

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

2274 Shattuck Avenue

Use Permit #ZP2023-0079 to demolish the commercial building (preserving and renovating the front façade and lobby), and construct a 17-story (183 feet, plus 5-foot parapet), 214,032-square-foot, mixed-use residential building with 227 dwelling units (including 23 Very Low-Income Density Bonus qualifying units), and one ADA parking space.

I. Background

A. Land Use Designations:

- General Plan: DT – Downtown; Downtown Area Plan
- Zoning: C-DMU (Corridor) – Downtown Mixed-Use Commercial District – Corridor Sub-Area

B. Zoning Permits Required:

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use residential development
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limit, up to 75 feet (plus 5-foot parapet, by right)
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify front and side setback requirements
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district

C. Concessions and Waivers Requested Pursuant to State Density Bonus Law (California Government Code Section 65915):

- Concession – none.

- Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 183 feet to roof (plus 5-foot parapet, by right), where 75 feet is the limit (plus 5-foot parapet by right)
- Waiver of BMC Section 23.204.130(E)(3)(b) to waive front and side setback minimums
- Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to 7-foot, 1 inch, where 5 feet maximum is required, at 0-20-foot building height;
- Waiver of BMC Section 23.204.130(E)(3)(b)(i) to exceed 120 feet in width in diagonal measurement above 120 feet in height – to be 178 feet, 9 inches in width, where 120 feet is required
- Waiver of BMC Section 23.204.130(E)(4) to reduce the usable open space requirement – to provide 7,737 square feet, where 18,160 square feet is required
- Waiver of BMC Section 23.322.090(A) to provide 72 long term residential bicycle parking, where 210 is required

D. The California Environmental Quality Act (CEQA) Exemption Determination: Pursuant to Government Code Section 65589.5, it is staff's determination that the project is categorically exempt under Section 15332 ("Infill Development Projects") of the CEQA Guidelines.

E. Project Recommendation: Approve Use Permit #ZP2023-0079, pursuant to BMC Section 23.406.040(D).

F. Parties Involved:

- Applicant Isaiah Stackhouse, 2421 Fourth St., Berkeley, CA 94710
- Property Owner 2274 Shattuck QOZB, LLC, C/O JP Walsh, 2539 Telegraph Avenue, Suite 101, Berkeley CA 94704

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- C-DMU: Downtown Mixed-Use District
 - Core: C-DMU Core Sub-Area
 - Buffer: C-DMU Buffer Sub-Area
 - Corridor: C-DMU Corridor Sub-Area
 - Outer Core: C-DMU Outer Core Sub-Area



Figure 2: Aerial View of Site



Figure 3: Shattuck Avenue Street (East) Elevation

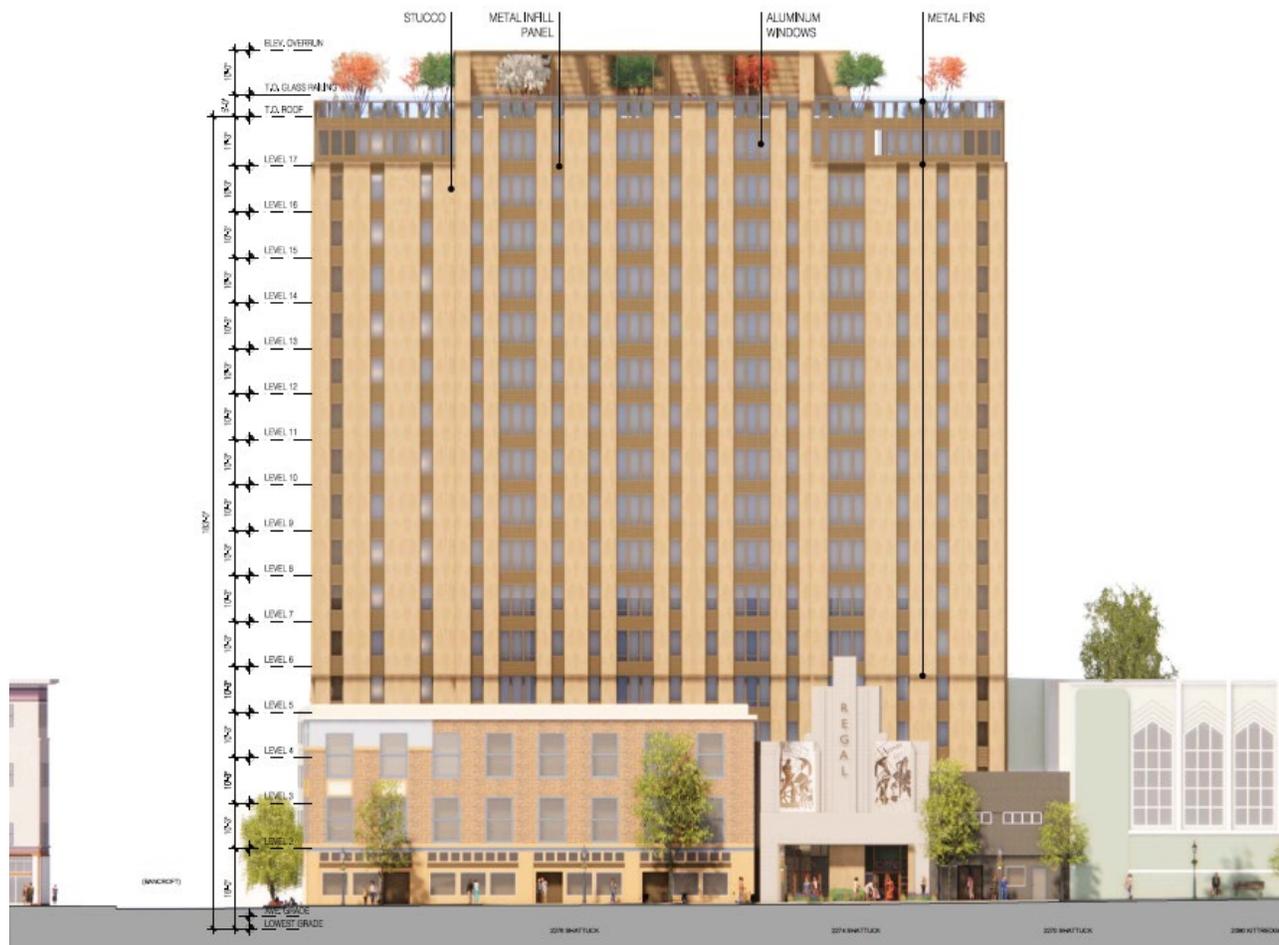


Figure 4: Bancroft Way (South) Elevation



Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		United Artists Theater (closed)	C-DMU Corridor Sub-Area	DT
Surrounding Adjacent Properties	North	Government (Berkeley Public Library, Main Branch, City Landmark) / Restaurant	C-DMU Corridor Sub-Area	
	East	Commercial (Tupper and Reed, Hezlett's Silk Store, City Landmarks) / Mixed-use Commercial (retail and offices, Masonic Temple City Landmark)	C-DMU Outer Core Sub-Area	
	Southeast	Mixed-use Commercial (retail and offices, Morse Block Building City Landmark)	C-DMU Corridor Sub-Area	
	West	Government (Berkeley Public Library)	C-DMU Buffer Sub-Area	
	South	Multi-family Residential (Broad House and Broad Apartment Building City Landmarks)/ Commercial (Corder Building City Landmark)	C-DMU Buffer / Corridor Sub-Area	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee & Affordable Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	No	These fees apply to projects with more than 7,500 square feet of net new non-residential gross floor area. The project provides no net new non-residential gross floor area. Therefore, the project is not subject to these fees.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	The project vested policies in place at the time of submittal of an SB 330 Preliminary Application on November 29, 2022 and is therefore subject to this section. ^a To meet the requirements of BMC Section 22.20.065, the project will include 23 Very Low-Income units. The remainder of the mitigation will be paid in fee to the Housing Trust Fund. Prior to the finalizing the affordable unit Regulatory Agreement (prior to Certificate of Occupancy), affordable units in the building will be designated in floor plans to ensure distribution per BMC Section 22.20.065 requirements, and additional affordable in-lieu units may be added by the applicant to reduce the fee further.
Alcohol Sales/Service	No	The project is not proposing any alcohol sales or service.
Bird Safe Buildings (BMC Section 23.304.150)	No	The project was vested under the Housing Crisis Act of 2019 prior to the July 27, 2023 effective date of the ordinance, and therefore these provisions do not apply.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not within a creek buffer.
Density Bonus	Yes	The project would provide 23 Very Low-Income units, or 15 percent of the 151 Base Project units, and qualifies for a 50 percent density bonus, or 76 bonus units, under Government Code Section 65915. See Section III.B for discussion.
Green Building Score	Yes	The project is designed to achieve a Leadership in Energy and Environmental Design (LEED) - Gold (or equivalent) rating. The project is proposing GreenPoint Rated Silver certification, which is equivalent to LEED Gold.
Hard Hats (BMC Chapter 13.107)	No	The project was vested under the Housing Crisis Act of 2019 prior to the January 1, 2024 effective date of the ordinance, and therefore these provisions do not apply. ^a

Characteristic	Applies to Project?	Explanation
Historic Resources	Yes	The project would involve the demolition of all but the front façade and lobby of the existing United Artists movie theater, which is listed in the California Register of Historical Resources. See Section IV.C for discussion of Landmarks Preservation Commission action, and Section V.A for Environmental Review.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). ^b The base project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section VI.A of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB 330)	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). ^b See Section VI.B of this report for additional discussion on the sections of SB 330 that apply to the project.
Public Art on Private Projects (BMC Chapter 23.316)	Yes	The project is subject to the Percentage for Public Art on Private Projects Ordinance. The applicant is electing to provide pay the in-lieu fee (equal to 8% of total building permit valuation) to comply.
Rent Controlled Units	No	The project involves the demolition of non-residential structures and no rent-controlled units would be demolished.
Residential Preferred Parking (RPP)	No	The site is located in RPP zone "I". The project is not eligible for RPP permits per BMC Section 14.72.080(C)(1) as no permits shall be issued to residents in newly constructed residential units.
Seismic Hazards	No	The project site is not located in an area susceptible to liquefaction, as shown on the State Seismic Hazard Zones map. ^c No further study is required.
Soil/Groundwater Contamination	No	The project site is located within the City's Environmental Management Area. The project site is not listed on the Cortese List. ^d The applicant submitted a Phase I report which found no evidence of Recognized Environmental Conditions on the site. The applicant also submitted a Water Quality Impact Analysis, which concluded that the project would result in less than significant impacts to water quality after incorporation of the City's Standard COAs, compliance with the federal and State regulations, and compliance with City's plans, policies, and regulations. Standard Conditions of Approval related to hazardous materials would apply to the project.

Characteristic	Applies to Project?	Explanation
Transit	Yes	The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along Shattuck Avenue, one-half block west of the site and is two blocks away from the Downtown Berkeley Bay Area Rapid Transit (BART) Station.
<p>Notes:</p> <p>a. Project vested under SB 330 on/before April 1, 2023, prior to effective date of new inclusionary housing requirements and is therefore subject to the Affordable Housing Mitigations in BMC 22.20.065 that was in effect at the time of vesting.</p> <p>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/geologichazards/</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
November 29, 2022 (vesting date)	SB 330 Preliminary Application complete
June 2, 2023	SB 330 Use Permit Application submitted
January 4, 2024	Use Permit Application deemed complete
February 1, 2024	Demolition Referral and Landmark Initiation Meeting at LPC
March 4, 2024	Assembly Bill 1633 Notice received from Applicant supporting CEQA Categorical Exemption
October 4, 2024	CEQA Categorical Exemption determination by staff – Class 32 Categorical Exemption "In-Fill Development Projects"
November 26, 2024	Public hearing notices mailed/posted
December 12, 2024	ZAB Hearing

Table 4: Development Standards

C-DMU Standards, Corridor Sub-Area		Existing	Change	Proposed	Permitted/Required	
Lot Area (sq. ft.)		22,112	--	22,112	n/a	
Gross Floor Area (s.f.)		23,289	+190,743	214,032	n/a	
Commercial Floor Area (s.f.)		23,289	-22,424	865	n/a	
FAR		1	+8.7	9.7	n/a	
Dwelling Units		n/a	+227	227	n/a	
Bedrooms		n/a	+634	634	n/a	
Building Height ¹	Maximum	72'	+111'	183' (plus 5' parapet)	40' min./60' max. (75' max. w/use permit, 5' max. parapet by right)	
	Stories	2	+15	17	n/a	
Building Setbacks ²	Front (Shattuck) ³	0'	--	0' to 7'-1"	0'-5' (bldg. ht.≤20')	
		0'	--	0'	0' (bldg. ht.>20' ≤75')	
		n/a	--	121'-4"	15' (bldg. ht.>65') ⁴	
	Front (Bancroft)	0'	--	0'	0' (bldg. ht.≤20')	
		0'	--	0'	5' (bldg. ht.>20' ≤75')	
		n/a	n/a	0'	15' (bldg. ht.>75')	
		Interior Side (north)	0'-65' from frontage	0'	--	0'
	n/a		n/a	n/a	n/a	5' (bldg. ht.>75' ≤120')
		n/a	n/a	n/a	n/a	15' (bldg. ht.>120')
		>65' from frontage	0'	+11'-7"	11'-7"	0' (bldg. ht.≤20')
		0'	--	11'-7"	11'-7"	5' (bldg. ht.>20' ≤75')
		n/a	n/a	11'-7"	11'-7"	15' (bldg. ht.>75')
Interior Side (west)	0'-65' from frontage	0'	+10'	10'	0' (bldg. ht.≤75')	
	0'	--	10'	10'	5' (bldg. ht.>75' ≤120')	
	n/a	n/a	10'	10'	15' (bldg. ht.>120')	
	>65' from frontage	0'	+10'-3"	10'-3"	0' (bldg. ht.≤20')	
	0'	--	10'-3"	10'-3"	5' (bldg. ht.>20' ≤75')	
	n/a	n/a	10'-3"	10'-3"	15' (bldg. ht.>75')	
Interior Side (east)	0'-65' from frontage	1'-3"	+8'-9"	10'	0' (bldg. ht.≤75')	
	1'-3"	--	10'	10'	5' (bldg. ht.>75' ≤120')	
	n/a	n/a	10'	10'	15' (bldg. ht.>120')	
	>65' from frontage	1'-3"	+8'-9"	10'	0' (bldg. ht.≤20')	
	1'-3"	--	10'	10'	5' (bldg. ht.>20' ≤75')	
	n/a	n/a	10'	10'	15' (bldg. ht.>75')	

¹ A use permit to allow height up to 75 feet (is included in the Base Project for the calculation of the density bonus, and is not a requested waiver. Additional height beyond 75 feet is being requested as a waiver.

² The use permit to allow modified front and side setbacks below 75 feet building height is included in the Base Project for the calculation of the density bonus, and is not a requested waiver. Setback reductions above 75' are being requested as waivers.

³ The existing theater marquee (to be preserved) overhangs approximately 18" into the right-of-way.

⁴ Per BMC 23.204.130(E)(3)(d)(iv), "For lots with frontage on the Shattuck Avenue right-of-way south of Durant Avenue, a new building shall be set back 15 feet from the Shattuck Avenue property line where the building exceeds 65 feet in height".

