

PLANNING AND
DEVELOPMENT

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
DECEMBER 12, 2024

933 Gilman Street

(1221, 1223, and 1225 Eighth Street, and 1226, 1250-1288 Ninth Street)

Berkeley Fire Department Headquarters

Use Permit #ZP2024-0136 to establish an approximately 47,900 square foot public safety facility for the Berkeley Fire Department and Emergency Operations Center in the six buildings bounded by Eighth Street, Gilman Street, and Ninth Street. The project includes: demolition of two accessory structures; conversion of 37,000 square feet to office and ancillary uses including, training facilities (17,200 square feet) and a staff wellness center (5,200 square feet); conversion to a non-emergency ambulance deployment center (6,600 square feet); and a warehouse (4,300 square feet).

I. Background

A. Land Use Designations:

- General Plan: Manufacturing
- Zoning District: Mixed-Use Light Industrial District (MU-LI)

B. Zoning Permits Required:

- **Use Permit** pursuant to Berkeley Municipal Code (BMC) Section 23.206.020(A) to allow a Public Safety and Emergency Service use within the MU-LI zoning district
- **Use Permit** pursuant to BMC Section 23.206.020(A) to allow more than 20,000 square feet of Business and Professional Office use within the MU-LI zoning district
- **Use Permit** pursuant to BMC 23.206.050(B) to change a protected non-industrial use to a non-protected use over 5,000 square feet

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- **Administrative Use Permit** pursuant to BMC Section 23.326.070(B) to allow the demolition of an accessory structure more than 300 square feet within a non-residential zoning district
- **Administrative Use Permit** pursuant to BMC Section 23.304.060(D)(1) for a trash enclosure

C. CEQA Recommendation:

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 15301 (“Existing Facilities”).

D. Project Recommendation:

The project is, on balance, consistent with the Zoning Ordinance and General Plan. Staff recommends approval of the Use Permit pursuant to Section 23.406.040(D), subject to the attached Findings and Conditions (see Attachment 1).

E. Parties Involved:

- Applicant: Devi Dutta-Choudhury, Devi Dutta Architecture, Inc
928 Carleton Street, Berkeley, CA 94710
- Property Owner: Erik Housh, Smith & Walters, MRE Commercial Real Estate
6001 Shellmound Street, Emeryville, CA 94608

Figure 1: Vicinity and Zoning Districts Map



**Map not to scale.*

Map Key

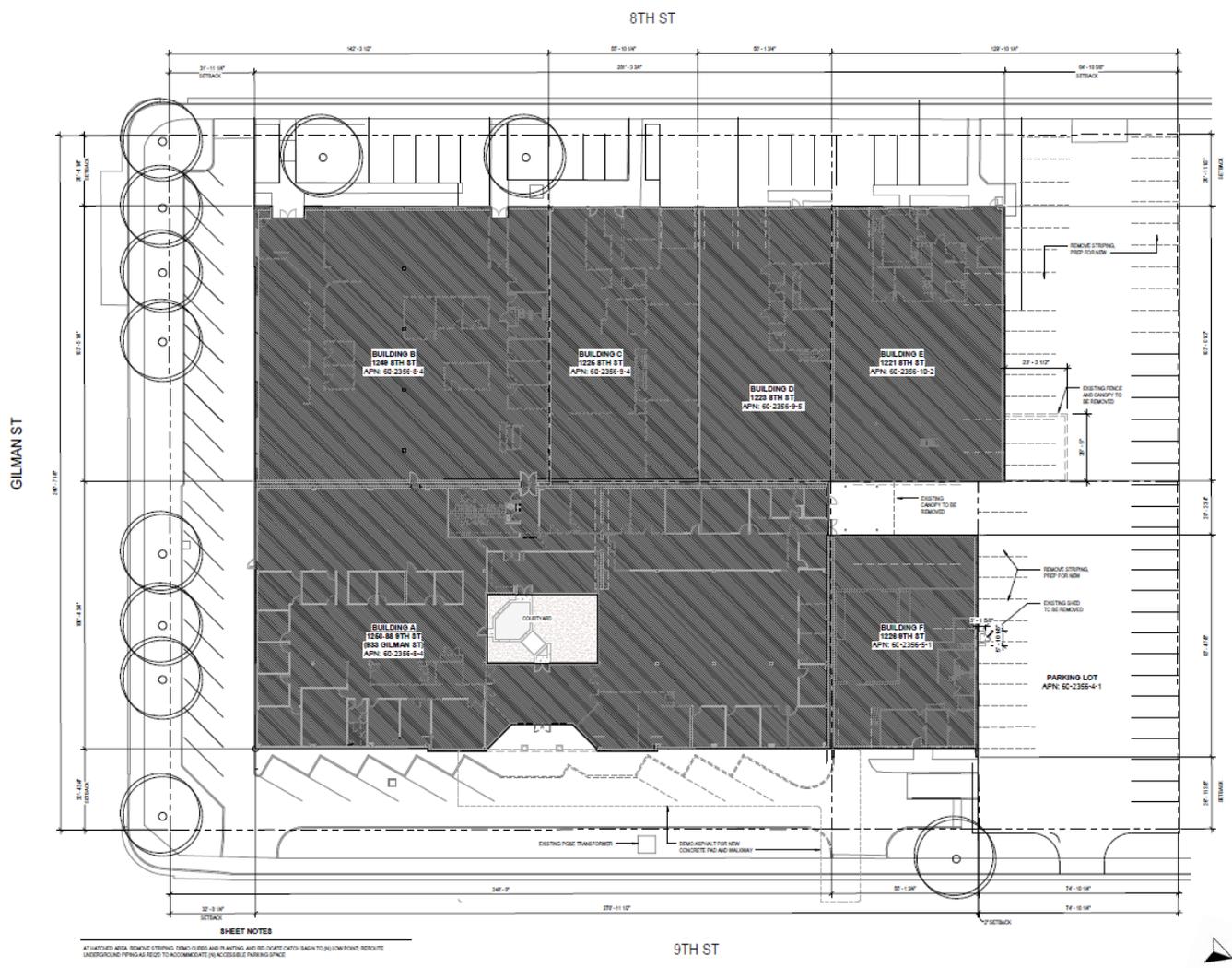
MU-LI: Mixed Use-Light Industrial District

C-W: West Berkeley Commercial District

M-UR: Mixed Use-Residential District

R-1A: Limited Two-Family Residential District

Figure 2: Existing Site Plan



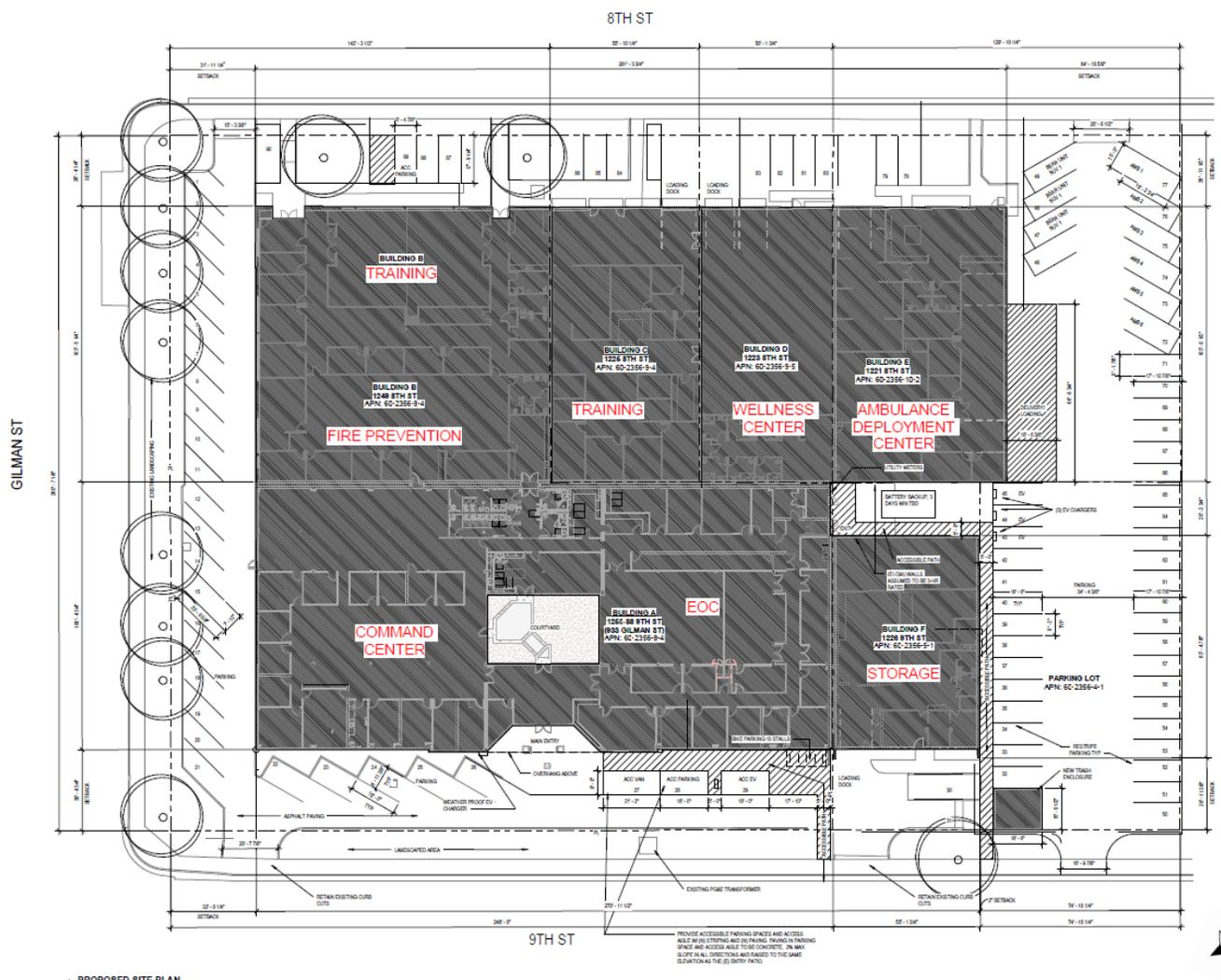
SHEET NOTES
AT UNPAVED AREA, REMOVE STRING, DEMO CURBS AND PLANTING AND RELOCATE CATCH BASIN TO BELOW POINT REDUCE
UNDERGROUND PIPING DEPT TO ACCOMMODATE IN ACCESSIBLE PARKING SPACE
1. EXISTING / DEMO SITE PLAN

