 PROJECT ID: 2302

TITLE
SHADOW STUDY

SHEET # FORMAT 11X17
3.B.3

29



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

0 Parker Street (APN 55-1829-11, “2215 Parker Street”)

Use Permit #ZP2024-0100 to construct a one story, 1,624 square foot single family residence with an average height of 14-feet and 11 inches on a vacant lot, and construct an 8-foot, 4-inch tall fence along the front and west-side property lines.

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, November 14, 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: Medium-Density Residential (MDR)
- Zoning: Restricted Multiple-Family Residential District (R-2A)

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.202.020 to construct a new single-family dwelling; and
- Administrative Use Permit pursuant to BMC Section 23.304.080.A to construct a fence over 6-feet in height.

CEQA Recommendation: Categorically exempt pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures").

D. Parties Involved:

- Applicant dsa architects, 1107 Virginia Street, Berkeley, CA
- Property Owner Zsuzsanna Gille and Richard Esbenshade, 2217 Parker Street, Berkeley, CA

Further Information:

All application materials are available online at:
<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Questions about the project should be directed to the project planner, Vicky Schlepp, at (510) 981-7422 or vschlepp@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.
-