█ = Waiver requested to modify the district standard.

Abbreviations: s.f.= square feet; d.u.=dwelling unit; min.=minimum; max.=maximum; n/a = not applicable; % = percent; bldg. ht.=building height; ft = feet ('); in. = inches (")

Table 4: Development Standards (Continued)

C-DMU Standards, Corridor Sub-Area			Existing	Change	Proposed	Permitted/Required
Building Setbacks ²	Interior Side (south)	0'-65' from frontage	0' n/a n/a	-- n/a n/a	0' n/a n/a	0' (bldg. ht.≤75') 5' (bldg. ht.>75' ≤120') 15' (bldg. ht.>120')
		>65' from frontage	0' 0' n/a	-- -- n/a	0' 0' 0'	0' (bldg. ht.≤20') 5' (bldg. ht.>20' ≤75') 15' (bldg. ht.>75')
	Diagonal Dimension (above 120' height)		n/a	n/a	178'-9"	120' max. (bldg. ht.>120')
Lot Coverage (%)			94	-20	74	n/a
Usable Open Space (s.f.)			n/a	n/a	7,737	18,160 min. (80 s.f./d.u.)
Privately Owned Public Open Space (s.f.)			n/a	n/a	17	17 min. (1 s.f./50 s.f. of commercial)
Parking	Commercial (865 sq. ft.)		0	--	1	0 min.*
	Residential		n/a	n/a	0	0 min./114 max. (0.5 spaces/du max.)
	Carshare		n/a	n/a	n/a	n/a
	Total		0	--	1	0 min./114 max.
Bicycle Parking	Commercial - Short Term (865 sq. ft.)		0	--	2	1 (1 space/2,000 s.f. commercial)
	Residential - Long Term (313 bedrooms)		n/a	n/a	72	210 min. (1 space/3 bedrooms)
	Residential - Short Term (313 bedrooms)		n/a	n/a	16	16 min. (1 space/40 bedrooms, or 2)
	Total		0	n/a	72/18 (long term/short term)	210/17 min. (long term/short term)
<p>² The use permit to allow modified front and side setbacks below 75 feet building height is included in the Base Project for the calculation of the density bonus, and is not a requested waiver. Setback reductions above 75' are being requested as waivers. * Pursuant to Assembly Bill 2097, no parking is required for residential or commercial uses on a site located within ½-mile of public transit.</p> <p>█ = Waiver requested to modify the district standard. Abbreviations: s.f.= square feet; d.u.=dwelling unit; min.=minimum; max.=maximum; n/a = not applicable; % = percent; bldg. ht.=building height; ft = feet ('); in. = inches (")</p>						

II. Project Setting

A. Neighborhood/Area Description: The project site is located on the west side of Shattuck Avenue and north side of Bancroft Way, within the Downtown Mixed-Use District (C-DMU), Corridor Sub-Area, as identified in the City's Downtown Area Plan (DAP). The project site is surrounded by commercial, residential, institutional and mixed-use commercial/residential buildings ranging in height from one to five stories. Directly north is the Berkeley Public Library Main Branch, a City Landmark. Along Shattuck Avenue to the east are one- and two-story retail and restaurant uses, and a four-story, mixed commercial (retail and office) building. To the southeast, at the northeast corner of Shattuck and Bancroft is three-story, mixed commercial (retail and office) building, also known as the Morse Block Building, a City Landmark. To the west is a three-story, public library administrative building. To the south are residential buildings known as the Broad House and the Broad Apartment Building City Landmarks, Further southeast at the southwest corner of Shattuck and Bancroft, is a four-story commercial building known as the Corder Building City Landmark. (See Figure 1: Zoning Map and Figure 2: Aerial View.)

The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along its frontage on Shattuck Avenue, and is two blocks away from the Downtown Berkeley Bay Area Rapid Transit (BART) Station, the University of California at Berkeley Shuttle, and a bike share station at the Shattuck Avenue and Center Street intersection.

B. Site Conditions/Background: The project site is associated with the address 2274 Shattuck Avenue and Assessor's Parcel Number 57-2028-3. The 22,112-square-foot (0.51-acre) project site is an irregular, L-shaped parcel that has a 36-foot frontage on Shattuck Avenue and a 104-foot, 6-inch frontage on Bancroft Way. The site is occupied by a 23,289-square-foot, movie theater (United Artists (UA) Theater) that was originally constructed in 1932 and operated until its closure in February 2023. The UA Theater is listed on the California Register of Historical Resources (CRHR), and was designated a City Landmark in March 2024. (See section IV.C for discussion).

III. Project Description

A. Proposed Project Details:

The project proposes to demolish the commercial building (UA Theater) on the landmarked site, and construct a mixed-use residential building that utilizes the State Density Bonus, with the following main components:

- Preservation and renovation of the UA Theater Shattuck façade and theater lobby
- 17 stories, 183 feet in height, plus 5-foot parapet
- 227 dwelling units – 32 studios, 49 two-bedroom, 80 two-bedroom, 66 four-bedroom
- 634 bedrooms total
- 23 Very Low Income (VLI) units

- 7,737 square feet of usable open space – ground-floor common space, private patios, roof deck
- 72-space bike room and 18 short-term bike parking spaces
- 865-square-foot, ground-floor café

B. Base Project and Density Bonus: By committing to provide 23 VLI units, the project is eligible for a density bonus under Government Code Section 65915. Under the City’s density bonus procedures, the Base Project was calculated to have 151 units, as the maximum allowable density for the site.¹ The Base Project has an average unit size of 917 square feet in a seven-story building. Twenty-three VLI units, or 15 percent of the Base Project, qualifies the project for a 50 percent density bonus or 76 bonus units. The resulting proposed project would be a 17-story building with 227 units, with an average unit size of 922 square feet (see Table 5: Density Bonus).

Table 5: Density Bonus – Government Code 65915

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
151	23 VLI (15 percent of BP)	50 percent	76 max. (50 percent x 151)	227
*Per Government Code 65915(q), all unit calculations are rounded up to the nearest whole number.				

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting the use permit application to the City on June 2, 2023, the applicant installed yellow Proposed Development Project signs at the project site.

On April 25, 2023 a virtual neighborhood outreach meeting was held by the applicant. Eleven members of the public attended and discussed questions about the lack of affordable housing in the City and the impact of the project to the downtown area, including questions on: the preservation of the entire historic movie theater building (as opposed to only the façade and lobby), the preservation of a downtown arts culture, the building design, construction impact, excessive building height and massing, empty storefronts, a decrease in quality of life, and inadequate parking.

Numerous letters and emails were received by staff during the application review period from individuals and organizations with concerns for the loss of the UA Theater building as a cultural and historic resource, the loss of movie theaters in the downtown, and

¹ Per the City’s Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, §65915(f).

arguing for rehabilitation of the building into a live performance venue. All correspondence received by staff during project review can be found at this link:

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

Click on Zoning tab; enter permit number #ZP2023-0079; click on the “Record Info” drop down menu; click on Attachments for a list of all application materials.

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., and to interested neighborhood organizations, and posted notices within the neighborhood in three locations. On December 2, 2024, two email correspondence and on December 4, 2024, one email correspondence was received by staff, expressing opposition to the demolition of the UA Theater and support for the rehabilitation of the building into a live performance venue.

No further communications regarding the project were received as of the writing of this staff report.

B. Design Review Committee:

This project proposes development in a non-residential zoning district; therefore, it is subject to review by Design Review Committee (DRC) pursuant to BMC Section 23.406.070(B)(1). The project was referred to the DRC for Preliminary Design Review on November 21, 2024. The DRC provided a favorable recommendation to ZAB with the following conditions and recommendations for Final Design Review (FDR) [VOTE (6-0-0-1) Kahn: recused]:

Recommendations

- Look at color palette at FDR; look for more contrast between the theater and the tower as this may highlight the theater.
- Consider more symmetry in the tower, with additional details to add interest and some asymmetry.
- Consider more reference in the tower to the theater structure.
- Look carefully at the Shattuck façade, including the blank horizontal band.
- Landmark Designation ‘features to be preserved’ should guide restoration.
- Consult an architectural historian to identify the original colors of the Landmark façade and consider colors that reference that palette.
- Interior of the landmarked building should be more open for more visual connection to the sidewalk.
- Consider the historic character of the interior space when finalizing the ground floor design.
- Consider an alternate location for building signage at FDR; building identification should come down to the horizontal band.
- Consider more transparency at the Shattuck entrance.
- Further develop the design of the tower façade; the shoulders, the parapet, and some wall and window ratios may need further refinement.

- Further develop the trellis design on the roof deck for shade and design consistency.
- Bird-safe glazing is recommended wherever possible, but at least at upper levels.
- Parking space on Bancroft is not recommended unless needed for an accessible space.
- Pollinator plants recommended at the front entry.
- Consider shading when selecting plants in the courtyard.
- Recommend that the applicant work closely with the Library Staff.
- Recommend that any public art be seen from the sidewalk.
- Consider a larger commercial space on Shattuck, and the main residential entry being on Bancroft.
- Recommending historic plaque on the Shattuck facade, consistent with LPC direction.

C. Landmarks Preservation Commission:

The existing building, known as the United Artists Theater, was constructed in 1932. In 2004, the building was found to be eligible for the National Register of Historic Places (NAHP) through survey evaluation. In 2006, the existing building was listed in the CRHR and determined eligible for the NAHP by a consensus through the Section 106 process. In 2015, the City's Shattuck Avenue Commercial Corridor Historic Context and Survey concluded that the subject building is located in a potential Historic District and serves as a contributor to the district.² Regal Cinemas, which inhabited the UA Theater, ceased operations in February 2023.

Because the project involves demolition of a commercial building over 40 years in age, the proposed demolition was referred to the Landmarks Preservation Commission (LPC) pursuant to BMC Section 23.326.070(C). In addition, a Landmark Initiation Application (LMIN2023-0003) was submitted on December 6, 2023. The LPC reviewed the demolition referral and the landmark initiation concurrently at a meeting on February 1, 2024.

On February 1, 2024, the LPC reviewed the demolition referral and Landmark Initiation Application and designated the building a City Landmark, with the following distinguishing features to be preserved and restored: the upper portion of the Shattuck Avenue building façade in relation to the overall height and massing of the façade, and the architectural and decorative features of the upper portion of the Shattuck Avenue building façade. The Notice of Decision (NOD) was issued and was effective on March 20, 2024.

The project's SB 330 Preliminary Application vested the site's historical resource status on November 29, 2022. The SB 330 Preliminary Application serves to vest for the project the policies, standards, and fees that are in effect at the time that it is complete. This includes the determination of whether the site is an historic site, which shall remain valid during the pendency of the housing development project for which the application was made.³ The preliminary application vested the site's status at the time – it was not a local historic

² The Historic District was never officially established by the City Council.

³ Pursuant to Government Code Section 65913.10(a).

resource (City Landmark). Therefore, the LPC and the City are prohibited by state law from denying the project or imposing conditions related to cultural or historic resources protections on the project after the date on which the SB 330 Preliminary Application was complete. Although the site is currently a designated City Landmark, the requirements that typically apply do not apply to the project.

The project's impact on cultural resources under CEQA is not affected by the LPC determination. See Section V for a discussion of CEQA.

V. CEQA Categorical Exemption

On October 4, 2024, staff determined that the project is categorically exempt from the provisions of CEQA under Section 15332 ("Infill Development Projects") of the CEQA Guidelines, pursuant to Assembly Bill (AB) 1633. (See Attachment 1, Exhibit A.) AB 1633, which became effective on January 1, 2024, revised a provision in the Housing Accountability Act (HAA, Government Code Section 65589.5) that allows developers to file a petition to enforce the HAA's protections where a local agency fails to make a determination that the project is exempt from CEQA when it is eligible for the exemption.

The project applicant filed an AB 1633 Notice with the City on March 4, 2024 and attached technical reports that supported the project's eligibility for a Class 32 Categorical Exemption from CEQA and the inapplicability of any Exceptions to the exemption (CEQA Guidelines, Section 15300.2). (See Attachment 3.) Submitted technical reports included the following: Traffic Impact Analysis, Historic Resources Evaluation, Project Impacts Analysis, Air Quality Impacts Analysis, Noise Impact Analysis, and Water Quality Impact Analysis. All technical reports were peer reviewed by a CEQA consultant, and were revised or supplemented for adequacy.

Upon review of all evidence on the record, staff determined that the project would meet all of the requirements of the Class 32 Infill Exemption, as follows:

1. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
2. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
3. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
4. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
5. The site can be adequately served by all required utilities and public services.

Further, staff determined that the project would not result in a substantial adverse change to the historical resource because it would preserve and rehabilitate the main character defining feature of the historical resource (the Art Deco upper façade on Shattuck Avenue). Thus, staff determined that the project would not meet the criteria for the historical resource exception to the use of a categorical exemption [CEQA Guidelines Section 15300.2(f)].⁴ Staff also determined that none of the other exceptions in Section 15300.2 apply to the project – (a) Location, (b) Cumulative Impact, (c) Significant Effect, and (d) Scenic Highways.

Staff issued an AB 1633 Determination Letter on October 4, 2024 with the determination that the project is exempt under the Class 32 Infill Exemption. Government Code Section 65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the CEQA. The deadline for the City's decision on the project was extended the by written mutual agreement with the applicant to the December 12, 2024 ZAB hearing. The ZAB must approve or disapprove the project at this hearing.

VI. Issues and Analysis

A. Housing Accountability Act: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The project is a “housing development project” consisting of a mixed-use building with at least two-thirds of the floor area in residential use/transitional or supportive housing. The Base Project includes Use Permits and/or Administrative Use Permits⁵ to allow building height over the district limit and rooftop architectural projections above the height limit, and complies with applicable, objective general plan and zoning standards. Government Code Section 65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduced the density

⁴ CEQA Guidelines Section 15300.2(f). “Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.”

⁵ The City has determined that the “protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits.”

with respect to those units without basing its decision on the written findings under Section 65589.5(j), above.

As shown in Table 4, Development Standards, the project complies with the zoning standards. The project includes Use Permits or Administrative Use Permits to modify standards to represent the maximum allowable density on the site. There are no objective criteria in the permit findings; therefore, the project still complies with the HAA. The ZAB has the discretion to approve, deny or modify the request according to the zoning findings, provided the action does not reduce the project density or effectively deny the project by making it infeasible, unless the ZAB is also able to make the required findings for denial set forth under Section 65589.5(j), above.

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

B. Senate Bill 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill (SB) 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A “housing development project” means a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. **Government Code Section 65905.5(a)** states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act [Chapter 4.5 (commencing with Section 65920)].

The December 12, 2024 ZAB Hearing represents the third public hearing for the proposed project since the project was deemed complete. The application must be approved or disapproved at tonight’s hearing. See Section VI.B.3 for details. One hearing must be reserved for a potential appeal to the City Council.