**Map not to scale*

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Figure 3: Proposed Site Plan



*Map not to scale

Table 1: Land Use Information

| Location | | Existing Use | Zoning District | General Plan Designation |
|------------------------|--|---|-----------------|-----------------------------------|
| Subject Property | 1250-88 Ninth Street (Bldg. A) Offices (vacant) | | MU-LI | Manufacturing |
| | 1249 Eighth Street (Bldg. B) Research and Development (vacant) | | | |
| | 1225 Eighth Street (Bldg. C) Manufacturing (vacant) | | | |
| | 1223 Eighth Street (Bldg. D) Office and Warehouse (vacant) | | | |
| | 1221 Eighth Street (Bldg. E) Arts and Crafts Studio (moving in 2025) | | | |
| | 1226 Ninth Street (Bldg. F) Wholesale/Warehouse (lease expires in 2027) | | | |
| Surrounding Properties | North | General Contractor's Yard, Offices, and Storage | MU-LI | Manufacturing |
| | South | Light Manufacturing | | |
| | West | Tesla Motors Inc (Auto Service and Repair) | | |
| | East | Berkeley Tileshop (Warehouse) / Whole Foods Market (General Retail) | MU-LI / C-W | Manufacturing / Avenue Commercial |

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 is a change of use and would not construct new floor area, therefore this fee does not apply. |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.) | No | |
| Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328) | No | This project is nonresidential and not a housing development project per BMC Section 23.328.020 ^a , and is not subject to the inclusionary housing provisions. |

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| Characteristic | Applicability | Explanation |
|--|---------------|--|
| Bird Safe Buildings (BMC Section 23.304.150) | Yes | The project is subject to these requirements for new or replacement transparent or reflective material. A condition of approval to demonstrate compliance at building permit is included. |
| Coast Live Oak Trees (BMC Chapter 6.52) | No | There are no Coast Live Oak (<i>Quercus agrifolia</i>) trees on the project site. |
| Creeks | No | No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the project site. |
| Density Bonus | No | The project is not a Density Bonus project. |
| Hard Hats (BMC Chapter 13.107) | No | These provisions do not apply to this project because the project does not involve the construction, alteration, or demolition of 50,000 square feet of floor area or more. |
| Historic Resources | No | This project does not propose a substantial change to a structure of potential historical significance under the criteria of the Berkeley's Landmark Preservation Ordinance. |
| 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 . The project is a nonresidential change of use, and thus section (j) of the Housing Accountability Act does not apply. |
| 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) ^b , and thus the Housing Crisis Act does not apply. |
| Rent Controlled Units | No | There are no existing dwelling units on the site. No rent-controlled units would be demolished. |
| Residential Preferred Parking (RPP) | No | The site is not located in an RPP zone and does not include residential uses. |
| Seismic Hazards (SHMA) | Yes | The project site is located within an area susceptible to liquefaction as shown on the State Seismic Hazard Zones map ^c . The applicant submitted a geotechnical investigation for the project (Rockridge Geotechnical, August, 2024). The City's peer reviewer recommended specific geotechnical conditions of approval that are included. |
| Soil/Groundwater Contamination | Yes | The project site is not on the Cortese List ^d . The project site is within the City's Environmental Management Area. The applicant submitted a Phase I report. No further investigation is recommended. Standard Conditions of Approval related to hazardous materials would apply. |
| Transit | Yes | The project site is located next to Gilman Street and Eighth Street, which is served by The Alameda-Contra Costa Transit District (AC) Transit Line 12. The project site is located about 0.15 miles away from Gilman Street and San Pablo Avenue, which are served by the AC Transit Lines 52, 72, 72M, 72R, and 800. There are several designated bike ways and boulevards within a half mile of the site. |

| Characteristic | Applicability | Explanation |
|---|---------------|-------------|
| <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. California Department of Conservation. DOC Maps: Geologic Hazards. Available: https://maps.conservation.ca.gov/geologic Hazards/</p> <p>d. The Cortese List is an annually updated list of hazardous materials sites compiled pursuant Government Code Section 65962.5.</p> | | |

Table 3: Project Chronology

| Date | Action |
|--|--------------------------------------|
| September 12, 2024 | Use Permit Application submitted |
| September 25, 2024 | Application deemed incomplete |
| October 21, 2024 | Application resubmitted |
| October 23, 2024 | Application deemed complete |
| November 12, 2024 | Application processing ^a |
| November 26, 2024 | Public hearing notices mailed/posted |
| December 12, 2024 | ZAB hearing |
| <p>Notes:</p> <p>a. Application processing reflects the project compliance review, including CEQA if applicable, after the application is deemed complete. Submittals are reviewed within 30 days of receipt, pursuant to the Permit Streamlining Act.</p> | |

Table 4: Development Standards BMC Sections 23.206.080(E) and 23.322 Parking and Loading

| Standard | | Existing Total | Changes | Proposed Total | Permitted/ Required |
|---------------------------------------|------------|-------------------|------------|--------------------------------------|---------------------|
| Lot Area (sq. ft.) (Combined) | | 98,330 | No change | No change | No minimum |
| Gross Floor Area (sq. ft.) (Combined) | | 55,208 | -1,861 | 53,347 | N/A |
| Floor Area Ratio | | 0.56 | -0.02 | 0.54 | 2.0 max |
| Lot Coverage (%) | | 54 | No changes | No changes | 100 max |
| Parking | Automobile | 97 total combined | -7 | 90 total including Ambulance parking | No minimum |

| | Standard | Existing Total | Changes | Proposed Total | Permitted/ Required |
|---|----------|----------------|---------|----------------|----------------------------|
| | Bicycle | 0 | +10 | 10 | No minimum (change of use) |
| <small>Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")</small> | | | | | |

II. Project Setting

A. Neighborhood/Area Description:

The project site is located along Gilman Street (south), Eighth Street (west) and Ninth Street (east). The majority of the block is composed of the project site and abuts a general contractor’s yard along the northern property line. The site is located in a manufacturing district in West Berkeley. This area includes a mix of general retail, auto service and repair, light manufacturing, entertainment and offices. The project site is located 0.15 miles west of the Gilman Street and San Pablo Avenue intersection which is served by several AC Transit bus routes. There are several bike ways and boulevards along Gilman Street, Eighth Street, and Ninth Street.

B. Site Conditions:

The project site is comprised of six parcels under common ownership totaling 98,330 square-feet, and is developed with six buildings located across five of the parcels, totaling a gross floor area of 55,347 square feet. The site has frontages along Gilman Street, Eighth Street, and Ninth Streets, and is located within the MU-LI, Mixed-Use Light-Industrial zoning district. There are 97 off-street parking spaces across all parcels that are accessible via Eighth Street and Ninth Street.

The site is occupied by a one-story, 19,900 square-foot building at 1250-88 Ninth Street; a one story, 11,400 square-foot building at 1249 Eighth Street; a one-story, 5,800 square-foot building at 1225 Eighth Street; a two-story, 5,200 square-foot building at 1223 Eighth Street; a one-story, 6,700 square-foot building at 1221 Eighth Street; a one-story, 4,400 square-foot building at 1226 Ninth Street; and 97 parking spaces. The current uses at the site include offices, research and development, warehouses, an arts and craft studio, and wholesale/warehouse. Some of the buildings and tenant spaces are vacant.