2. **Government Code Section 65913.10(a)** requires that the City determine whether the proposed development project site is an historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is an historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

As discussed in Section IV.C, the United Artists Theater building at 2274 Shattuck Avenue is an historic resource that is on the CRHR, is eligible for listing on the NAHP, and was designated a City Landmark on March 20, 2024. The building was not a City Landmark (local historic resource) at the time that the project's SB 330 Preliminary Application was complete on November 29, 2022. The City determined the project to be exempt from environmental review under CEQA, despite the presence of an historic resource, because the project would preserve and rehabilitate the main character defining feature of any historical resource. Standard conditions of approval have also been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. **Government Code Section 65950(a)(5)** requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. Staff determined that the project was categorically exempt from CEQA review (under Class 32, CEQA Guidelines, Section 15332, "Infill Development Project") on October 4, 2024. The 60-day deadline for the City's decision on the project was extended by written mutual agreement with the applicant to the December 12, 2024 ZAB hearing. The application must be approved or disapproved at tonight's hearing.

C. Density Bonus Waivers and Concessions: The project is entitled to three concessions (or incentives), under Government Code Section 65915(d) for providing at least 15 percent of total units to very low-income households, and an unlimited number of waivers, under Section 65915(e).

1. **Concessions:** A concession or incentive is a modification of a zoning code requirement that results in identifiable and actual cost reductions to provide for affordable housing costs. The applicant is requesting no concessions for the project.
2. **Waivers:** A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. Waivers for height (maximum height and rooftop projections), front and side setbacks, diagonal width, private (usable) open space, and long-term bicycle parking are requested. The waivers are requested because they are necessary to physically accommodate the additional 76 units as allowed under the density bonus project on the site.

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

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

Although proposed demolition of the majority of the existing movie theater building would replace the existing commercial building with a mixed-use residential building that would reduce the amount of commercial floor area on the site, the project would not be materially detrimental to the commercial needs and public interest of the neighborhood because the movie theater business had ceased operations in February 2023, and the new project would contain a ground-floor café to bring more services to residents and workers in the vicinity. The project would also provide a significant amount of new housing to the neighborhood and the City at large. The existing structure to be demolished is a 23,289-square-foot movie theater. This commercial use would be replaced by an 865-square-foot café and 227 new residential units, including 23 very low-income affordable units. The demolition is required in order to allow the proposed mixed-use residential project to be built. The proposed development would be compatible with the C-DMU District purposes and the adjacent permitted uses, as discussed in the Section VII, Other Considerations.

In addition, if demolishing a non-residential building more than forty years old, the demolition may be allowed if the LPC, upon review, does not recommend against granting the permit. The LPC reviewed the demolition referral for the project and did not recommend against the demolition permit.

VII. Other Considerations (Zoning and Land Use Considerations)

The following analyses of conformance with district purposes, the Downtown Area Plan (adopted 2012), and the 2002 General Plan goals and policies are provided for informational purposes only, to provide context, because the proposed project is HAA-compliant. The following permits have been determined by the City to be included in the Base Project of the proposal, and are subject to Section 65589.5(j) of the HAA. See section VI.A for discussion of the HAA. All permits are subject to the C DMU District permit findings and General Non-Detriment findings discussed in sections VII.A and VII.B.

A. Findings for Use Permits in C-DMU District: Pursuant to BMC Section 23.204.130(l), in order to approve any Use Permit in the district, the Board must make the findings that the proposed use or structure:

1. *Is compatible with the purposes of the district:*

The purpose of the C-DMU Downtown Mixed-Use District is to implement the vision and goals of the Downtown Area Plan (DAP). Summarized below are the principal goals of the DAP that are applicable to the project, in each of the main areas of concentration: Environmental Sustainability and Access, Land Use, Housing and Community Health and Services, Economic Development, Historic Preservation and Urban Design, and Streets and Open Space.

- Environmental Sustainability and Access. *DAP goals: Integrate environmentally sustainable development and sustainability best practices; encourage high density, highly livable development to utilize regional transit and improve the availability of diverse walk-to destinations; promote “green” buildings; promote ecologically beneficial landscaping and stormwater features; minimize waste generated Downtown; improve options that increase access to Downtown on foot, by bicycle, and via transit; provide parking to meet the needs of Downtown, while discouraging commuter parking; promote transit as an efficient, attractive choice and as a primary mode of travel.*

The project would be a high-density development in proximity to regional transit, shops and amenities, and would provide more housing in the Downtown to increase access to local services and amenities by foot, by bicycle and via transit, while promoting public transit as an efficient and attractive choice through its location and through its Transportation Demand Management measures and other associated Conditions of Approval. The project is designed to achieve GreenPoint Rated Silver certification, which is equivalent to LEED Gold, and satisfies this DAP requirement. The project would also comply with the State’s Model Water Efficient Landscape Ordinance (MWELo), and would feature a number of native plant species in its landscape palette.

- Land Use. *DAP goals: Encourage a thriving, livable Downtown that is a focal point for the city and a major destination for the region, with a unique concentration of housing, jobs and cultural destinations near transit, shops and amenities; new development contributes fair share toward Downtown improvements; cultivate Downtown as an attractive residential neighborhood with a range of housing opportunities, with an emphasis on affordable housing and family housing; new development enhances Downtown’s vitality, livability, sustainability, and character through appropriate land use and design; enhance Downtown as a center for employment and innovative businesses.*

The mixed-use residential project, which includes 23 VLI units, would add affordable housing to the Downtown area. The rehabilitated movie theater front façade and café (repurposed from a theater lobby) would contribute to the area’s vitality, livability, sustainability, and character. New street trees and landscaping along Bancroft Way would add to the cultivation of the Downtown as an attractive residential neighborhood.

- Housing and Community Health and Services: *DAP Goals: Encourage Downtown as a thriving, livable, diverse residential neighborhood with a mix of supportive uses; offer diverse housing opportunities for persons of different ages and incomes, households of varying size, and persons of varying abilities; preserve existing affordable housing Downtown, and expand the supply of affordable housing to low-income, very low-income and working-class households in Downtown.*

The project will involve construction of a mixed-use residential building with a total of 227 dwelling units, including 23 VLI units. The project would expand the supply of affordable housing and contribute to a thriving, livable, diverse residential neighborhood with a mix of supportive uses in Downtown.

- Economic Development: *DAP Goals: Make Downtown a more attractive regional destination, by building on Downtown's unique blend of cultural, historic, entertainment and by promoting successful retail businesses and other attractions with daytime and nighttime populations to support them; make Downtown more attractive and economically successful, encourage place-making through the preservation of historic buildings, street and open space improvements, and high-quality new construction; Invest in civic improvements (such as streets, open spaces, and community facilities) to enhance Downtown as a place to live, work, and visit; Increase the number of Downtown jobs that go to Berkeley residents, and support the development of job skills for Berkeley residents – especially Berkeley's youth; serve the housing needs of all income groups and provide a growing base of residents who support a broad range of Downtown retail and other business.*

The project would introduce 227 new residential units, in a mix of unit sizes – studio, two-bedroom and four-bedroom units – and 23 very low-income units to the neighborhood, to help broaden the range of household incomes in the area and contribute to diversifying housing opportunities for households of different ages, incomes, varying sizes, and abilities in the Downtown, while preserving the character of the Downtown Historic neighborhood through the rehabilitation of the UA Theater façade.

- Historic Preservation and Urban Design: *DAP goals: Conserve Downtown's historic resources and unique character and sense of place; enhance areas of special character in Downtown, such as clusters of historic resources; provide continuity and harmony between the old and the new in the built environment; improve the visual and environmental quality of Downtown, with an emphasis on pedestrian environments that are active, safe and visually engaging.*

The 2274 Shattuck building, also known as the United Artists Theater, is an historic resource listed in the CRHR and was found to be eligible for NAHP designation, as well as a contributor to the Shattuck Avenue Commercial Corridor Historic District.⁶

⁶ The Historic District was never officially established by the City Council.

The LPC designated the building a City Landmark in February 2024, with the upper portion of the Shattuck Avenue building façade as the distinguishing features to be preserved and restored (see Section IV.C for discussion). The project proposes to demolish the entire building, excepting the Shattuck Avenue façade and theater lobby, which would be rehabilitated and repurposed.

The DRC evaluated the project design's consistency with DAP Design Guidelines and its impact to the Shattuck Avenue Downtown Historic District, and conditioned the project approval to provide further design refinements at FDR, in order to enhance compatibility of building design with the Downtown District.

- Streets and Open Space: *DAP Goals: Enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster an exceptional sense of place; promote watershed health through the use of ecologically beneficial landscaping and other features; adequately fund Streets and open space improvements, maintenance, and cleaning; new development contributes to greenery and open space.*

The project would include new street trees along Bancroft Way and 7,737 square feet of private open space in the form of private patios, ground-floor common space and a roof deck for residents, that would comply with the State's MWEL0 requirements. In addition, the project would be required to contribute to the Streets and Open Space Improvement Plan (SOSIP) fund via Condition of Approval.

2. *Is compatible with surrounding uses and buildings.*

Uses on properties surrounding the project site include retail, the Berkeley Public Library, restaurants, retail and offices, and multi-family residential. The project features primarily a multi-family residential use with a ground-floor café, a similar mixture of uses that already exists on the site and in the vicinity. Thus, the project would not introduce new land uses that do not already exist in the Downtown, and would further the vision and goals of the DAP. The DRC approved the project with conditions for further design refinement, and deemed the project consistent with DAP design guidelines.

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

1. The project is consistent with all applicable C-DMU District standards and qualifies for concessions and waivers for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915.

2. **Shadows:** According to the shadow studies submitted for the project (see Attachment 2, Project Plans – Sheets A0.4A through A0.4C), new shadow impacts would occur: a) in the summer months in the hours after sunrise on the residential buildings at 2120 Bancroft Way and 2020 Kittredge Street to the west, and in the hours before sunset on the mixed-use residential buildings at 2295 and 2319 Shattuck Avenue to the east; and b) in the winter months in the hours after sunrise on the residential buildings at 2020 Kittredge Street to the west, and in the hours before sunset on the mixed-use residential building at 2231 Shattuck Avenue to the east. All other new shadows would impact commercial buildings in the vicinity. The extent of the new shadow impact from the project on the site's adjacent areas would not be unreasonable for a development in the dense, downtown district Corridor Sub-Area that allows building heights up to 60 feet by right (75 feet with use permit), with 0 to 5-foot setbacks from property lines, by right.

The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. The proposal would include a waiver for additional height beyond the district height limits to accommodate the density bonus units (see Section VI.C for a discussion of waivers) and allow a 183-foot-tall, 17-story building. Overall, the shadow impacts from the project would be reasonable and not detrimental.

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

C. Administrative Use Permit for Architectural Projections to Exceed Height Limit: BMC Section 23.304.050(A) requires an Administrative Use Permit for roof-top projections, such as mechanical penthouses, elevator equipment rooms or stair towers, that would exceed the maximum height limit. Such projections are limited to no more than 15 percent of the average floor area of all of the building's floors and cannot be used as habitable space or for commercial purposes. The project would include mechanical and staircase/elevator penthouses and an architectural frame totaling 1,891 square feet on the roof that would extend 15 feet over the roof height. These areas represent 15 percent of the 12,659-square-foot average of all the floor areas. The total area of rooftop projections does not exceed the limit of 15 percent of the average floor area, and are therefore permissible.

D. Use Permit to Reduce Setbacks: Pursuant to BMC Section 23.204.130(E)(3), the ZAB may approve a permit to modify setbacks upon finding that the modifications will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.

The project requests reduced side setback (65 feet from the front) above 20 feet in building height in the Base Project. The findings in this section are not applicable to reduced setbacks above 75 feet building height that are requested waivers in the proposed Density Bonus project. The setback encroachment in the Base Project would result in a minimal contribution to new shadow impact relative to the increase in shadow impact from the Density Bonus project height and reduced setbacks that are requested as waivers. See section VII.B for shadow study analysis. Thus, the setback reduction the Base Project would not unreasonably limit solar access.

A wind study was not provided to satisfy this finding. However, wind studies have been prepared for projects in the vicinity that are much taller and have similar setback reductions, and which can be used for reference analysis. A Wind and Comfort Impact Analysis was prepared in March, 2022 for an approved use permit at 2190 Shattuck, a site that is two blocks to the north of the subject site, for a 25-story building proposal with 0 to 5-foot setbacks up to 268 feet in height, that concluded that the building would not cause significant additional wind impact on the street level at Shattuck Avenue and Allston Way. Staff believes that the proposal at 2274 Shattuck Avenue for a 17-story building with similar setback reductions up to 183 feet in height, would also result in insignificant changes to wind patterns on the sidewalk at the site along Shattuck Avenue or Bancroft Way.

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

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7-A Neighborhood Quality of Life, Action: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The project would reinforce the City’s effort to redevelop underutilized sites in a way that would increase the quality of the built environment and provide new housing and commercial opportunities. The project would further improve the neighborhood character and quality of life by increasing existing street level activity and bringing in new residents and new business patrons along a major commercial and transit corridor.

5. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

Staff Analysis: The project would help to encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, the university, jobs, and basic goods and services. Multiple transit lines operate along the Shattuck Avenue frontage and the Downtown Berkeley BART station, which has connecting service throughout the Bay Area, is located two blocks from the project site.

6. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The project would provide 23 VLI units in addition to increasing the City’s housing supply by adding a total of 227 new dwelling units in close proximity to the university and transit.

7. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

8. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The proposed project would be constructed to the latest building codes which include green building standards. The building would be required to attain either LEED Gold rating or higher as defined by the U.S. Green Building Council or attain a building performance that is equivalent to this rating. Roof-top solar would be provided.

F. Area Plan Consistency: The Downtown Area Plan, adopted in 2012, also contains several policies applicable to the project, including the following:

- Goal ES-3: Encourage high density, highly livable development to take advantage of Downtown’s proximity to regional transit and to improve the availability of diverse walk-to destinations – such as retail, services, culture, and recreation.
- Goal ES- 4: Promote “green” buildings.
- Goal LU-4: New development should enhance Downtown’s vitality, livability, sustainability, and character through appropriate land use and design.
- Goal HD-4: Improve the visual and environmental quality of Downtown, with an emphasis on pedestrian environments that are active, safe and visually engaging. Encourage appropriate new development Downtown.
- Goal HC-1: Encourage Downtown as a thriving, livable, diverse residential neighborhood with a mix of supportive uses.
- Goal HC-3: Offer diverse housing opportunities for persons of different ages and incomes, households of varying size, and persons of varying abilities. Give Downtown a significant role in meeting Berkeley’s continuing need for additional housing.

The project would be consistent with the aforementioned goals and policies of the Downtown Area Plan. The project is for a 227-unit high density, mixed-use building that

provides 23 dwelling units for very low-income households and a ground-floor café. The project is located close to other commercial uses, shopping and restaurants, and in proximity to multiple modes of public transit.

VII. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2023-0079, pursuant to BMC Section 23.406.040(D) subject to the attached Findings and Conditions (Attachment 1).

Attachments:

1. Findings and Conditions
 - a. Exhibit A: AB 1633 CEQA Exemption Determination Letter, dated October 4, 2024
2. Project Plans, received December 8, 2023
3. AB 1633 Letter from Applicants, dated March 4, 2024

For attachments to the letter, go to the link:

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

Click on Zoning tab; enter permit number #ZP2023-0079; click on the "Record Info" drop down menu; click on Attachments for a list of all application materials.