III. Project Description

A. Proposed Project Details: The proposed project would convert six buildings across six contiguous lots to a public safety facility that would serve as Fire Department’s headquarters with the following primary components:

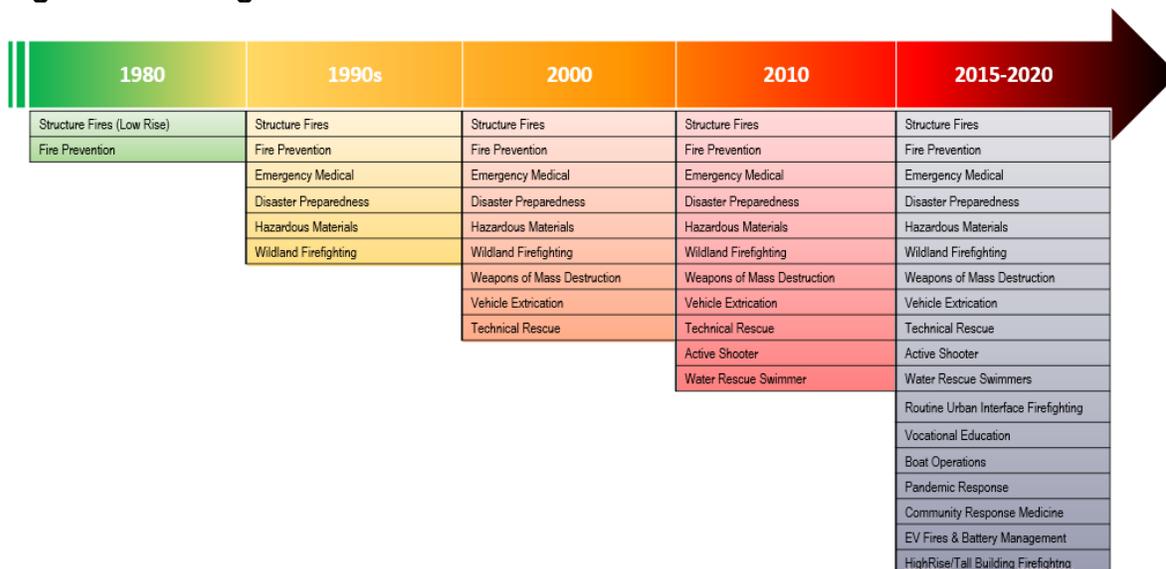
- Demolition and removal of two accessory structures

- Office and ancillary uses, approximately 37,000 square feet of gross floor area, including training facilities (17,200 square feet) and staff wellness center (5,200 square feet)
- Non-emergency ambulance deployment center (6,660 square feet)
- Warehouse/storage (4,300 square feet)
- Redesign of off-street surface parking areas for 90 spaces including accessible spaces, EV charging, and spaces for ambulances

IV. Additional Project Background

A. Berkeley Fire Department. The mission of Berkeley’s Fire Department (Fire) has substantially changed since the 1980s, and particularly over the last two decades. Changes in healthcare, the proliferation of synthetic materials which rapidly generate toxic smoke and fire after being ignited, changes to zoning which has introduced taller buildings in the City, climate change which has increased the size and frequency of wildfires across the state, and electric vehicles and battery technology, all present novel hazards to responders. These circumstances have increased the volume and type of emergencies that occur, expanded apparatus and equipment required, intensified required training, and the number of responders required to be on duty (see image below). As Fire has grown to meet these obligations, the capacity of its current workspace is outdated. In current facilities, Fire staff are experiencing challenges with sustained operations. Multi-year analysis and planning processes¹ determined that Fire needs a new multi-function headquarters to meet current and future needs.

Figure 4 – Changes to Fire Mission 1980 – 2024



¹ Facilities Master Plan, Standards of Coverage and Community Risk Assessment, Community Wildfire Protection Plan

B. City of Berkeley’s Strategic Plan. One of the City’s Strategic Plan² goals is to “provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.” The new headquarters for Fire was identified as a priority project under this goal in the City’s 2023-2024³ Fiscal Year Budget, with direction to “research, locate, lease or purchase and minimally develop a property to provide adequate space for hands-on & classroom training of public safety personnel and Community Emergency Response Team groups, space for EMS deployment, offices, warehouse/storage, and a secondary (backup) dispatch center.” Funding for this project would be provided through Measure FF⁴ and the University of California Settlement⁵.

V. Community Discussion

A. Neighbor/Community Concerns:

Prior to submitting this application to the city, the applicant invited interested neighborhood organizations as well as owners and occupants located within 300 feet of the project site to a project preview meeting. The meeting was held on September 10, 2024, and attended by one individual (see Attachment 5).

Yellow pre-application posters were installed on site by the applicant in September 2024. On November 26, 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. Design Review Committee Review / Landmark Preservation Commission:

This project is not subject to review by the Design Review Committee because exterior work is not included in the project scope. The project is not subject to review of the Landmark Preservation Commission because it does not involve the demolition of a nonresidential building.

² City of Berkeley Strategic Plan, approved January 2018: <https://berkeleyca.gov/your-government/our-work/strategic-plan>

³ City of Berkeley Adopted Budget FY 2023-2024 (page 257): <https://berkeleyca.gov/sites/default/files/documents/FY-2023-2024-Adopted-Budget-Book.pdf>

⁴ Measure FF was passed by voters in 2020 which was estimated to generate \$8.5 million annually for firefighting, emergency medical response, 9-1-1 communications services, hazard mitigation, and wildfire prevention and preparedness.

⁵ The UC Settlement Funds allocated to the fire department are supporting a number of initiatives to improve emergency service delivery and fire prevention.

VI. Issues and Analysis

A. CEQA Approach and Recommendation

It is staff's recommendation that the project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 ("Existing Facilities"). The project complies with this exemption because the change of use converts nonresidential buildings to another nonresidential use. 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 project is currently characterized as "developed, high-intensity" by the California Natural Diversity Database;⁶ 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;⁷ 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;⁸ 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. Protected Uses in MU-LI District.

1. Existing and Proposed Uses. The site is located in the MU-LI District, and comprised of six buildings on six parcels under common ownership. The legally established uses onsite are a mix of non-protected uses, and protected industrial and non-industrial uses. The overall use of the site would be a public safety facility that includes administrative offices and the City's Emergency Operations Center (EOC) when activated, training areas, staff wellness center, non-emergency/daily shift ambulance deployment, and storage. The site would be subject to a long-term lease

⁶ California Department of Fish and Wildlife. California Natural Diversity Database. Available: <https://apps.wildlife.ca.gov/bios6/?tool=cnddbqv>

⁷ 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>

⁸ California Environmental Protection Agency. Cortese List Data Resources. Available: <https://calepa.ca.gov/sitecleanup/corteselist/>

ranging from 214 to 240 months (20 years) with the City, which was authorized by City Council on June 4, 2024, pursuant to Ordinance No. 7,923-N.S.

2. Protected Use Provisions. BMC Section 23.206.050, Protected Uses, establishes permit pathways for the replacement of certain protected industrial and non-industrial uses.

a. The table below summarizes the existing uses and their protection status, and the proposed activity within the broad public safety facility use.

| Building | Existing Use | Protected | Proposed Activity |
|--|---|------------------|--|
| Bldg. A | Office | N/A | Administrative offices, EOC (when activated), meeting and training rooms |
| Bldg. B | Research and Development (current) Office / book publisher (office) (prior) ^a | N/A | Training facilities |
| Bldg. C | Manufacturing | Industrial | Simulation rooms (training), offices |
| Bldg. D | Office/Warehouse | Industrial | Staff wellness center |
| Bldg. E | Arts/craft studio | Non-Industrial | Non-emergency ambulance shift deployment center |
| Bldg. F | Wholesale/ Warehouse | Industrial | Storage |
| <p>Notes</p> <p>a: Conversion of protected industrial uses to research and development is exempt from the permit provisions and findings for conversion of protected industrial uses, however, if a use established under that exemption ceases, then prior protections apply of applicable (BMC 23.206.050(A)(7)(e)).</p> | | | |

b. Protected industrial uses in the MU-LI include material recovery enterprise, manufacturing, warehousing, and wholesale trade that occupy 33 percent of the building(s) and were established on or after January 1, 1996. Building A was previously used as an office and Building B as a book publisher without printing, which is also considered an office use⁹ in the Zoning Ordinance.

⁹ BMC 23.502.020(O)(3) *Office, Business and Professional*. A building or portion of a building used for conducting the business or affairs of a profession, business service, non-profit organization, agency, public utility and/or government entity. **Includes publishing without printing.**

Three of the six buildings contain protected industrial uses – Buildings C, D, and F. The activities in Buildings C and D would be changed to non-protected uses. Building F contains a protected wholesale/warehouse use; however, it would continue to be used as storage within the proposed public safety facility.

- i. There are exceptions to the permit requirements and findings that allow protected industrial uses to be changed to non-protected uses for lots under common ownership (BMC 23.206.050(A)(7)(d) Exceptions). When there is a protected industrial use on a lot or group of abutting and confronting lots with more than one building, the protected industrial use may be changed to a non-protected use provided that less than 25 percent of the total gross floor area of all buildings remains as a protected use(s). The total gross floor of all uses on the subject lots is 55,208 square feet. Building F, which has a gross floor area of 4,348 square feet, would remain a protected use. The remaining protected floor area on site would be approximately 8 percent, therefore the proposed project meets the requirement of providing less than 25 percent and qualifies for the exception.
 - ii. Establishing the public safety facility use under this provision does not eliminate any of the protections for the prior protected uses, and the protections would apply if the public safety facility ceased to operate (BMC 23.206.050(A)(7)(e) Prior Protections Remain). A condition of approval reiterating this code requirement was included for ZAB consideration in the project decision.
- c. Protected non-industrial uses in the district include stand-alone art/craft studios that were established as of July 1, 1986. Changing to a non-protected use requires the provision of comparable replacement space within the West Berkeley Plan Area per BMC 23.206.050(B)(4), Findings. Building E (1221 Eighth Street) currently houses the Berkeley Potters' Studio. The business has purchased the building at 722 Camelia Street, which is within the West Berkeley Plan Area and is also zoned MU-LI. The gross floor area of the onsite arts/crafts use is around 6,600 square feet, and the new location is approximately 8,300 square feet. The use as an art/craft studio at the new building was approved in January 2024 with a Zoning Certificate¹⁰, and at the time of writing this report, the Potters' Studio has Administrative Use Permit and Staff-Level Design Review applications¹¹ for exterior changes and the addition of a mezzanine, and a building permit application¹² for tenant improvement work, under review with the City. This finding can be made.