4. Downtown Area Plan MMRP
5. Notice of Public Hearing
6. Comment Letters Received: Stillwater, Zephyr, and Bowden.

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429



Planning and Development
Land Use Planning Division

October 4, 2024

Robin Baral
Senior Counsel
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

Sent via Email:
RBaral@hansonbridgett.com

RE: Response to AB 1633 Notice for Use Permit #ZP2023-0079 – 2274 Shattuck Avenue

Dear Mr. Baral,

The City of Berkeley has received the AB 1633 Notice of CEQA Exemption prepared by Hanson Bridgett, LLC, dated March 4, 2024, with the attached technical reports (Traffic Impact Analysis, Historic Resource Evaluation, Project Impacts Analysis, and Air Quality, Noise, and Water Quality reports). With this letter, staff is fulfilling its obligation to provide a determination on the AB 1633 Notice within 180 days, plus the extension of time in the Tolling Agreement executed on September 3, 2024.

Staff has determined that this project meets the criteria for a Categorical exemption pursuant to CEQA Guidelines, Section 15332, “In-Fill Development Projects” (Class 32).

Next Steps

1. ZAB Decision. Pursuant to Government Code Section 65950, the project shall be approved or disapproved within 60 days of staff’s determination that the project is exempt from CEQA (December 3, 2024). However, the Berkeley Municipal Code requires the permit application to undergo Preliminary Design Review (DRCP2023-0008) at a public meeting before the Design Review Committee (DRC) prior to a decision on the use permit (ZP2023-0079) by the Zoning Adjustments Board (ZAB). The earliest that the design review application can be scheduled for DRC review is November 21, 2024. Following the DRC review, the earliest that the permit application can be scheduled for a decision hearing before the ZAB is December 14, 2024.

Pursuant to Government Code Section 65957, the project applicant and lead agency may extend the time limit once, up to 90 days, by mutual written agreement. To meet the time limits afforded by Section 65950, staff is recommending a time extension agreement to allow the DRC meeting to occur on November 21 and ZAB hearing to occur on December 14.

Please provide written confirmation that you agree to an extension of the time limit set forth in Government Code section 65950.

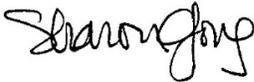
2. Notice of Exemption. The City will be filing the Notice of Exemption (NOE) for projects that go to the ZAB or City Council. Filing the NOE starts a 35-day statute of limitations period on legal challenges to the agency's decision that a project is exempt from CEQA. If the NOE is not filed, a 180- day statute of limitations applies. The NOE needs to be filed with the State Clearinghouse and with the County Clerk's office. The City will post with the State Clearinghouse, but the posting with the County Clerk's office can be done by either the City or the applicant. If the City completes the posting, there is a fee of \$920. Otherwise, the applicant can file with the County and provide the \$50 filing fee directly to the County. The NOE is filed after the use permit becomes effective.

Please complete the attached form to state your preference and return it to me via email.

Note that additional information may be required to correct, clarify, or amplify the materials submitted in the application, to prepare the project for a ZAB decision hearing. Please provide the information requested by staff in a timely manner in order to maintain the discussed project schedule.

Please feel free to contact me with any questions regarding this letter or your application.

Sincerely,



Sharon Gong
Senior Planner
(510) 981-7429
sgong@berkeleyca.gov

Cc:

JP Walsh, Panoramic Interests
Patrick Kennedy, Panoramic Interests
Farimah Brown, City Attorney, City of Berkeley
Sara Stephens, Deputy City Attorney, City of Berkeley
Jordan Klein, Director of Department of Planning and Development, City of Berkeley
Anne Hersch, Land Use Planning Manager, City of Berkeley
Claudia Garcia, Principal Planner, City of Berkeley

Attachment:

Notice of Exemption Filing Preference Form



PLANNING & DEVELOPMENT

1947 Center St., 2nd Floor • Berkeley, CA 94704 • (510) 981-7400 • TDD: (510) 981-7474 • planning@berkeleyca.gov

To: Applicant
From: City of Berkeley Planning & Development
Project Address/Permit # (ZP): _____
Subject: Private Projects – Filing Notice of Exemption (NOE) form with the Alameda County Clerk-Recorder

Following decision-maker approval of a project exempt from the provisions of the California Environmental Quality Act (CEQA), a NOE may be filed with the Alameda County Clerk-Recorder. It is strongly recommended that the NOE be filed in a timely manner. The filing of a NOE starts a 35-day statute of limitations period on legal challenges to the agency’s decision that the project is exempt from the provisions of CEQA. If the NOE is not filed a 180-day statute of limitations will apply, refer to CEQA Guidelines Section 15062(d). Please note that recent legislation requires the City to file the NOE with the State Clearinghouse in the Office of Planning and Research.

Please review the attached NOE and indicate how you would like to proceed with filing by selecting one of the options below:

- Berkeley Planning & Development to file the NOE:** Within 30-days of deeming the project complete, the Applicant will be invoiced for the NOE filing fee, refer to the current fee schedule linked [here](#). Please note that Berkeley Planning staff will schedule the public hearing once all outstanding fees are paid. Once the project receives final approval and after the 15-day appeal period expires, Berkeley Planning staff will file the NOE with the Alameda County Clerk-Recorder and the State Clearinghouse.
- Applicant to file the NOE:** Applicant shall submit a copy to the Alameda County Clerk-Recorder in accordance with CEQA Guidelines Section 15062 after the project receives final approval and the 14-day appeal period expires. The Office of the County Clerk-Recorder is located at 1106 Madison Street, Oakland, CA 94607. The Clerk will stamp the NOE, return the original set, and post the NOE for a period of 30 days. Once recorded, the applicant shall provide a stamped copy to the Berkeley Planning staff person assigned to the project. Refer to Alameda County Clerk-Recorder’s website linked [here](#) for more information on hours of operation, fees, and payment methods.

Applicant Name (please print): _____

Applicant Signature: _____

Date: _____

Please note that categorical exemptions are not subject to the California Department of Fish and Wildlife environmental document filing fee and do not require a no effect determination (Cal. Code Regs., tit. 14, §§ 15260-15333; Fish & Game Code §711.4, subd. (d)(1)).

ATTACHMENT 1

FINDINGS AND CONDITIONS

DECEMBER 12, 2024

2274 Shattuck Avenue

Use Permit #ZP2023-0079 to demolish the commercial building (preserving and renovating the front façade and lobby), and construct a 17-story (183 feet, plus 5-foot parapet), 214,032-square-foot, mixed-use residential building with 227 dwelling units (including 23 Very Low-Income Density Bonus qualifying units), and one ADA parking space.

ZONING PERMITS REQUIRED

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use residential development
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limit, up to 75 feet (plus 5-foot parapet, by right)
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify front and side setback requirements
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district

CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- Concession – none.
- Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 183 feet to roof (plus 5-foot parapet, by right), where 75 feet is the limit (plus 5-foot parapet by right)
- Waiver of BMC Section 23.204.130(E)(3)(b) to waive front and side setback minimums
- Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to 7-foot, 1 inch, where 5 feet maximum is required, at 0-20-foot building height
- Waiver of BMC Section 23.204.130(E)(3)(b)(i) to exceed 120 feet in width in diagonal measurement above 120 feet in height – to be 178 feet, 9 inches in width, where 120 feet is required
- Waiver of BMC Section 23.204.130(E)(4) to reduce the usable open space requirement – to provide 7,737 square feet, where 18,160 square feet is required
- Waiver of BMC Section 23.322.090(A) to provide 72 long term residential bicycle parking, where 210 is required

I. CEQA FINDINGS

- A. On October 4, 2024, the City determined that the project is categorically exempt from the provisions of CEQA under Section 15332 (“Infill Development Projects”) of the CEQA Guidelines, pursuant to Assembly Bill (AB) 1633. (See Exhibit A.)

The project applicant filed an AB 1633 Notice with the City on March 4, 2024 and attached technical reports that supported the project’s eligibility for a Class 32 Categorical Exemption from CEQA and the inapplicability of any Exceptions to the exemption (CEQA Guidelines, Section 15300.2). Submitted technical reports included the following: Traffic Impact Analysis, Historic Resources Evaluation, Project Impacts Analysis, Air Quality Impacts Analysis, Noise Impact Analysis, and Water Quality Impact Analysis. All technical reports were peer reviewed by a CEQA consultant, and were revised or supplemented for adequacy.

- B. Upon review of all evidence on the record, the City determined that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 (“Infill Development Projects”) of the CEQA Guidelines.

The project meets the requirements under CEQA Guidelines Section 15332, as follows:

1. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
2. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
3. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
4. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
5. The site can be adequately served by all required utilities and public services.

- C. 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 on the environment due to unusual circumstances, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not cause a substantial adverse change in the significance of any historical resource.

II. HOUSING ACCOUNTABILITY ACT FINDINGS

- A.** The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that: (1) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and (2) there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.
- B.** The project includes construction of 227 dwelling units. Because the base project complies with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified.

III. DENSITY BONUS FINDINGS

- A.** Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
1. Under the City's methodology for implementing density bonuses, the "base project" consists of 151 units;
 2. The project will provide at least 23 Very Low-Income (VLI) qualifying units in the 151-unit "base project";
 3. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus three concessions or incentives. This equates to a density bonus of 76 units above the Base Project, for a total of 227 units.
- B.** In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers to modify development standards as necessary to accommodate these density bonus units:
1. Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 183 feet to roof (plus 5-foot parapet, by right), where 75 feet is the limit (plus 5-foot parapet by right)
 2. Waiver of BMC Section 23.204.130(E)(3)(b) to waive front and side setback minimums
 3. Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to 7-foot, 1 inch, where 5 feet maximum is required, at 0-20-foot building height
 4. Waiver of BMC Section 23.204.130(E)(3)(b)(i) to exceed 120 feet in width in diagonal measurement above 120 feet in height – to be 178 feet, 9 inches in width, where 120 feet is required
 5. Waiver of BMC Section 23.204.130(E)(4) to reduce the usable open space requirement – to provide 7,737 square feet, where 18,160 square feet is required
 6. Waiver of BMC Section 23.322.090(A) to provide 72 long term residential bicycle parking, where 210 is required
- D.** In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers will not have a specific adverse impact upon

public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers will not be contrary to State or Federal law.

IV. FINDINGS FOR APPROVAL

- A.** As required by Section 23.406.040(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
1. The project is consistent with all applicable C-DMU District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915;
 2. New shadow impacts will occur: a) in the summer months in the hours after sunrise on the residential buildings at 2120 Bancroft Way and 2020 Kittredge Street to the west, and in the hours before sunset on the mixed-use residential buildings at 2295 and 2319 Shattuck Avenue to the east; and b) in the winter months in the hours after sunrise on the residential buildings at 2020 Kittredge Street to the west, and in the hours before sunset on the mixed-use residential building at 2231 Shattuck Avenue to the east. All other new shadows will impact commercial buildings in the vicinity. The extent of the new shadow impact from the project on the site's adjacent areas will not be unreasonable for a development in the dense, downtown district that allows building heights up to 60-foot, with zero to five-foot setbacks from property lines, by right.
 3. The project will be subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, which will ensure that the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

V. OTHER FINDINGS FOR APPROVAL

- A.** As required by BMC Section 23.326.070(A), in order to approve a Use Permit to demolish a commercial structure, the Zoning Adjustments Board finds that:
1. Although proposed demolition of the majority of the existing movie theater building will replace the existing commercial building with a mixed-use residential building that would reduce the amount of commercial floor area on the site, the project will not be materially detrimental to the commercial needs and public interest of the neighborhood because the movie theater business ceased operations in February 2023, and the new project will contain a ground-floor café, to bring more services to residents and workers in the vicinity.
 2. The existing structure to be demolished is a 23,289-square-foot movie theater. This commercial use will be replaced by a 865-square-foot café and 227 new residential units, including 23 very low-income affordable units. The demolition is required in order to allow the proposed mixed-use residential project to be built.

3. The LPC reviewed the demolition referral for the project and did not recommend against the demolition permit.
- B.** As required by BMC Section 23.204.130(l) of the, the Zoning Adjustments Board finds that the proposed use or structure:
1. *Is compatible with the purposes of the district to implement the vision and goals of the Downtown Area Plan (DAP):*
 - a. Environmental Sustainability and Access: The project will be a high-density development in proximity to regional transit, shops and amenities, and will provide more housing in the Downtown to increase access to local services and amenities by foot, by bicycle and via transit, while promoting public transit as an efficient and attractive choice through its location and through its Transportation Demand Management measures and other associated Conditions of Approval. The project is designed to achieve GreenPoint Rated Silver certification, which is equivalent to LEED Gold, and satisfies this DAP requirement. The project will also comply with the State's Model Water Efficient Landscape Ordinance (MWELO), and will feature a number of native plant species in its landscape palette.
 - b. Land Use: The mixed-use residential project, which includes 23 VLI units, will add affordable housing to the Downtown area. The rehabilitated movie theater front façade and café (repurposed from a theater lobby) will contribute to the area's vitality, livability, sustainability, and character. New street trees and landscaping along Bancroft Way will add to the cultivation of the Downtown as an attractive residential neighborhood.
 - c. Housing and Community Health and Services: The project will involve construction of a mixed-use residential building with a total of 227 dwelling units, including 23 VLI units. The project will expand the supply of affordable housing and contribute to a thriving, livable, diverse residential neighborhood with a mix of supportive uses in Downtown.
 - d. Economic Development: The project will introduce 227 new residential units, in a mix of unit sizes – studio, two-bedroom and four-bedroom units – and 23 very low-income units to the neighborhood, to help broaden the range of household incomes in the area and contribute to diversifying housing opportunities for households of different ages, incomes, varying sizes, and abilities in the Downtown, while preserving the character of the Downtown Historic neighborhood through the rehabilitation of the UA Theater façade.
 - e. Historic Preservation and Urban Design: The 2274 Shattuck building, also known as the United Artists Theater, is an historic resource listed in the CRHR and was found to be eligible for NAHP designation, as well as a contributor to the Shattuck Avenue Commercial Corridor Historic District. The LPC designated the building a City Landmark in February 2024, with the upper portion of the Shattuck Avenue building façade as the distinguishing features to be preserved and restored . The project will demolish the entire building, excepting the Shattuck Avenue façade and theater lobby, which will be rehabilitated and repurposed.
 - f. Streets and Open Space: The project will include new street trees along Bancroft Way and 7,737 square feet of private open space in the form of private patios, ground-floor common space and a roof deck for residents, that will comply with the State's MWELO requirements. In addition, the project will be required to contribute to the Streets and Open Space Improvement Plan (SOSIP) fund via Condition of Approval.

2. *Is compatible with surrounding uses and buildings:* Uses on properties surrounding the project site include retail, the Berkeley Public Library, restaurants, retail and offices, and multi-family residential. The project features primarily a multi-family residential use with a ground-floor café, a similar mixture of uses that already exists on the site and in the vicinity. Thus, the project will not introduce new land uses that do not already exist in the Downtown, and will further the vision and goals of the DAP. The DRC provided a favorable recommendation of the project with conditions for further design refinement, and deemed the project consistent with DAP design guidelines.
- C. As required by Section 23.304.050(A) of the BMC, the Zoning Adjustments Board finds that the proposed rooftop equipment, which exceeds the district height limit, does not exceed 15 percent the average floor area of the building's floors. None of the equipment structures will be used as habitable or commercial space. The project will include mechanical and staircase/elevator penthouses and an architectural frame totaling 1,891 square feet on the roof that will extend 15 feet over the roof height. These areas represent 15 percent of the 12,659-square-foot average of all the floor areas.
- D. As required by BMC Section 23.204.130(E), the Zoning Adjustments Board finds that:
 1. The setback encroachment in the Base Project will result in a minimal contribution to new shadow impact relative to the increase in shadow impact from the Density Bonus project height and reduced setbacks that are requested as waivers. Thus, the setback reduction the Base Project will not unreasonably limit solar access.
 2. A Wind and Comfort Impact Analysis was prepared in March, 2022 for an approved use permit at 2190 Shattuck, a site that is one block to the east of the subject site, for a 25-story building proposal with zero to five-foot setbacks up to 268 feet in height, that concluded that the building will not cause significant additional wind impact on the street level at Shattuck Avenue and Allston Way. Based on that study, the project, which consists of a 17-story building with similar setback reductions up to 183 feet in height, will also result in insignificant changes to wind patterns on the sidewalk at the site along Shattuck Avenue or Bancroft Way.

VI. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. **Conditions Shall be Printed on Plans.** The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings.
2. **Compliance Required (BMC Section 23.102.050).** All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.
3. **Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060(B)(1) and (2)):**

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
 - B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To re-establish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.
- 4. Conformance to Approved Plans (BMC Section 23.404.060(B)(4)).**
All work performed under an approved permit shall comply with the approved plans and any conditions of approval.
- 5. Exercise and Expiration of Permits (BMC Section 23.404.060(C)):**
- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
 - B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
 - C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
 - D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.
- 6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D)).** Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.
- 7. Permit Modifications (BMC Section 23.404.070).** No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.
- 8. Permit Revocation (BMC Section 23.404.080).** The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.
- 9. Pay Transparency Acknowledgement (BMC Section 13.104.030).** Prior to the issuance of a building permit for any Project subject to this Chapter:

A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.

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

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

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

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

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

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

VII. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

Project Liaison _____

Name	Phone #
------	---------

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

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

- A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- C. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- E. Prohibit unnecessary idling of internal combustion engines.
- F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

17. Damage Due to Construction Vibration. The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall consider project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake study of existing conditions (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage.

1. This study shall establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and include written descriptions and photographs.
2. The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

18. Compliance with Conditions of Approval and Environmental Mitigations. The building permit application is subject to verification of compliance of these Conditions of Approval and the DAP Mitigation Monitoring and Reporting Program (Attachment 4). The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit \$10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

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

19. Demolition. Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.

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

- 21. Construction Phases.** The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
- 22. 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.
- 23. 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

24. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee.

25. Percent for Public Art. Consistent with BMC Section 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

26. Affordable Housing Mitigation Fee. Consistent with BMC Section 22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.

27. 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.

- 28. Interior Noise Levels.** Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
- 29. Streets and Open Space Improvement Plan.** Street Frontage Improvements. Consistent with the Downtown Streets and Open Space Improvement Plan (SOSIP) (or subsequent iterations as adopted by the City), the developer shall construct improvements along Oxford Street and Center Street to the centerline. Such improvements shall be included with the building permit submittal, designed and constructed as directed by the Public Works Engineering, Public Works Transportation, and Fire Departments, and constructed prior to certificate of occupancy.
- 30. Streets and Open Space Improvement Plan.** Impact Fee: As required by BMC Section 23.204.130(F), the project shall pay an impact fee to implement the Streets and Open Space Improvement Plan (SOSIP) per the fee schedule adopted by the Council by resolution. The City shall deposit this payment into the Downtown Streets and Open Space Improvement Fund (SOSIF), or its equivalent, to pay for the design and construction of the SOSIP Major Projects. The fee shall apply to the project's "Gross Floor Area" as defined in BMC Section 23.106.030, less any existing Gross Floor Area removed as part of the project.
- At the City's discretion, the City Manager or her designee may reduce the required SOSIP Impact Fee, on a \$1 to \$1 ratio, as a credit for constructing all or a portion of a Major SOSIP Improvement Project beyond the frontage improvements already required by this Permit. The first half of this fee shall be paid prior to issuance of a building permit, and the second half shall be paid prior to issuance of a certificate of occupancy.
- 31. Green Building Certification.** The applicant shall submit documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation shall include proof of payment of the registration/application fee to the organization administering the green building certification system (e.g. USGBC/GBCI for LEED, Build It Green for GreenPoint Rated, etc.), a copy of the updated green building checklist that reflects anticipated points, and a statement from the appropriate project team professional (e.g. LEED Accredited Professional, GreenPoint Rater, etc.) verifying that the project is on track for certification at the required level or above. The submitted green building checklist must be a type that is appropriate for the project and a version that is being accepted by the organization granting the green building certification at the time of building permit application. Whenever applicable, measures from the green building checklist shall be incorporated and noted on site plans.
- 32. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS).** A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)

- 33. Nonresidential Electric Vehicle (EV) Charging.** At least 10 percent of project parking spaces for nonresidential use shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations and/or DC Fast Charging Stations, and least 40 percent shall be “EV Capable” equipped with raceway, electrical panel service capacity, and an electrical system to support future Level 2 (40 amp) EV charging stations, or any more stringent EV charging requirements, as specified by the Berkeley Green Code (BMC Chapter 19.37). EV charging station installations and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions. (Project required to meet applicable code at time of building permit application, if different from above.)
- 34. 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.
- 35. Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division’s Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.
- 36. Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

BELOW MARKET RATE UNITS

- 37. Affordable Housing Mitigation Fee (AHMF).** Consistent with BMC 22.20.065 and fee resolution No. 68,074-N.S., the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, or provide an alternative to the fee payment as permitted by the BMC. Payment of the AHMF may be reduced if paid prior to the building permit per resolution No. 68,074-N.S., and shall be paid no later than prior to the issuance of a certificate of occupancy for the project.

As indicated on the development application, the applicant shall provide below market rate rental dwelling units (“BMR Units”) – 23 VLI units, in perpetuity – and will be required to pay the AHMF as calculated in BMC Section 22.20.065(D). The applicant may elect to avoid the AHMF by providing, for the life of the project, a number of units equal to 20 percent of the total units in the project at rental rates affordable to Low-Income and Very Low-Income Households in accordance with the BMC. The applicant may also elect to provide BMR units below 20 percent of total units for a reduced AHMF as calculated in BMC Section 22.20.065(D). The applicant must contact and coordinate with the Department of Health, Housing and Community Services (HHCS) via email to affordablehousing@berkeleyca.gov for review and approval. The final number of affordable onsite units must be declared prior to issuance of the first building permit for the project.

- 38. Number of Below Market Rate Units.** The project shall provide below market rate rental dwelling units (“BMR Units”) – 23 VLI units, in perpetuity – which are required to comply with the State Density Bonus Law (Government Code Section 65915) and BMC Section 22.20.065. The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
- 39. Affordable Housing: Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit should they elect to provide BMR units to avoid or reduce their AHMF obligation. The Regulatory Agreement shall include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for very low income BMR Units shall be 50 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 50 percent of AMI. The maximum qualifying household income for Low Income BMR units shall be 80 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 80 percent of AMI for Low-Income households, as set forth in the following paragraphs of this condition. If the BMR units are occupied by Very Low-Income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Department of Health, Housing and Community Services (HHCS) via email to affordablehousing@berkeleyca.gov for review and approval.
- 40. Affordable Housing: Below Market Rate Program.** In addition, affordable units must adhere to the administrative guidelines for the City’s Below Market Rate program. These guidelines can be found online at <https://berkeleyca.gov/community-recreation/affordable-housing-berkeley/below-market-rate-rental-information-owners-and>. The guidelines are updated annually by HHCS and posted online. Please note the following key provisions from the guidelines:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to
 - B. California Health & Safety Code Section 50052.5 (h).
 - C. Rent shall include a reasonable allowance for utilities, as published and updated by the
 - D. Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
 - E. BMR units will be provided for the life of the project under Section 22.20.065.
 - F. Determination of Area Median Income (AMI):

- The AMI shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

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

- 41. Affordable Housing.** Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, then are required in the foregoing provisions.
- 42. Affordable Housing.** Dwellings that are approved as rental units, but in which a condo map is approved prior to issuance of an occupancy permit, shall be subject to the affordability requirements within BMC 23.328 in effect on March 31, 2023. (A) Residential housing projects for the construction of five or more Dwelling Units; (B) Residential housing projects for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four-unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter; (C) Residential housing projects proposed on lots whose size and zoning designation is such to allow construction of five or more Dwelling Units.
- 43. Affordable Housing – Density Bonus.** If a density bonus was granted for the project, the regulatory agreement shall reflect the number of qualifying units set forth in Section 65915(f)(4) that are needed to support the bonus that was granted.

Prior to Demolition or Start of Construction:

- 44. Construction Meeting.** The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.
- 45. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) may be required, particularly for the following activities:
- A. Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - B. Storage of building materials, equipment, dumpsters, debris anywhere in the public ROW;
 - C. Provision of exclusive contractor parking on-street; or
 - D. Significant truck activity.

Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 46. 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:

- 47. 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.
- 48. Construction Hours- Exceptions.** It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

49. Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant.

- A. Contact information (i.e. "hotline" phone number, and email address) for the project construction manager
- B. Calendar and schedule of daily/weekly/monthly construction activities
- C. The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

50. 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.

51. 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.

52. 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.

53. 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.)

54. 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.

55. 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. There shall be no destructive or invasive testing on sacred items, burial goods and Native American human remains (invasive procedures include photography of cultural materials).
- 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.

- 56. 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.
- 57. 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.
- 58. 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.
- 59. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A.** The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

- B.** Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C.** Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D.** Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.
- E.** All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
- F.** All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
- G.** All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)
- H.** All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.

- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
 - K. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.
 - L. 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.
 - M. 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.
- 60. 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.
- 61. 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.
- 62. 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.
- 63. 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.

- 64. 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.
- 65. 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.
- 66. 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:

- 67. Compliance with Conditions and Environmental Mitigations.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit. Occupancy is subject to verification of compliance to the Mitigation Monitoring and Reporting Program.
- 68.** All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **December 8, 2023**.
- 69. Number of Below Market Rate Units.** Should the Applicant elect to provide BMR units prior to receiving a building permit for the Project, they are entitled to eliminate or receive a proportional reduction in the AHMF consistent with BMC Section 22.20.065. The BMR Units shall be designated in the Regulatory Agreement; comply with the City's BMR administrative guidelines; shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City. Any additional BMR units the applicant may choose to provide must also conform with these conditions.
- 70. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Section 23.322.060 have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in BMC Section 23.322.060 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in this section:

A. For new structures or additions over 20,000 square feet, the property owner shall provide transportation benefits at no cost to every employee, residential unit, and/or group living accommodation resident, one pass for unlimited local bus transit service; or (subject to the review and approval of the Zoning Officer in consultation with the Transportation Division) a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted adult monthly local bus pass. A notice describing these transportation benefits shall be posted in a location or locations visible to all employee and residents.

71. Green Building Certification. The applicant shall submit updated documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation expected at this stage includes proof of submission of the final application materials and payment of the certification fee. If this submission has not yet occurred, a detailed explanation and timeline indicating when it will happen must be submitted to the Zoning Officer for review and approval. Once awarded by the organization administering the green building certification system, the applicant shall forward a copy of the certification award to the Zoning Officer.

At All Times:

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

73. 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.

74. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.

75. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.

76. 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.

77. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

78. 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.

79. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The Finance Department, Customer Service Center shall add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts.

80. Required Bike Parking. Secure and on-site bike parking for a minimum of 72 bicycles shall be provided for the life of the building.

- 81. Nonresidential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and DC Fast Charge stations, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in *good working condition and made available for building occupant and/or visitor* use. (Project required to meet applicable code at time of building permit application, if different from above.)
- 82. Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service, and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
- 83. Guaranteed Ride Home.** If qualifying for participation in the Alameda County Guaranteed Ride Home program (or successor program), shall participate in the “Guarantee Ride Home” program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency. Enrollment shall be encouraged by providing Guarantee Ride Home information to all employees. An affidavit/statement indicating number of participating employees shall be provided annually to the Transportation Division Manager
- 84. Transit Subsidy Condition.** If 10 or more employees, the business operator shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.

TRACHTENBERG
ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
www.TrachtenbergArch.com



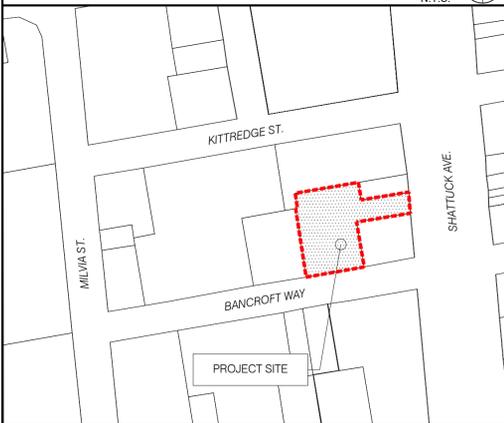
**2274
SHATTUCK**

Berkeley, CA

- 11.29.2022 SB-330 APPLICATION
- 05.22.2023 ZONING APPLICATION
- 08.09.2023 ZONING RESUBMITTAL
- 12.08.2023 ZONING RESUBMITTAL



VICINITY MAP



PROJECT DIRECTORY

OWNER/APPLICANT:
JP Walsh, Director
PANORAMIC INTERESTS
2539 Telegraph Ave, Suite 101
415.701.7000
Berkeley, CA 94704
panoramic.com

ARCHITECT:
David Trachtenberg, Principal
TRACHTENBERG ARCHITECTS
2421 Fourth Street
Berkeley, CA 94710
510.649.1414
www.TrachtenbergArch.com

LANDSCAPE ARCHITECT:
Jesse Markman, Principal
JETT LANDSCAPE ARCHITECTURE + DESIGN
2 Theatre Square, Suite 218
Orinda CA 94563
www.jett.land

PROJECT DESCRIPTION

PROJECT ADDRESS: 2274 Shattuck Ave.
Berkeley, CA 94704 (APN: 057 202800300)

SCOPE OF WORK:
PARTIAL REMOVAL OF THE EXISTING COMMERCIAL STRUCTURES TO CONSTRUCT A NEW 17-STORY MIXED-USE BUILDING WITH 227 DWELLING UNITS, GROUND LEVEL LOBBIES, COMMERCIAL SPACE, AND PARKING WITH STATE OF CALIFORNIA DENSITY BONUS.