¹⁰ Zoning Certificate No. ZCBL2024-0021

¹¹ Zoning Permit No. ZP2024-0127 / Design Review Permit No. DRSL2024-0008

¹² Building Permit No. B2024-04030

C. General Non-Detriment Finding:

BMC Section 23.406.040(E) states that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

1. The conversion to a public safety facility would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood. The use would be conducted indoors. The project, when fully built out, would activate all of the buildings on site, including ones with long-standing vacancies. Fire would also see customers at this location, improving services and relationships within the larger Berkeley community. The addition of staff and customers would bring more people into the area seven days a week and increase clientele for local businesses. The use would be a positive addition to the neighborhood by extending activity along the Gilman Street corridor.
2. The non-emergency ambulance deployment center would serve as the facility where Fire staff start their shifts - restock supplies, sign out ambulances, head out for regular shift work, and sleep. Ambulances would rarely deploy to an emergency with sirens from this location. In the event of direct deployment to an emergency, Fire would follow established protocols when in proximity to residential areas. The changing nature of Fire's mission requires additional ambulances, and this location would provide adequate space to support and store four ambulances, improving their ability to respond to emergencies citywide. The non-emergency ambulance deployment center would not be detrimental to the surrounding area.
3. The project would not 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. Renovating the existing structure would be an efficient strategy to expand services, and more economically feasible, than new construction. It would also allow Fire to provide the required level of service at a consolidate location. Tenant improvements include seismic retrofitting to meet the occupancy requirements for essential personnel and the EOC in Building A, as well as accessibility improvements. Activating the use of the site and all buildings would contribute to the surrounding area and neighborhood, as noted above. The daily presence of employees would strengthen and bring stability to the neighborhood. The project would also improve the general welfare of the City by adding capacity for existing and expanded Fire and emergency personnel, staff wellness, and increased opportunities to essential training.
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.

D. Findings in All Manufacturing Districts:

To approve Administrative Use Permits and Use Permits in any Manufacturing District, pursuant to BMC Section 23.206.100(A), ZAB must find that the project is consistent with the purposes of the district, compatible with the surrounding uses and buildings, complies with the adopted West Berkeley Plan, and meets applicable standards for off-site impacts.

1. The project would be consistent with the following purposes of the MU-LI district:
 - Encourage development of a mixed use-light industrial area for a range of compatible uses;
 - Encourage the creation and continuation of well-paid jobs which do not require advanced degrees;
 - Provide opportunities for office development when it will not unduly interfere with light manufacturing uses and/or the light manufacturing building stock; and
 - Support the development of businesses which contribute to the maintenance and improvement of the environment

The proposed public safety facility would reuse six buildings on multiple lots under common ownership. This unique project site provides the space needed to consolidate existing and expanded Fire services. The site would house essential administrative offices, the City's EOC, staff wellness center, training and simulation areas, non-emergency ambulance shift deployment center, and storage. These activities are compatible with the mixed use-light industrial area and fall into the allowable range of uses within the district. Positions within Fire require a range of education, degrees, professional training, and certification, therefore providing well-paying and benefitted employment options that do not all require advanced degrees. Although some protected industrial uses are being changed to a public safety facility, which is configured primarily an office use, they would remain protected if the proposed use ceases (see Section VI.B.2.b, Protected Industrial Uses, above). Building F would remain storage, and the proposed tenant improvements would not inhibit the ability to convert the buildings back to industrial uses. Improvements such as seismic retrofitting of Building A would likely expand the usability of the buildings further into the future. The project would also increase the number of people – staff and customers – that visit the area, which would have a positive impact on existing and future businesses in the area.

2. The project is compatible with the surrounding uses and buildings. As noted in Table 1, Land Use Information, the uses immediately surrounding the site are a contractor's yard, office, storage, light manufacturing, auto service and repair, and a grocery store. The proposed public safety facility and associated activities are all

permitted uses within district. Exterior changes, if any, would be minimal and not change the character of the buildings. The use would be compatible.

3. On balance, the project would comply with the adopted West Berkeley Plan¹³, specifically the following Land Use goals:
- Goal 1: Over the economically active area of West Berkeley, provide for a continued economic and land use mix, incorporating manufacturing and other industrial, retail, and office/laboratory uses, to benefit Berkeley residents and businesses economically, benefit the City fiscally, and promotes the varied use and interest character of the area.
 - Goal 2: Channel development – both new businesses and residences and the expansion of existing businesses – to districts various [sic] which are appropriate for the various existing elements of West Berkeley land use mix.
 - Goal 4: Assure that new development in any sector is of a scale and design that is appropriate to its surroundings, while respecting the genuine economic and physical needs of the development.

The proposed project contributes to the mix of land uses characteristic of West Berkeley, MU-LI district, and along Gilman Street because of the varied nature of the activities that would be housed on the site within the public safety facility, including offices and simulation training. Although some protected industrial uses would be changed to a non-protected use, the Zoning Ordinance provides continued protections for those uses if the public safety facility ceases operations. The protected non-industrial arts/craft use, the Potters' Studio, purchased a larger space within the West Berkeley Plan Area and is slated to relocate there in 2025. They have secured a Zoning Certificate approving the use and have entitlements for expansion and exterior changes, as well as a building permit application for tenant improvements, under review with the City. The proposed project would retain and seismically retrofit buildings and would not make exterior changes that are out of character, while the large space would physically accommodate the current and future needs of Fire.

4. The proposed project would meet applicable standards for off-site impacts. It is unlikely that the ongoing operations of the public safety facility would generate off-site impacts such as noise, odor, or vibration, as the use would be conducted primarily indoors and does not involve manufacturing or similar uses. The project would be subject to the standard conditions of approval related to construction, as well as all applicable codes and laws for improvements and operations. Although parking is no longer required for uses within one-half mile of major transit under BMC Section 23.322.020(D), Location Exemption, and State law, the project site would retain 90 parking spaces. Parking improvements include ADA spaces, EV charging, and reserved spaces for responders, response vehicles, and

¹³ West Berkeley Plan, Land Use Element Goals and Policies, page 34-36

ambulances. The high amount of parking for staff and customers would ensure that parking would not spill over into nearby residential areas.

E. MU-LI District Findings:

ZAB must also find, pursuant to BMC Section 23.206.100(B), that projects in the MU-LI District are unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses, and are designed in such a manner to be supportive of the industrial character of the district. The final required finding only applies to split-zone lots with MU-LI and the West Berkeley Commercial District, which is not the case for this project and is not analyzed below.

1. The project would be unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses. Although some protected industrial uses would be changed to a non-protected use, the Zoning Ordinance provides continued protections for those uses if the public safety facility ceases operations. Further, the tenant improvements would not create irreversible changes to the buildings' interiors or make significant changes to the exterior of the buildings. Seismic retrofitting would also extend the usability and life of the buildings.
2. The project would be designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site. Significant changes to the exterior of the buildings are not proposed. Exterior changes in the future would be subject to design review, therefore ensuring the continued physical and visual compatibility with the industrial character of the district.

VII. General Plan Conformance

The project would meet several of the 2002 General Plan goals and policies, particularly those found within the Land Use and Disaster Preparedness and Safety Elements, including the following:

- A. Policy LU-41 Public Agency Development:** Ensure that all land use plans, development, and expansion by public agencies are consistent with City laws, the City's General Plan and Zoning Ordinance to the extent feasible, and the California Environmental Quality Act.
- B. Policy S-1 Response Planning:** Ensure that the City's emergency response plans are current and incorporate the latest information on hazards, vulnerability, and resources.

Action G: Conduct coordinated planning and training between local and regional police, fire, and public health agencies in preparation for natural and human-made disasters,

and ensure that the City's disaster response communication technologies are compatible with regional agency communication technologies.

C. Policy S-5 The City's Role in Leadership and Coordination: Ensure that the City provides leadership and coordination of the private sector, public institutions, and other public bodies in emergency preparedness.

- **Action A:** Promote information sharing and seek to coordinate and implement collaborative mitigation and response planning and information gathering efforts with neighboring cities, Alameda and Contra Costa Counties, the East Bay Regional Park District, other agencies, non-profit organizations, businesses and industries, educational institutions, and residents.
- **Action B:** Promote information sharing and seek to coordinate and implement collaborative mitigation and response planning and information gathering efforts.

D. Policy S-8 Continuity of Operations: Provide for the continuation of City government and services following a major disaster.

E. Policy S-25 Fire Safety Education: Use Fire Department personnel to plan and conduct effective fire safety and prevention programs.

Staff Analysis: As demonstrated throughout the staff report and the attached findings and conditions (Attachment 1), the project would be consistent City laws, General Plan, and Zoning Ordinance, and would be exempt from CEQA review under a Class 1 Exemption for Existing Facilities. Improvements include accessibility and EV charging. The new public safety facility for Fire would consolidate administrative offices, create space for a new EOC when activated, and provide adequate training facilities for department staff and responders. The space would accommodate a number of functions that would contribute to staff well-being and readiness, as well as provide customer service to the public. The new EOC would allow for the coordination of emergency and ongoing responses following a major disaster.

VIII. Recommendation

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

1. **FIND** that the project is categorically exempt from the provisions of the CEQA pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"); and
2. **APPROVE Use Permit ZP2024-01356** pursuant to Section 23.406.040(D) and subject to the attached Findings and Conditions (see Attachment 1).

ZONING ADJUSTMENTS BOARD

933 GILMAN STREET

December 12, 2024

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Attachments:

1. Findings and Conditions
2. Project Plans, received November 22, 2024 (confidential per Senate Bill 1214¹⁴)
3. Notice of Public Hearing
4. Applicant Statement, received September 12, 2024
5. Project Community Meeting Minutes

Staff Planner: Samantha Updegrave, Zoning Officer, supdegravel@berkeleyca.gov,

Assisted by: Marytonae Sanchez, Planning Technician, msanchez@berkeleyca.gov

¹⁴ Government Code Section 65103.5 (SB 1214) allows design professionals to limit the distribution and publication of copyrighted material. Plans were distributed to the Zoning Adjustment Board commissioners to review in their capacity as the review authority for the project. Members of the public may view the architectural plans for this zoning permit application at the Zoning Counter at the [Permit Service Center](#) during normal business hours. Plans will also be made available to the public in person during any public hearings to consider the proposal.



ZONING ADJUSTMENTS BOARD FINDINGS AND CONDITIONS

December 12, 2024

933 Gilman Street

(1221, 1223, and 1225 Eighth Street, and 1226, 1250-1288 Ninth Street)

Berkeley Fire Department Headquarters

Use Permit #ZP2024-0136 to establish an approximately 47,900 square foot public safety facility for the Berkeley Fire Department and Emergency Operations Center in the six buildings bounded by Eighth Street, Gilman Street, and Ninth Street. The project includes: demolition of two accessory structures; conversion of 37,000 square feet to office and ancillary uses including, training facilities (17,200 square feet) and a staff wellness center (5,200 square feet); conversion to a non-emergency ambulance deployment center (6,600 square feet); and a warehouse (4,300 square feet).

ZONING PERMITS REQUIRED

- **Use Permit** pursuant to Berkeley Municipal Code (BMC) Section 23.206.020(A) to allow a Public Safety and Emergency Service use within the MU-LI zoning district
- **Use Permit** pursuant to BMC Section 23.206.020(A) to allow more than 20,000 square feet of Business and Professional Office use within the MU-LI zoning district
- **Use Permit** pursuant to BMC 23.206.050(B) to change a protected non-industrial use to a non-protected use over 5,000 square feet
- **Administrative Use Permit** pursuant to BMC Section 23.326.070(B) to allow the demolition of an accessory structure more than 300 square feet within a non-residential zoning district
- **Administrative Use Permit** pursuant to BMC Section 23.304.060(D)(1) for a trash enclosure

I. CEQA FINDINGS

- A. 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 Section 15301 of the CEQA Guidelines ("Existing Facilities").

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B. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

II. FINDINGS FOR APPROVAL

- A. As required by BMC Section 23.406.040(E), Findings for Approval, 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. Changes in healthcare, the proliferation of synthetic materials which rapidly generate toxic smoke and fire after being ignited, changes to zoning which has introduced taller buildings in the City, climate change which has increased the size and frequency of wildfires across the state, and electric vehicles and battery technology, all present novel hazards to responders. These circumstances have increased the volume and type of emergencies that occur, expanded apparatus and equipment required, intensified required training, and the number of responders required to be on. As Fire has grown to meet these obligations, the capacity of its current workspace is outdated. In current facilities, Fire staff are experiencing challenges with sustained operations. Multi-year analysis and planning processes determined that Fire needs a new multi-function headquarters that will meet current and future needs.
 2. The conversion to a public safety facility for Fire will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood. The use will be conducted indoors, and, when fully built out, will activate all of the buildings on site, including ones with long-standing vacancies. Public customers will also be seen at this location, improving services and relationships within the larger Berkeley community. The addition of staff and customers will bring more people into the area seven days a week and increase clientele for local businesses. The use will be a positive addition to the neighborhood by extending activity along the Gilman Street corridor.
 3. Establishing the public safety facility does not eliminate any of the protections for the prior protected uses, and the protections will apply if the public safety facility ceased to operate (BMC 23.206.050(A)(7)(e) Prior Protections Remain).
 4. The non-emergency ambulance deployment center will be where staff will start their shifts - restock supplies, sign out ambulances, head out for regular shift work, and sleep. Ambulances will rarely deploy to an emergency with sirens from this location. In the event of direct deployment to an emergency, Fire will follow established protocols when in proximity to residential areas. The changing nature of Fire's mission

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requires additional ambulances, and this location provides adequate space to support and store four ambulances, improving their ability to respond to emergencies citywide. The non-emergency ambulance deployment center will not be detrimental.

5. The project will not 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. Renovating the existing structure is an efficient strategy to expand services, and more economically feasible, than new construction. It will allow Fire to provide the required level of service at a consolidate location. Tenant improvements include seismic retrofitting to meet the occupancy requirements for essential personnel and the Emergency Operations Center in Building A, as well as accessibility improvements. All buildings will retain exterior access, ensuring that future uses could occupy individual buildings. Activating the use of the site and all buildings will contribute to the surrounding area and neighborhood. The daily presence of employees will strengthen and bring stability to the neighborhood. The project will also improve the general welfare of the City by adding capacity for existing and expanded Fire and emergency personnel, staff wellness, and increased opportunities to essential training.
6. The trash enclosure will provide visual screening of solid waste containers, and will not be detrimental.
7. 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. Pursuant to BMC Section 23.206.050(B)(4) Protected Non-Industrial Uses, ZAB finds that conversion of Building E (see Attachment 2, Plans), currently occupied by an arts/craft studio, is permissible because the business will relocate to 722 Camelia Street. This site is located in the West Berkeley Plan Area. The new location has more floor area than the existing building, and will replace approximately 6,600 square feet with 8,300 square feet (10,000 square feet after a proposed addition). The use has been approved under Zoning Certificate No. ZCBL2024-0021, and has land use entitlement and building permit applications under review for the new space.
- B. Pursuant to BMC Section 23.206.100(A), Permit Findings in All Manufacturing Districts, ZAB finds that the project is consistent with the purposes of the district, compatible with the surrounding uses and buildings, complies with the adopted West Berkeley Plan, and meets applicable standards for off-site impacts.
 1. The project will be consistent with the following purposes of the MU-LI district:

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December 12, 2024

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- Encourage development of a mixed use-light industrial area for a range of compatible uses;
- Encourage the creation and continuation of well-paid jobs which do not require advanced degrees;
- Provide opportunities for office development when it will not unduly interfere with light manufacturing uses and/or the light manufacturing building stock; and
- Support the development of businesses which contribute to the maintenance and improvement of the environment

The proposed public safety facility will reuse six buildings on six lots under common ownership. This unique project site provides the space needed to consolidate existing and expanded Fire services, and will house essential administrative offices, the City's EOC, staff wellness center, training and simulation areas, non-emergency ambulance shift deployment center, and storage. These activities are compatible with the mixed use-light industrial area and fall into the allowable range of uses within the district. Staff positions within Fire require a range of education, degrees, professional training, and certification, therefore providing well-paying and benefitted employment options that do not all require advanced degrees. Although some protected industrial uses are being changed to a public safety facility, which is configured primarily an office use, they will remain protected if the proposed use ceases per BMC 23.206.050(A)(7)(e), Prior Protections Remain. Building F will remain storage, and the proposed tenant improvements will not inhibit the ability to convert the buildings back to industrial uses. Improvements such as seismic retrofitting of Building A will expand the usability of the buildings further into the future. The project will also increase the number of people – staff and customers – that visit the area, which will have a positive impact on existing and future businesses in the area.

2. The project is compatible with the surrounding uses and buildings. The uses immediately surrounding the site are a contractor's yard, office, storage, light manufacturing, auto service and repair, and a grocery store. The proposed public safety facility and associated activities are all permitted uses within district. Exterior changes, if proposed, will be minimal and require assessment by design review staff, and will not change the character of the buildings. The use is compatible.
3. On balance, the project complies with the adopted West Berkeley Plan, specifically the following Land Use goals:
 - Goal 1: Over the economically active area of West Berkeley, provide for a continued economic and land use mix, incorporating manufacturing and other industrial, retail, and office/laboratory uses, to benefit Berkeley residents and businesses economically, benefit the City fiscally, and promotes the varied use and interest character of the area.
 - Goal 2: Channel development – both new businesses and residences and the expansion of existing businesses – to districts various [sic] which are appropriate for the various existing elements of West Berkeley land use mix.