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-DMU

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

SHEET NO. & TITLE
ARCHITECTURAL

ARCHITECTURAL		LANDSCAPE
A0.0 GENERAL INFORMATION	A3.2 BUILDING ELEVATIONS	L1.01 LANDSCAPE PLAN - GROUND FLOOR
A0.1 ZONING DATA	A3.3 BUILDING ELEVATIONS	L1.02 LANDSCAPE ROOF PLAN
A0.3A DENSITY BONUS DIAGRAMS	A3.4 BUILDING ELEVATIONS	L2.01 PRECEDENT IMAGES
A0.3B DENSITY BONUS DIAGRAMS	A3.5 STREET STRIP ELEVATION	L3.01 PLANT IMAGES, NOTES AND CALCULATIONS
A0.4A SHADOW STUDIES	A3.6 STREET STRIP ELEVATION	L4.01 PRELIMINARY PLANTING PLAN - GROUND
A0.4B SHADOW STUDIES	A3.7 PHOTO MATCH VIEWS	L4.02 PRELIMINARY PLANTING PLAN - ROOF
A0.4C SHADOW STUDIES	A3.8 PHOTO MATCH VIEWS	L5.01 PRELIMINARY IRRIGATION PLAN - GROUND
A0.5 SITE CONTEXT PHOTOS	A3.9 RENDERED PERSPECTIVE	L5.02 PRELIMINARY IRRIGATION PLAN - ROOF
A0.6 VICINITY MAP	A3.10 RENDERED PERSPECTIVE	
A1.0 SURVEY	A3.11 RENDERED PERSPECTIVE	
A1.1 SURVEY	A3.12 RENDERED PERSPECTIVE	
A2.0A EXISTING SITE PLAN	A3.13 RENDERED PERSPECTIVE	
A2.0B SITE PLAN	A3.14 RENDERED PERSPECTIVE	
A2.1 FLOOR PLANS	A3.15 RENDERED PERSPECTIVE	
A2.2 FLOOR PLANS	A4.0 HISTORIC FACADE RESTORATION	
A2.3 FLOOR PLANS	MAT BUILDING MATERIALS	
A3.0 BUILDING SECTIONS		
A3.1 BUILDING ELEVATIONS		

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JOB: 2201

SHEET:

GENERAL
INFORMATION

A0.0



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2274 SHATTUCK

Berkeley, CA

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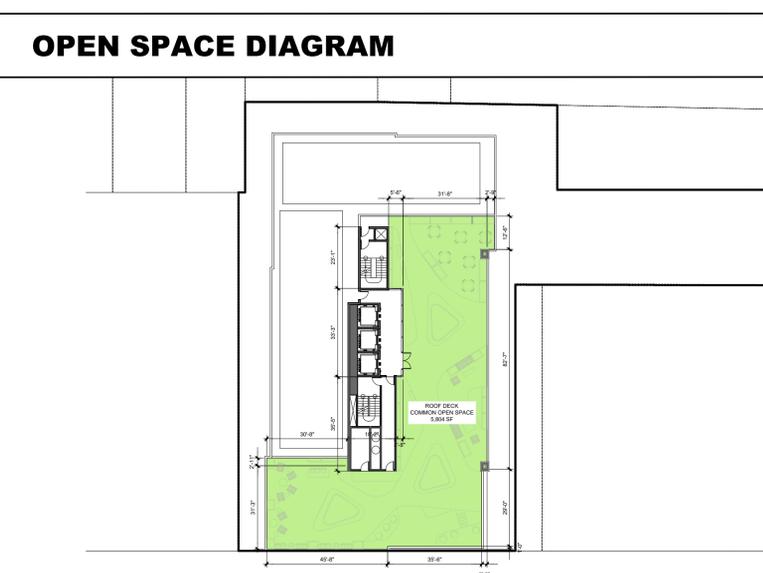
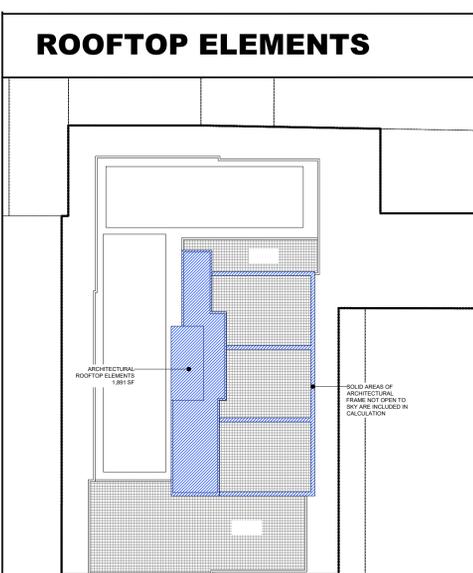
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JOB: 2201

SHEET:

ZONING DATA

A0.1

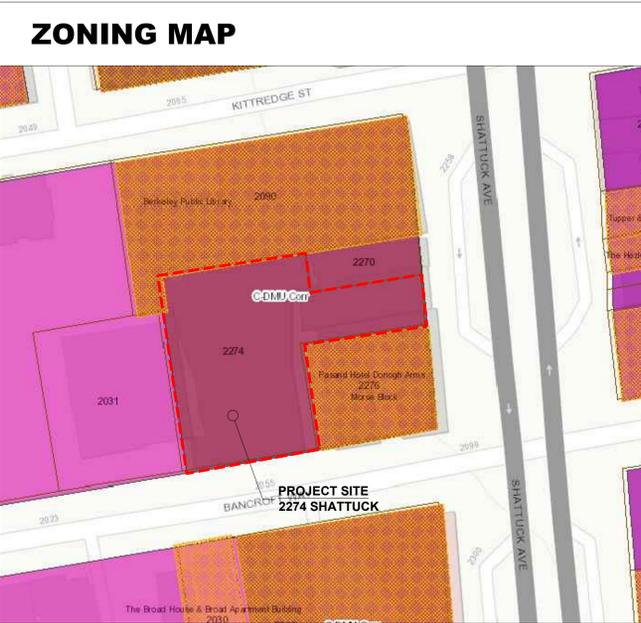


ZONING COMPLIANCE

SETBACKS TABLE	BASE ZONING ALLOWABLE / REQUIRED	ALLOWABLE W/ UP OR AUP MODIFICATION	PROPOSED W/DENSITY BONUS	ZONING COMPLIANCE
SETBACK - FRONT (SHATTUCK)				
0'-20'	0'	0'	0'	COMPLIES
21'-75'	0'	0'	VARIES; 0' TO 121'-4"	COMPLIES
76'-120'	15'	0'	121'-4"	COMPLIES
> 120'	15'	0'	121'-4"	COMPLIES
SETBACK - FRONT (BANCROFT)				
0'-20'	0'	0'	0'	COMPLIES
21'-75'	0'	0'	0'	COMPLIES
76'-120'	15'	0'	0'	WAIVER
> 120'	15'	0'	0'	WAIVER
SETBACK - INTERIOR SIDE (<65' FROM FRONT)				
0'-20'	0'	0'	VARIES; 0' TO 10'	COMPLIES
21'-75'	0'	0'	VARIES; 0' TO 10'	COMPLIES
76'-120'	5'	0'	10'	COMPLIES
> 120'	15'	0'	10'	WAIVER
SETBACK - INTERIOR SIDE (>65' FROM FRONT)				
0'-20'	0'	0'	VARIES; 0' TO 23'-1"	COMPLIES
21'-75'	5'	0'	VARIES; 0' TO 23'-1"	WAIVER
76'-120'	15'	0'	VARIES; 10' TO 23'-1"	WAIVER
> 120'	15'	0'	VARIES; 10' TO 23'-1"	WAIVER
DIAGONAL WIDTH - MAX. DIMENSION ABOVE 120'	120'	NOT LIMITED	178'-9"	WAIVER

ZONING COMPLIANCE

CITY OF BERKELEY ZONING TABULATIONS	BASE ZONING	ALLOWABLE W/UP'S	PROPOSED W/ DENSITY BONUS	ZONING COMPLIANCE
ZONING			C-DMU CORR.	
NUMBER OF DWELLING UNITS	N/A	N/A	227	COMPLIES
COMMERCIAL AREA	N/A	N/A	865	COMPLIES
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
BIKE PARKING	SEE TABLE	SEE TABLE	SEE TABLE	WAIVER
FRONT YARD SETBACK (SHATTUCK)	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
FRONT YARD SETBACK (BANCROFT)	SEE TABLE	SEE TABLE	SEE TABLE	WAIVER
INTERIOR SIDE YARD SETBACK	SEE TABLE	SEE TABLE	SEE TABLE	WAIVER
REAR YARD SETBACK	N/A	N/A	N/A	COMPLIES
BUILDING HEIGHT	60'	75'	183'-0"	WAIVER
BUILDING STORIES	N/A	N/A	17	COMPLIES
LOT AREA	22,112	22,112	22,112	COMPLIES
LOT AREA (ACRES)	0.51	0.51	0.51	COMPLIES
GROSS FLOOR AREA (SEE TABLE)	N/A	N/A	214,082	COMPLIES
BUILDING FOOTPRINT	22,112	22,112	16,337	COMPLIES
LOT COVERAGE	N/A	N/A	74%	COMPLIES
USABLE OPEN SPACE (SEE TABLE)	SEE TABLE	SEE TABLE	SEE TABLE	WAIVER
PROJECT FAR	N/A	N/A	9.68	COMPLIES

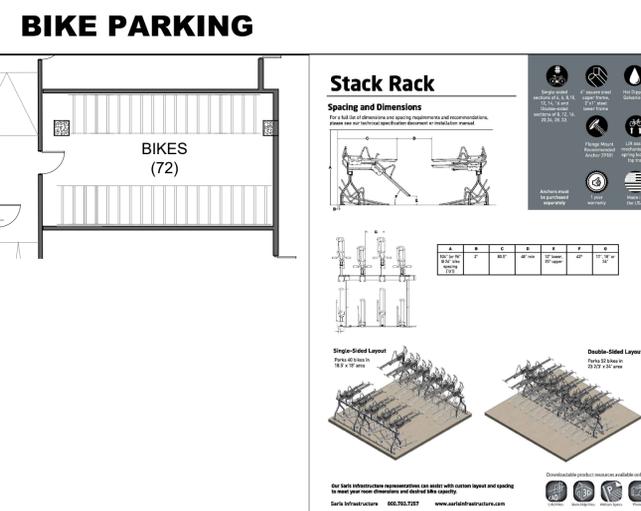
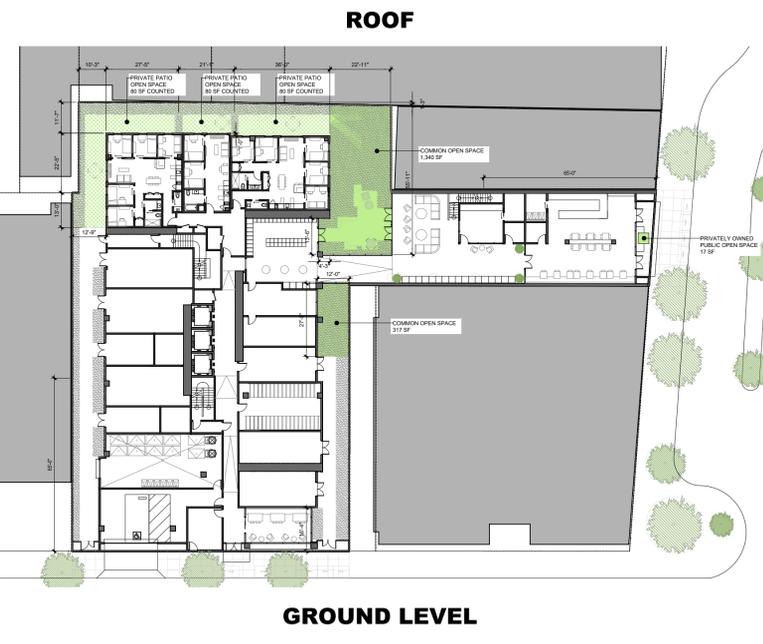


FAR CALCULATIONS

	BASE PROJECT ALLOWABLE	ALLOWABLE W/ 50% DENSITY BONUS	PROPOSED W/ DENSITY BONUS
SITE AREA	22,112	22,112	22,112
FAR	N/A	N/A	9.68
FLOOR AREA	N/A	N/A	214,082

PROPOSED FLOOR AREA WITH DENSITY BONUS

	COMMERCIAL	RESIDENTIAL	MECH.	TOTAL
LEVEL 17		12,442		12,442
LEVEL 16		12,442		12,442
LEVEL 15		12,442		12,442
LEVEL 14		12,442		12,442
LEVEL 13		12,442		12,442
LEVEL 12		12,442		12,442
LEVEL 11		12,442		12,442
LEVEL 10		12,442		12,442
LEVEL 9		12,442		12,442
LEVEL 8		12,442		12,442
LEVEL 7		12,442		12,442
LEVEL 6		12,442		12,442
LEVEL 5		12,442		12,442
LEVEL 4		12,442		12,442
LEVEL 3		12,442		12,442
LEVEL 2		12,442		12,442
GROUND LEVEL (EXCLUDES PARKING)	865	10,186	3,959	15,010
TOTAL FLOOR AREA W/ DENSITY BONUS	865	209,258		214,082
FAR (FLOOR AREA RATIO)				9.68
PARKING				1,327
TOTAL WITH PARKING				215,409



UNIT COUNTS

UNIT TYPE	STUDIO	2-BED	3-BED	4-BED	TOTAL
LEVEL 17	2	3	5	4	14
LEVEL 16	2	3	5	4	14
LEVEL 15	2	3	5	4	14
LEVEL 14	2	3	5	4	14
LEVEL 13	2	3	5	4	14
LEVEL 12	2	3	5	4	14
LEVEL 11	2	3	5	4	14
LEVEL 10	2	3	5	4	14
LEVEL 9	2	3	5	4	14
LEVEL 8	2	3	5	4	14
LEVEL 7	2	3	5	4	14
LEVEL 6	2	3	5	4	14
LEVEL 5	2	3	5	4	14
LEVEL 4	2	3	5	4	14
LEVEL 3	2	3	5	4	14
LEVEL 2	2	3	5	4	14
GROUND LEVEL	0	1	0	2	3
TOTAL	32	49	80	66	227
PERCENT OF TOTAL	14.1%	21.6%	35.2%	29.1%	
TOTAL BEDROOM COUNT	32	98	240	264	634

RESIDENTIAL OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA - 40%
GROUND LEVEL COMMON SPACE			1,657	
ROOF DECK COMMON SPACE			5,840	
TOTAL COMMON SPACE			7,497	2,999
PRIVATE PATIOS	3	80	240	
TOTAL AREA PROVIDED			7,737	
RESIDENTIAL OPEN SPACE REQD.	227	80	18,160	
TOTAL REQUIRED			18,160	
TOTAL WAIVER			10,423	

PRIVATELY OWNED PUBLIC OPEN SPACE

	AREA	PER	TOTAL
COMMERCIAL OPEN SPACE REQD.	865	50	17
TOTAL REQUIRED			17
TOTAL PROVIDED			17

BICYCLE PARKING CALCULATIONS

	BEDROOMS / SF	SPACES PER BEDROOM/SF	TOTAL REQ.	PROVIDED
NEW COMMERCIAL	865	1/2000	1	2
RESIDENTIAL (LONG TERM)	634	0.33	210	72
RESIDENTIAL (SHORT TERM)	634	0.025	16	16
TOTAL BICYCLE PARKING			227	90
TOTAL WAIVER				137