- Goal 4: Assure that new development in any sector is of a scale and design that is appropriate to its surroundings, while respecting the genuine economic and physical needs of the development.

The proposed project contributes to the mix of land uses characteristic of West Berkeley, MU-LI district, and along Gilman Street because of the varied nature of the activities that will be housed on the site within the public safety facility, including offices and simulation training. Although some protected industrial uses will be changed to a non-protected use, the Zoning Ordinance provides continued protections for those uses if the public safety facility ceases operations. The protected non-industrial arts/craft use, the Potters' Studio, purchased a larger space within the West Berkeley Plan Area and is relocating there in 2025. They have secured a Zoning Certificate approving the use and have entitlements for expansion and exterior changes, as well as a building permit application for tenant improvements, under review with the City. The proposed project will retain and seismically retrofit some of the buildings and will not make exterior changes that are out of character with the area. The large space will physically accommodate the current and future needs of Fire.

4. The proposed project will meet applicable standards for off-site impacts. It is unlikely that the ongoing operations of the public safety facility will generate off-site impacts such as noise, odor, or vibration, as the use will be conducted primarily indoors, and does not involve manufacturing or similar uses. The project is subject to the standard conditions of approval related to construction, as well as all applicable codes and laws for improvements and operations. Although parking is no longer required for uses within one-half mile of major transit under BMC Section 23.322.020(D), Location Exemption, and State law, the project site retains 90 parking spaces. Parking improvements include ADA spaces, EV charging, and reserved spaces for responders, response vehicles, and ambulances. The high amount of parking for staff and customers ensures that parking will not spill over into nearby residential areas.

C. ZAB also finds, pursuant to BMC Section 23.206.100(B), MU-LI District Findings, that the project, under reasonably foreseeable circumstances, will not induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses, and are designed in such a manner to be supportive of the industrial character of the district.

1. The project is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses. Although some protected industrial uses will be changed to a non-protected use, the Zoning Ordinance provides continued protections for those uses if the public safety facility ceases operations. Further, the tenant improvements will not create irreversible changes to the buildings' interiors or make significant changes to the exterior of the buildings. Seismic retrofitting will also extend the usability and life of the buildings.
2. The project is designed in a manner that supports the industrial character of the district. Significant changes to the exterior of the buildings are not proposed. Exterior

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changes in the future are subject to design review, therefore ensuring the continued physical and visual compatibility with the industrial character if the district.

- D. Pursuant to BMC Section 23.326.070(B), Accessory Buildings, ZAB finds that the demolition of the non-residential accessory structure is permissible because the demolition will not be materially detrimental to the commercial needs and public interests of any neighborhood, and is required to allow the proposed new use of the main buildings. The accessory structure currently serves the art/crafts use, which will be relocating to a different site with a larger building, so the building will no longer serve any purpose for the proposed use. The space will be used to provide better on-site parking and circulation for public customers and staff, ambulance parking, and a loading and delivery area. Therefore, the removal will support the new use at the site.



USE PERMIT ZP2024-0136

CONDITIONS OF APPROVAL

December 12, 2024

933 Gilman Street

(1221, 1223, and 1225 Eighth Street, and 1226, 1250-1288 Ninth Street)

Berkeley Fire Department Headquarters

Use Permit #ZP2024-0136 to establish an approximately 47,900 square foot public safety facility for the Berkeley Fire Department and Emergency Operations Center in the six buildings bounded by Eighth Street, Gilman Street, and Ninth Street. The project includes: demolition of two accessory structures; conversion of 37,000 square feet to office and ancillary uses including, training facilities (17,200 square feet) and a staff wellness center (5,200 square feet); conversion to a non-emergency ambulance deployment center (6,600 square feet); and a warehouse (4,300 square feet).

I. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

Pursuant to Berkeley Municipal Code (BMC) Title 23 Zoning Ordinance and Title 13 Public Peace, Morals, and Welfare, 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 BMC 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.

II. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

Project Liaison _____

Name Phone #

11. Protected Industrial Uses. Should the public safety facility cease operations, the provisions for protected industrial uses in place at that time shall apply to buildings previously occupied by such protected uses.

12. Bird Safe Buildings. Prior to submittal of the building permit, if new or replacement transparent or reflective materials are proposed, the applicant shall demonstrate compliance with the applicable bird safe building provisions in BMC Section 23.304.150, Bird Safe Buildings.

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. Nonresidential Electric Vehicle (EV) Charging. Project is required to meet applicable code at time of building permit application.

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. 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.
- 18. 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 at RecyclingProgram@berkeleyca.gov.
- 19. 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:

- 20. 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:

- 21. Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 22. 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.

23. 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.

- 24. 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.
- 25. 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.)
- 26. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
- 27. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:
- A.** In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.

- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 28. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 29. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

- 30. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 31. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A.** The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B.** Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C.** Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D.** Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.
 - E.** All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F.** All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

- G. All private or public projects that create and/or replace 5,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)
- H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 32. 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.
- 33. 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.

34. **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.
35. **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.
36. **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.
37. **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.
38. **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:

39. **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.
40. All landscape, site and architectural improvements shall be completed per the attached approved drawings December 2, 2024.

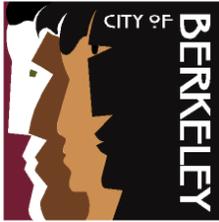
At All Times:

41. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.
42. **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.
43. **Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
44. **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.
45. **Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

- 46. Periodic Review and Reporting.** The City may require periodic review of this approved project to verify compliance with permit requirements and conditions of approval. The permit holder or property owner is responsible for complying with any periodic reporting, monitoring, or assessments requirement. This permit is subject to the provisions of BMC Section 23.404.080 (Permit Revocation) if violations of the permit requirements are found by the Zoning Officer.
- 47.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

GEOTECHNICAL CONDITIONS

- 48. Geotechnical Plan Review – Prior to Issuance of any permit for construction.**
The applicant's geotechnical consultant shall review and approve all geotechnical aspects of the final project building and grading plans (i.e., site preparation and grading including removal and replacement/treatment of expansive soils, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations, temporary shoring excavation and installation, etc.) to ensure that the recommendations in the Geotechnical Investigation Report by Rockridge Geotechnical Inc., dated August 22, 2024, have been properly incorporated.
- The results of the plan review should be summarized by the Geotechnical Consultant in a letter and submitted to the Building Official for review and approval prior to issuance of building permits.
- 49. Geotechnical Construction Inspections – During Construction and Prior to Final Inspection or Issuance of Occupancy Permit Occupancy.** The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete.
- The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the Building Inspector for review prior to final (granting of occupancy) project approval.



Planning and Development Department
Land Use Planning Division

MEMORANDUM

DATE: December 5, 2024

SUBJECT: **Public Viewing of Architectural Plans for 933 Gilman Street, Use Permit #ZP2024-0136 to establish an approximately 47,900 square foot public safety facility for the Berkeley Fire Department and Emergency Operations Center in the six buildings bounded by Eighth Street, Gilman Street, and Ninth Street. The project includes: demolition of two accessory structures; conversion of 37,000 square feet to office and ancillary uses including, training facilities (17,200 square feet) and a staff wellness center (5,200 square feet); conversion to an ambulance deployment center (6,600 square feet); and a warehouse (4,300 square feet).**

Effective January 1, 2023, Government Code Section 65103.5 (Senate Bill 1214) allows design professionals to limit the distribution and publication of copyrighted material associated with the review of development projects. A massing diagram was submitted with this application for public posting and distribution. The architectural plans cannot be posted online, provided electronically, or reproduced.

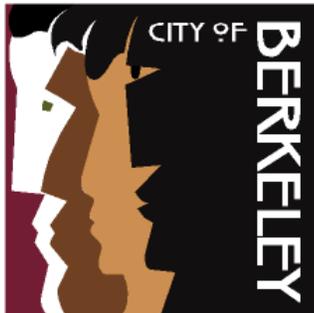
To view the architectural plans for this zoning permit application, please visit the Zoning Counter at the [Permit Service Center](#) during normal business hours. Plans will also be made available to the public in person during any public hearings to consider the proposal, including the December 12, 2024 Zoning Adjustments Board hearing. (Agenda: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>)

Background: In addition to official architectural drawings that are submitted to the Land Use Division of the Planning and Development Department as part of a land use permit application, the design professional or the owner of the copyright, if different from the design professional, may submit a separate “site plan” or “massing diagram” for posting online or for distribution to the public, if a member of the public makes such a request. If such site plan or massing diagram is not submitted in addition to the official architectural plans, permission is deemed granted to the Land Use Division to post online or to provide to the public (if requested) copies of the architectural drawings without the restrictions that would otherwise apply.

A massing diagram and a site plan are defined as follows per Government Code Section 65103.5 (f):

“Massing diagram” means a document that displays the three-dimensional form of a building and describes the general profile, bulk, setbacks, and size of the building, but does not contain specific architectural detail.

“Site plan” means a document for a project that is drawn to scale and displays all of the following: property lines, setback lines, topographic lines, easements, drainage, utilities, lighting, driveways, surrounding streets and traffic flow, parking lots and parking spaces, landscaped areas, setback distance between buildings and property lines, outline of existing and proposed buildings and structures, distance between buildings, and ground sign location.



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

933 Gilman Street
(1221, 1223, and 1225 Eighth Street, and 1226, 1250-1288 Ninth Street)
Berkeley Fire Department Headquarters

Use Permit #ZP2024-0136 to establish an approximately 47,900 square foot public safety facility for the Berkeley Fire Department and Emergency Operations Center in the six buildings bounded by Eighth Street, Gilman Street, and Ninth Street. The project includes: demolition of two accessory structures; conversion of 37,000 square feet to office and ancillary uses including, training facilities (17,200 square feet) and a staff wellness center (5,200 square feet); conversion to an ambulance deployment center (6,600 square feet); and a warehouse (4,300 square feet).

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, December 12 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: Manufacturing
- Zoning District: Mixed-Use Light Industrial District (MU-LI)

B. Zoning Permits Required:

- **Use Permit** pursuant to Berkeley Municipal Code (BMC) Section 23.206.020(A) to allow a Public Safety and Emergency Service use within the MU-LI zoning district
- **Use Permit** pursuant to BMC Section 23.206.020(A) to allow more than 20,000 square feet of Business and Professional Office use within the MU-LI zoning district
- **Use Permit** pursuant to BMC 23.206.050(B) to change a protected non-industrial use to a non-protected use over 5,000 square feet
- **Administrative Use Permit** pursuant to BMC Section 23.326.070(B) to allow the demolition of an accessory structure more than 300 square feet within a non-residential zoning district
- **Administrative Use Permit** pursuant to BMC Section 23.304.060(D)(1) for a trash enclosure

D. CEQA Recommendation: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

E. Project Recommendation: Approve Use Permit #ZP2024-0136 per BMC Section 23.406.040(D)

F. Parties Involved:

- Applicant: Devi Dutta-Choudhury, Devi Dutta Architecture, Inc
928 Carleton Street, Berkeley, CA 94710
- Property Owner: Erik Housh, Smith & Walters
MRE Commercial Real Estate
6001 Shellmound Street, Emeryville, CA 94608

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, Samantha Updegrave, at (510) 981-7414 or supdegrave@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.



928 Carleton Street
 Berkeley, California 94710
 510/705-1937
 www.devidutta.com

September 11, 2024

APPLICANT STATEMENT
 Berkeley Fire Department Headquarters
 Gilman District, Berkeley

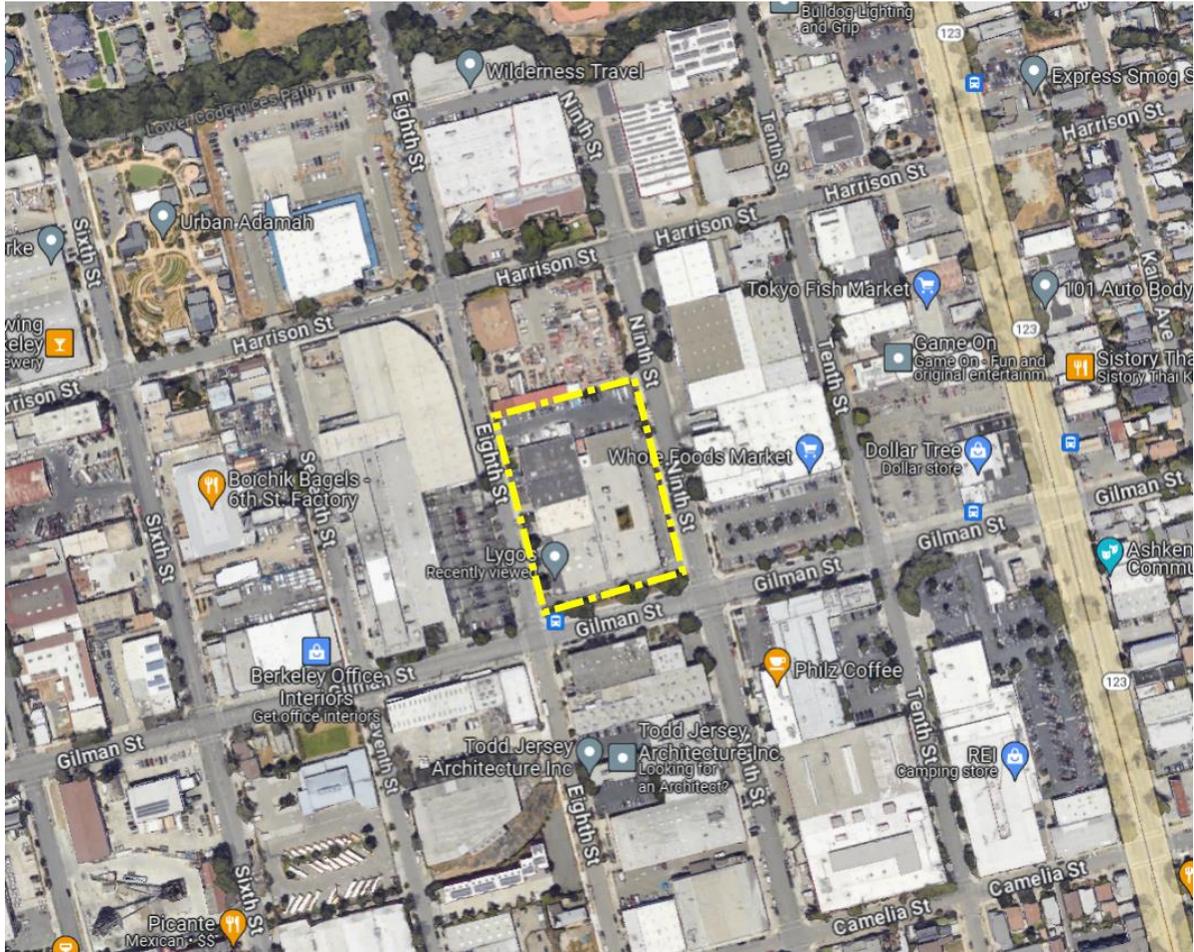
The need:

The mission of the City of Berkeley Fire Department (Fire) has substantially changed over the last two decades. Driven by changes in healthcare, the proliferation of synthetics inside homes which rapidly generate toxic smoke and fire after being ignited, changes to zoning which has increased density and introduced taller buildings, climate change which has increased the size and frequency of wildfires across the state, and technology like electric vehicles and battery technology, all present novel hazards to responders. All of this and more has increased the number and type of emergencies that occur, the type of apparatus and equipment required, the type and amount of training, and the number of responders that need to be on duty (see image below). As the Fire Department has grown to meet these obligations, it long ago exceeded the capacity of its current workspaces. In current facilities, staff are struggling to sustain operations and an appropriate level of customer service. Through a multi-year analysis and planning process, it has been determined that the Fire Department needed a new multi-function headquarters that will meet current and future needs.

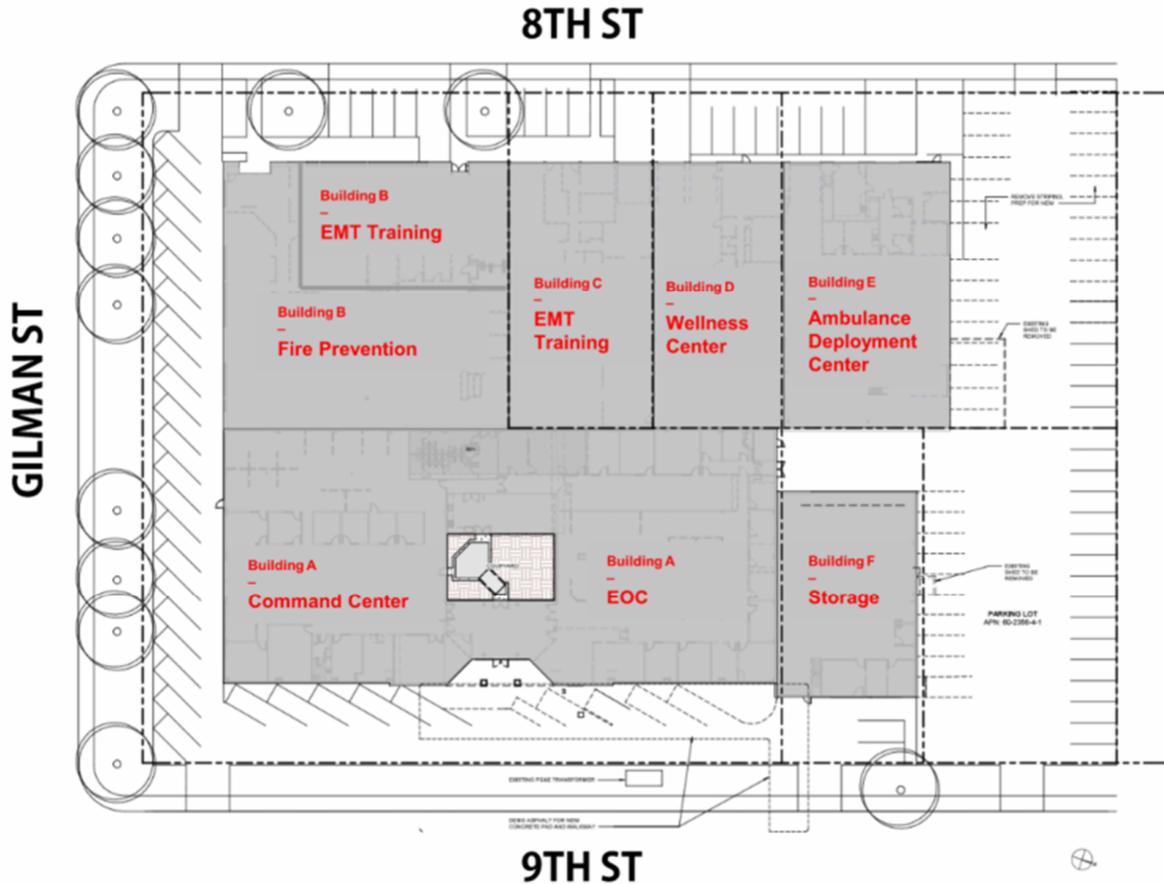
| 1980 | 1990s | 2000 | 2010 | 2015-2024 |
|----------------------------|-----------------------|-----------------------------|-----------------------------|--------------------------------------|
| Structure Fires (Low Rise) | Structure Fires | Structure Fires | Structure Fires | Structure Fires |
| Fire Prevention | Fire Prevention | Fire Prevention | Fire Prevention | Fire Prevention |
| | Emergency Medical | Emergency Medical | Emergency Medical | Emergency Medical |
| | Disaster Preparedness | Disaster Preparedness | Disaster Preparedness | Disaster Preparedness |
| | Hazardous Materials | Hazardous Materials | Hazardous Materials | Hazardous Materials |
| | Wildland Firefighting | Wildland Firefighting | Wildland Firefighting | Wildland Firefighting |
| | | Weapons of Mass Destruction | Weapons of Mass Destruction | Weapons of Mass Destruction |
| | | Vehicle Extrication | Vehicle Extrication | Vehicle Extrication |
| | | Technical Rescue | Technical Rescue | Technical Rescue |
| | | | Active Shooter | Active Shooter |
| | | | Water Rescue Swimmer | Water Rescue Swimmers |
| | | | | Routine Urban Interface Firefighting |
| | | | | Vocational Education |
| | | | | Boat Operations |
| | | | | Pandemic Response |
| | | | | Community Response Medicine |
| | | | | EV Fires & Battery Management |
| | | | | HighRise/Tall Building Firefighting |
| | | | | Street Trauma Prevention/Vision 0 |
| | | | | Defensible Space Inspection/Zone 0 |