PARKING TABLE

	UNITS/SF	MIN. MAX. (/5/UNIT)	PROPOSED
RESIDENTIAL	227	0	113.5
COMMERCIAL	865	N/A	N/A
TOTAL			113.5

ROOFTOP ARCHITECTURAL ELEMENTS CALCS

LEVEL	AREA
AVERAGE AREA PER FLOOR	12,659
PENTHOUSE (MECH/ELEV/CIRC)	1,541
ARCHITECTURAL FRAME	350
TOTAL AREA OF ROOFTOP ELEMENTS	1,891
% AREA OF ROOFTOP ARCH. FEATURES	14.9%
ALLOWABLE % (PER 23E.04.020C)	15.0%

REFUSE AND RECYCLING

TRASH 908 SF

Waste and Recycling Calculation

	# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3)	Waste (40%)	Recycling - Container (10%)	Recycling - Paper	Organics (20%)
Base Required	780	1.00	780	65.00 cy	13,000 gal	26,000 cuft	5,200 gal	1,300 gal
Trash pickups per week				2				
Total Required				32.50 cy	6,500 gal	13,000 cuft	2,600 gal	650 gal

Quantities and Space Calculations

Bin Size	Waste	Recycling - Container	Recycling - Paper	Organics	Space Required	Space/ Container	Additional Increase for Operation
3 cy bin (606 gal)	4	1	3	2	28 sf	280 sf	
2 cy bin (404 gal)					28 sf		
96 gallon cart	2	1	2	1	7 sf	42 sf	
64 gallon cart					6 sf		
Total Capacity		2616 gal	702 gal	2010 gal	1308 gal	322 sf	386 sf

BASE PROJECT ZONING COMPLIANCE TABLE				
ZONING	BASE ZONING	ALLOWABLE W/UP'S	PORPOSED BASE PROJECT	ZONING COMPLIANCE
C-DMU CORR.				
NUMBER OF DWELLING UNITS	N/A	N/A	151	COMPLIES
COMMERCIAL AREA	N/A	N/A	865	COMPLIES
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
BIKE PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
FRONT YARD SETBACK (SHATTUCK)	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
FRONT YARD SETBACK (BANCROFT)	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
INTERIOR SIDE YARD SETBACK	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES W/UP
REAR YARD SETBACK	N/A	N/A	N/A	COMPLIES
BUILDING HEIGHT	60'	75'	75'	COMPLIES
BUILDING STORIES	N/A	N/A	7	COMPLIES
LOT AREA	22,112	22,112	22,112	COMPLIES
LOT AREA (ACRES)	0.51	0.51	0.51	COMPLIES
GROSS FLOOR AREA (SEE TABLE)	N/A	N/A	143,312	COMPLIES
BUILDING FOOTPRINT	22,112	22,112	21,107	COMPLIES
LOT COVERAGE	N/A	N/A	95%	COMPLIES
USABLE OPEN SPACE (SEE TABLE)	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES
PROJECT FAR	N/A	N/A	6.48	COMPLIES

FAR CALCULATIONS				
	BASE PROJECT ALLOWABLE	ALLOWABLE W/ 50% DENSITY BONUS	PROPOSED W/ DENSITY BONUS	
SITE AREA		22,112	22,112	22,112
FAR		N/A	N/A	6.48
FLOOR AREA		N/A	N/A	143,312

BASE PROJECT FLOOR AREA					
	COMMERCIAL	RESIDENTIAL	MECH.	POPOS	TOTAL
LEVEL 7		20,561			20,561
LEVEL 6		20,561			20,561
LEVEL 5		20,561			20,561
LEVEL 4		20,561			20,561
LEVEL 3		20,561			20,561
LEVEL 2		20,561			20,561
GROUND LEVEL (EXCLUDES PARKING)	865	16,310	2,621	150	19,946
TOTAL FLOOR AREA W/ DENSITY BONUS	865	139,676	2,621	150	143,312
FAR (FLOOR AREA RATIO)					6.48
PARKING					1,161
TOTAL WITH PARKING					144,473

UNIT COUNTS					
UNIT TYPE	STUDIO	2-BED	3-BED	4-BED	TOTAL
TOTAL	22	34	53	44	151
PERCENT OF TOTAL	14.0%	22.0%	35.0%	29.0%	
TOTAL BEDROOM COUNT	22	68	159	176	425

RESIDENTIAL OPEN SPACE TABLE				
	UNITS	RATIO	TOTAL	LANDSCAPE AREA - 40%
GROUND LEVEL COMMON SPACE				
ROOF DECK COMMON SPACE			14,043	
TOTAL COMMON SPACE			14,043	5,617
PRIVATE PATIOS				
TOTAL AREA PROVIDED			14,043	
RESIDENTIAL OPEN SPACE REQD.	151	80	12,080	
TOTAL REQUIRED			12,080	

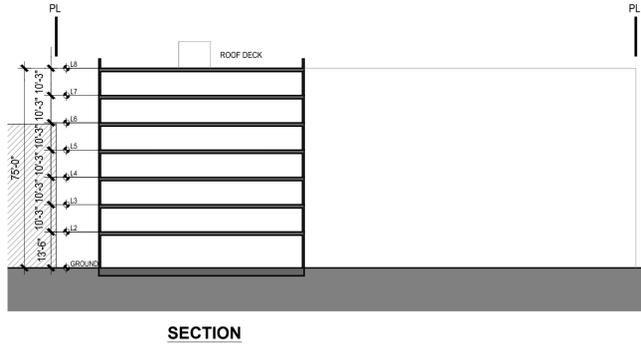
COMMERCIAL OPEN SPACE TABLE			
	AREA	PER	TOTAL
COMMERCIAL OPEN SPACE REQD.	865	50	17
TOTAL REQUIRED			17
TOTAL PROVIDED			150

BICYCLE PARKING CALCULATIONS				
	BEDROOMS / SF	SPACES PER BEDROOM/SF	TOTAL REQ	PROVIDED
NEW COMMERCIAL	865	1/2000	1	2
RESIDENTIAL (LONG TERM)	425	0.33	141	160
RESIDENTIAL (SHORT TERM)	425	0.025	11	11
TOTAL BICYCLE PARKING			153	173

PARKING TABLE			
	UNITS/SF	MIN. MAX (.5/UNIT)	PROPOSED
RESIDENTIAL	151	0	75.5
COMMERCIAL	865	N/A	N/A

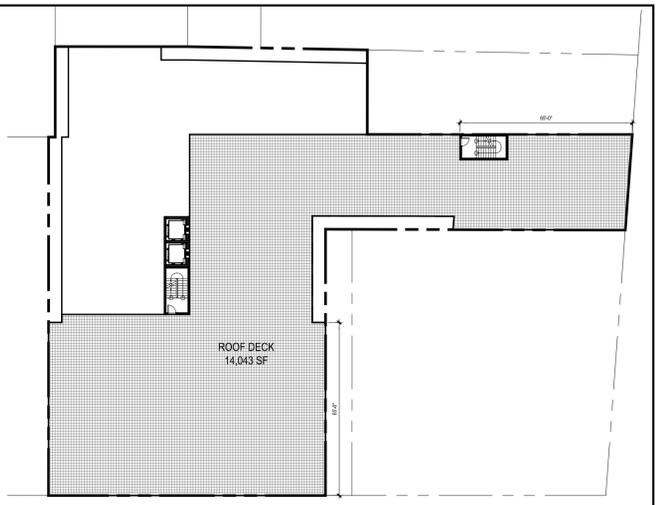
ROOFTOP ARCHITECTURAL ELEMENTS CALCS	
LEVEL	AREA
AVERAGE AREA PER FLOOR	20,292
PENTHOUSE (MECH/ELEV/CIRC)	509
TOTAL AREA OF ROOFTOP ELEMENTS	509
% AREA OF ROOFTOP ARCH. FEATURES	2.5%
ALLOWABLE % (PER 23E.04.020C)	15.0%

BASE PROJECT - SETBACKS TABLE					
	BASE ZONING ALLOWABLE / REQUIRED	ALLOWABLE W/ UP OR AUP MODIFICATION	BASE PROJECT	ZONING COMPLIANCE	
SETBACK - FRONT (SHATTUCK)					
0'-20'	0'	0'	0'	COMPLIES	
21'-75'	0'	0'	0'	COMPLIES	
76'-120'	15'	0'	N/A	COMPLIES	
> 120'	15'	0'	N/A	COMPLIES	
SETBACK - FRONT (BANCROFT)					
0'-20'	0'	0'	0'	COMPLIES	
21'-75'	0'	0'	0'	COMPLIES	
76'-120'	15'	0'	N/A	COMPLIES	
> 120'	15'	0'	N/A	COMPLIES	
SETBACK - INTERIOR SIDE (<65' FROM FRONT)					
0'-20'	0'	0'	0'	COMPLIES	
21'-75'	0'	0'	0'	COMPLIES	
76'-120'	5'	0'	N/A	COMPLIES	
> 120'	15'	0'	N/A	COMPLIES	
SETBACK - INTERIOR SIDE (>65' FROM FRONT)					
0'-20'	0'	0'	0'	COMPLIES	
21'-75'	5'	0'	0'	COMPLIES W/UP	
76'-120'	15'	0'	N/A	COMPLIES	
> 120'	15'	0'	N/A	COMPLIES	
DIAGONAL WIDTH - MAX. DIMENSION ABOVE 120'	120'	NOT LIMITED	N/A	COMPLIES	

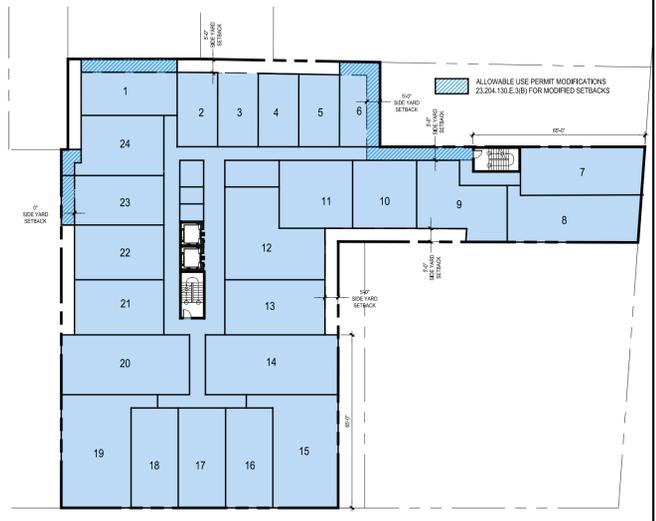


SECTION

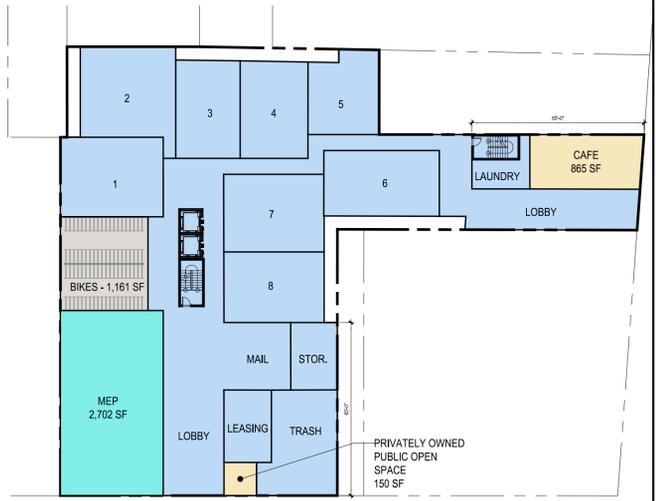
BASE PROJECT



PLAN AT ROOF



PLAN AT LEVELS 2-7 (21' TO 75')



PLAN AT GROUND (0' TO 20')



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- 08.09.2023 ZONING RESUBMITTAL
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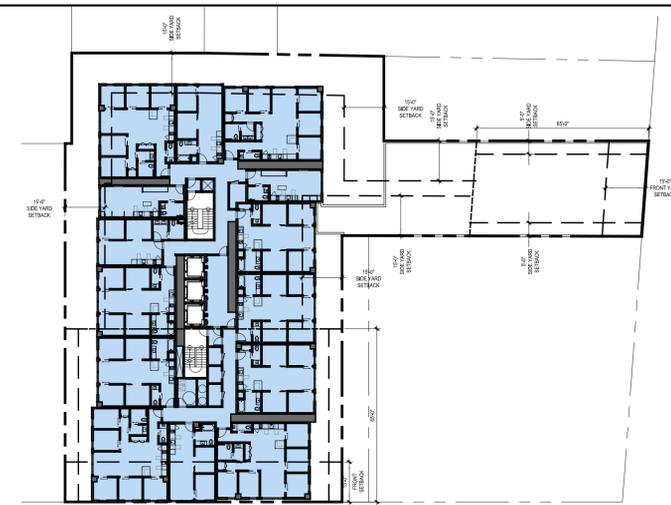
DENSITY BONUS DIAGRAMS - BASE PROJECT

A0.3A

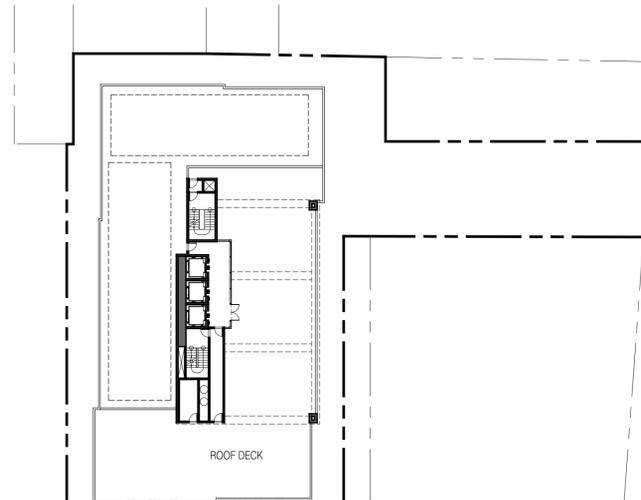
DENSITY BONUS TABLE										
Base Project	Base Units Calculation	Base # Units	% VLI units	# VLI Units	# VLI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project	
sq. ft. - see calculation below	base project area / avg. unit size	Base Units/Max. Residential Density (rounds up)	VLI = Very Low Income (<50 AMI)	% VLI x Base # Units			% Bonus x Base # Units	% Bonus x Base # Units (rounded up)	% Bonus x Base # Units (rounded up)	
139,676	151.52	152	15%	22.80	23.00	50.0%	76.0000	76	228	
Base Project Res. Area	Floor	Proposed Project Res. Area	#VLI	%VLI	%DB	#DB	#Concession			
	Seventeenth	12,442	8	5%	20.0%	183	1			
	Sixteenth	12,442	10	6%	22.5%	187	1			
	Fifteenth	12,442	11	7%	25.0%	190	1			
	Fourteenth	12,442	13	8%	27.5%	194	1			
	Thirteenth	12,442	14	9%	30.0%	198	1			
	Twelfth	12,442	16	10%	32.5%	202	2			
	Eleventh	12,442	17	11%	35.0%	206	2			
	Tenth	12,442	19	12%	38.75%	211	2			
	Ninth	12,442	20	13%	42.5%	217	2			
	Eighth	12,442	22	14%	46.3%	223	2			
	Seventh	12,442	23	15%	50.0%	228	3			
	20,561	Seventh	12,442							
	20,561	Sixth	12,442							
	20,561	Fifth	12,442							
	20,561	Fourth	12,442							
	20,561	Third	12,442							
	20,561	Second	12,442							
	16,310	Ground	10,186							
Total:	139,676	209,258								
	865	Commercial	865							
	150	POPOS	0	(exterior)						
	2,621	MEP	3,959							
	143,312	Gross Area	214,082							
	1,161	Parking	1,327							
				Concessions						
				1. Bicycle parking reduction						
Base Project # of Units	Floor	Proposed Project # of Units								
	Seventeenth	14								
	Sixteenth	14								
	Fifteenth	14								
	Fourteenth	14								
	Thirteenth	14								
	Twelfth	14								
	Eleventh	14								
	Tenth	14								
	Ninth	14								
	Eighth	14								
	Seventh	14								
	24	Sixth	14							
	24	Fifth	14							
	24	Fourth	14							
	24	Third	14							
	24	Second	14							
	7	Ground	3							
Total Units:	151	227								
			Proposed Area: 209,258							
			Proposed Units: 227							
			Average Unit Size: 922							