The site:

The collection of six existing buildings at the west Berkeley site bound by 8th Street, Gilman Street, and 9th Street is a rare property in Berkeley under single ownership. The large floor area, ample parking, and tilt-up concrete warehouse structures will adequately house the expanding operations of Fire. Renovating existing structures is an economical and efficient strategy for moving and expanding department functions. Rather than sharing already stretched resources with other City agencies, the new site will allow Fire to provide the level of service required in a consolidated location. The building interiors will be renovated, and the exteriors will remain largely in-tact. Minor exterior improvements to the site are planned to make the center accessible to the public and meet the needs of Berkeley Fire. New accessible parking will be provided in front of 1250-9th Street, and new ambulance parking will be provided on the 8th street side. EV parking will be provided as well.



The six buildings that will be renovated to accommodate Berkeley Fire are described here:



A: 1250-88 9th Street, EOC & Command Center

This building is located at the corner of 9th & Gilman Streets, and will contain the core operational functions of the new headquarters. It will serve as the Emergency Operations Center (EOC) when activated for emergency response to catastrophic events like earthquakes, tsunamis, wildfires, weather related events and human caused events. The fire chief and other administrative offices will be located here, as well as meetings rooms, classrooms, and other staff training areas. The building will be served by an extensive solar array and battery back-up power to ensure uninterrupted operations during power outages. The parking in front of the building will be re-graded to provide new accessible parking and access to the building. The building will also be upgraded seismically to meet the more stringent requirements for an EOC. The building was previously used as offices.

B: 1249 8th Street, Administrative Offices & Training

This building is located at the corner of 8th and Gilman streets, and also has internal access to the EOC. Additional offices for fire marshals, fire inspectors, and plans examiners are located here. It will also serve as the primary classroom facility for new firefighters, EMTs and paramedics with two classrooms that face 8th Street. The current use is Research & Development, occupied by Lygos, a biotech company which

researches bio-inspired materials. They are relocating to another location in the Bay Area. The building was previously occupied by a book publisher, Peach Pit Press. This building does not contain a protected use.

C: 1225 8th Street, Training

This building has one street-facing façade towards 8th street. This is the only building in the complex that is currently 2 stories, though the plans propose removing the 2nd floor because it is of substandard height and quality. It will not have an internal direct connection to the EOC, but it can access 1249 and 1223 with new and existing openings. It contains simulation rooms that will be used to provide the initial and on-going training for emergency response personnel. It will also contain a lounge area and several offices. It is currently a manufacturing facility for non-hazardous organic compounds, which is a protected use. It was previously a cookie manufacturer, and was originally permitted as an office and warehouse in 1968. There is an existing loading dock for this building.

D: 1223 8th Street, Wellness Center

This building also faces 8th street. The proposed use includes an employee wellness center, changing rooms, showers and lockers. There will be internal connections to 1225. It was originally permitted as an office/warehouse which is a protected use. It was most recently a book warehouse called Pandora Books. It has been vacant for several years, and has an existing loading dock.

E: 1221 8th Street, Ambulance Deployment Center

This building is the bookend of the site, facing 8th Street and the parking lot to the north. It will be used as the ambulance deployment center and have space for uniform repair and cleaning rooms. This will be the location where personnel report to, check out ambulances, and then deploy to begin running calls. We do not anticipate that ambulances will be often responding with lights and sirens from this location, and when they do, they will use those warning devices conservatively. The parking has been arranged to allow ambulances and bear units to face the drive for quick deployment. There is a crash room for EMTs and other personnel to rest while on duty, so this is considered a partial residential use. This building currently houses the Potter's Studio, which is a protected use. The current tenant has bought a new, larger property and will be moving out of this building in 2025.

F: 1226 9th Street, Storage

This building is another bookend, facing 9th street and the parking lot to the north. It will be used for storage with no plan changes from its current configuration proposed. It is currently a food distribution warehouse, which is a protected use. The current tenant lease will expire in 2027.

Access & Parking:

There are 2 primary public points of access, located at Buildings A & B, shown with red arrows in the image below. The other buildings have access points of limited or restricted use. There are 2 driveways located on 9th Street to access dedicated parking on all sides of building A. 8th Street has several driveways in order to access parking in front of each building. The parking lot on the north side can be accessed from 8th and 9th Streets. There is ample parking to support the staff and personally that will be located at this site.

LEGEND FOR DIAGRAM BELOW:

Pink: admin and offices

Yellow: training areas

Green: wellness center (staff use)

Blue: ambulance deployment center

Purple: storage



The neighborhood:

The relocation of Fire operations to this site in West Berkeley will not only provide the department the space they need to maintain a safe environment for Berkeley residents, it will also contribute to the west Berkeley/Gilman District community by bringing daily activity to an area that can support it. Most employees working at this facility will work a traditional Monday-thru-Friday 40-hour work schedule and will work inside in the various offices located throughout the buildings. Many of them drive personal vehicles and there is ample parking within the footprint of the parcel for those vehicles. There are several business communities nearby, from restaurants, breweries, grocery stores and retail establishments, as well as civic amenities like soccer fields and a skate park. The area will benefit from the presence of daily Fire staff and operations.



BFD Headquarters
1250 Ninth Street and 1221-1249 Eighth Street
9/10/24 4pm - Neighborhood Meeting

Attendees

Project Team

Chief David Sprague, Berkeley Fire Department
Erik Housh, Managing Partner, MRE Commercial Real Estate, Property Owner Rep
Devi Dutta-Choudhury, Devi Dutta ARCHITECTURE Inc., Owner's Architect
Joseph Schollmeyer, Devi Dutta ARCHITECTURE Inc.
Susi Marzuola, Siegel & Strain Architects, City's Architect

Neighbor Attendee

Kasara, Owner Rep & Manager, 901 Gilman (Tesla Service Center property)

Presentation

Devi presented slides 1-4 regarding project site and context

Chief Sprague presented slides 5-8 regarding project purpose and proposal

Questions & Comments

1. Kasara asked about project time frame, which Erik Housh addressed.
Immediate next steps: Permit set submittal for 1250 Ninth and Use Permit for complete project to be submitted in the next month or so.
Construction schedule: Start construction on 1250 Ninth, which will undergo a structural upgrade, as soon as project is permitted. Goal is to occupy this portion of the project in Spring/Summer 2025. Eighth Street projects to follow with 1221 & 1226 starting last. Most work is interior construction. North parking lot will be construction staging area.
Hoping impact to neighborhood will be minimal during construction and have a positive impact on neighborhood once the buildings are occupied. (Kasara agreed.)
2. Kasara asked about the status of the existing leases, which Erik Housh addressed.
1249 Eighth - tenants leaving in September
1225 Eighth - tenants leaving in September
1223 Eighth - Vacant
1221 Eighth - Tenant moving out next June 2025
1226 Ninth - Lease up on Dec 2026
1250 Ninth – Currently vacant
3. Kasara requested copy of slide deck. She will send email to Devi who will forward a PDF of presentation her.

Meeting ended at 4:30pm.