SETBACKS TABLE	BASE ZONING ALLOWABLE / REQUIRED	ALLOWABLE W/ UP OR AUP MODIFICATION	PROPOSED W/DENSITY BONUS	ZONING COMPLIANCE
SETBACK - FRONT (SHATTUCK)				
0'-20'	0'	0'	0'	COMPLIES
21'-75'	0'	0'	VARIES; 0' TO 121'-4"	COMPLIES
76'-120'	15'	0'	121'-4"	COMPLIES
> 120'	15'	0'	121'-4"	COMPLIES
SETBACK - FRONT (BANCROFT)				
0'-20'	0'	0'	0'	COMPLIES
21'-75'	0'	0'	0'	COMPLIES
76'-120'	15'	0'	0'	WAIVER
> 120'	15'	0'	0'	WAIVER
SETBACK - INTERIOR SIDE (<65' FROM FRONT)				
0'-20'	0'	0'	VARIES; 0' TO 10'	COMPLIES
21'-75'	0'	0'	VARIES; 0' TO 10'	COMPLIES
76'-120'	5'	0'	10'	COMPLIES
> 120'	15'	0'	10'	WAIVER
SETBACK - INTERIOR SIDE (>65' FROM FRONT)				
0'-20'	0'	0'	VARIES; 0' TO 23'-1"	COMPLIES
21'-75'	5'	0'	VARIES; 0' TO 23'-1"	WAIVER
76'-120'	15'	0'	VARIES; 10' TO 23'-1"	WAIVER
> 120'	15'	0'	VARIES; 10' TO 23'-1"	WAIVER
DIAGONAL WIDTH - MAX. DIMENSION ABOVE 120'	120'	NOT LIMITED	178'-9"	WAIVER

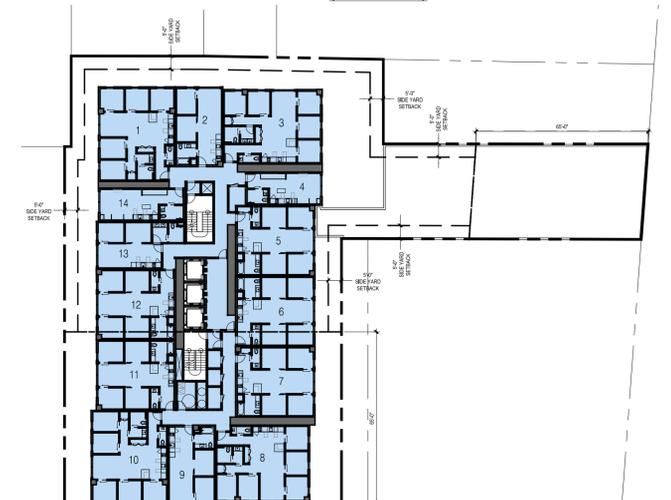
SEE A0.1 FOR PROPOSED PROJECT COMPLIANCE



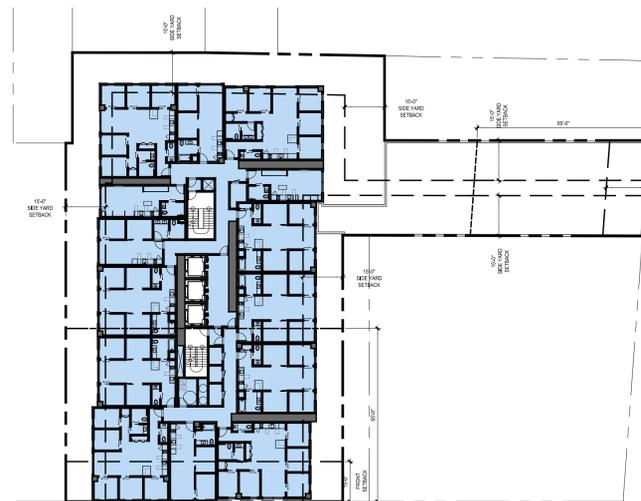
PLAN AT LEVELS 8-11
(76' TO 120')



PLAN AT ROOF



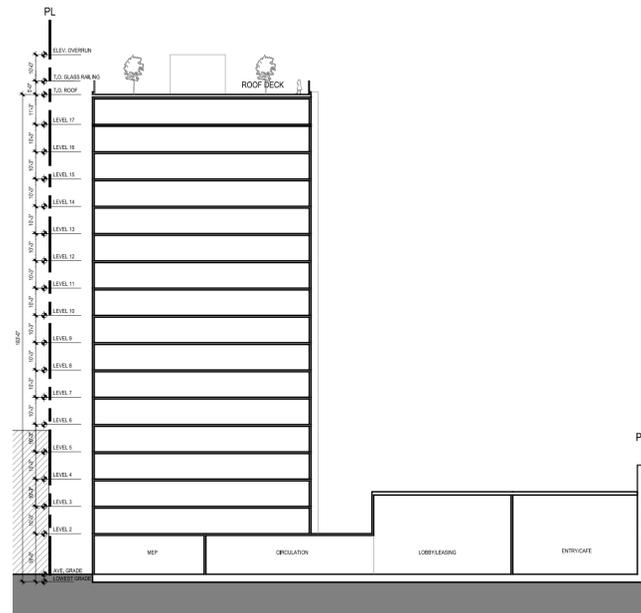
PLAN AT LEVELS 2-7
(21' TO 75')



PLAN AT LEVELS 12-17
(>120')



PLAN AT GROUND



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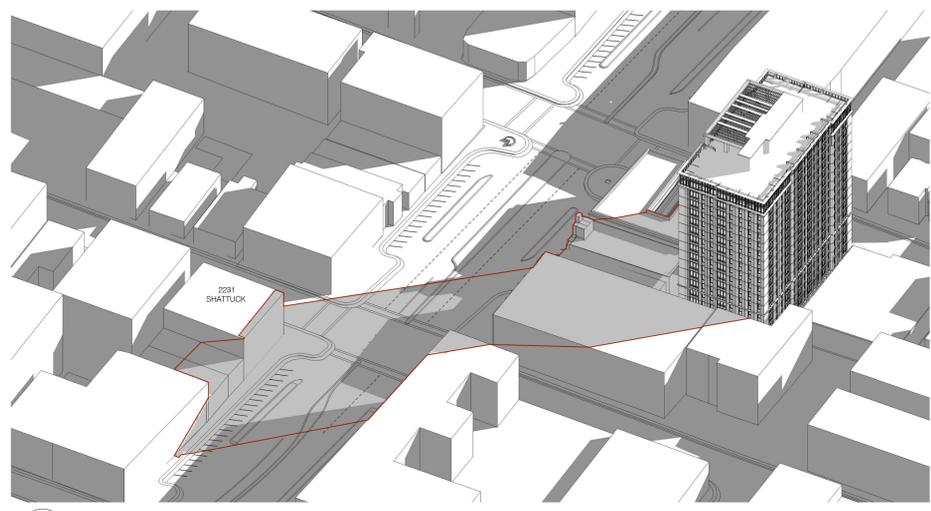
DENSITY BONUS
DIAGRAMS -
PROPOSED PROJECT

A0.3B

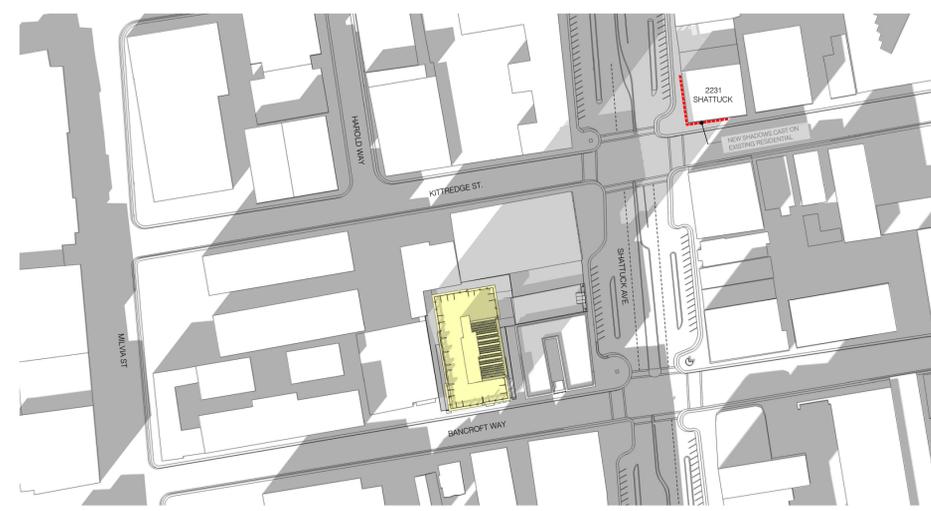
PROPOSED DENSITY BONUS PROJECT

WINTER SOLSTICE
DEC 21ST:
2-HRS BEFORE SUNSET (PM)

- PROPOSED BUILDING
 - DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS
 - LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING
 - NEW SHADOW AT RESIDENTIAL BUILDING
- ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS



6 SHADOW STUDY AXONOMETRIC - PM
N.T.S.



5 SHADOW STUDY - PM
1:180 @ 11X17 1:90 @ 24X36



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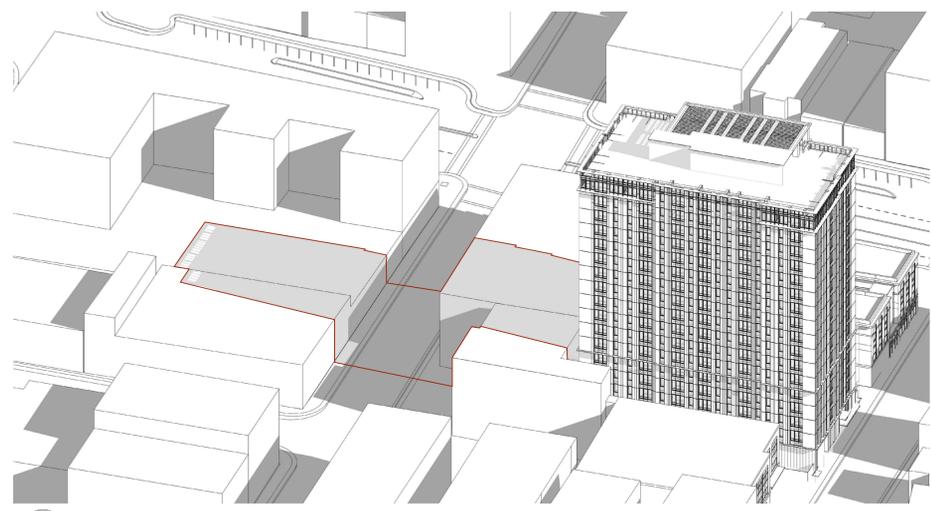
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SHADOW STUDIES
DECEMBER 21ST

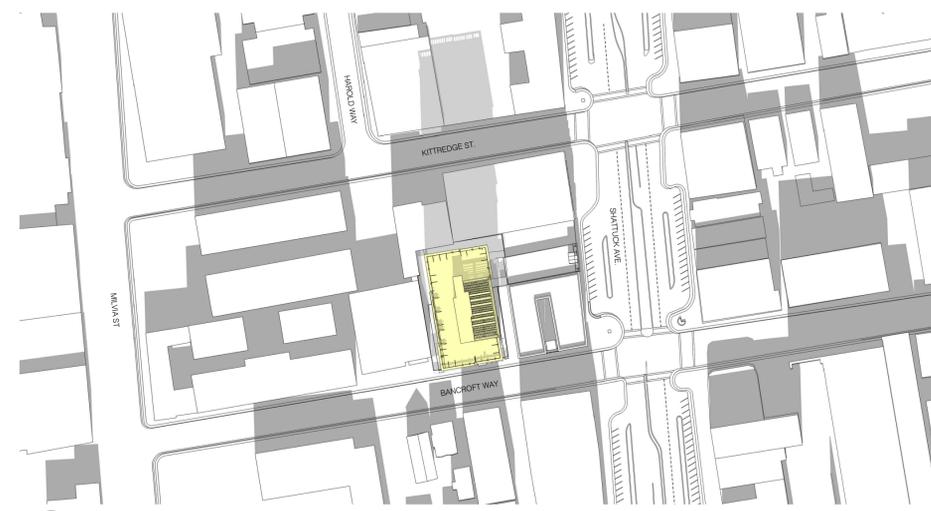
A0.4A

WINTER SOLSTICE
DEC 21ST:
NOON

- PROPOSED BUILDING
 - DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS
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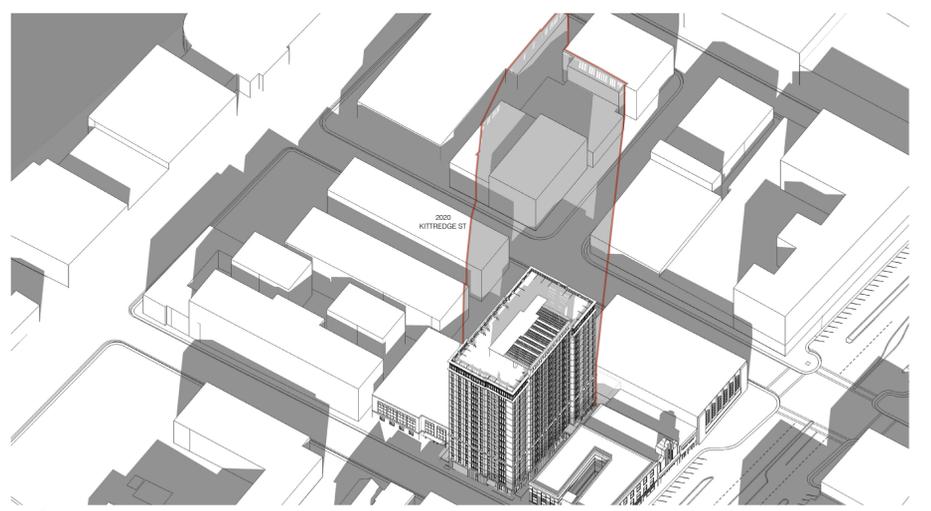
4 SHADOW STUDY AXONOMETRIC - NOON
N.T.S.



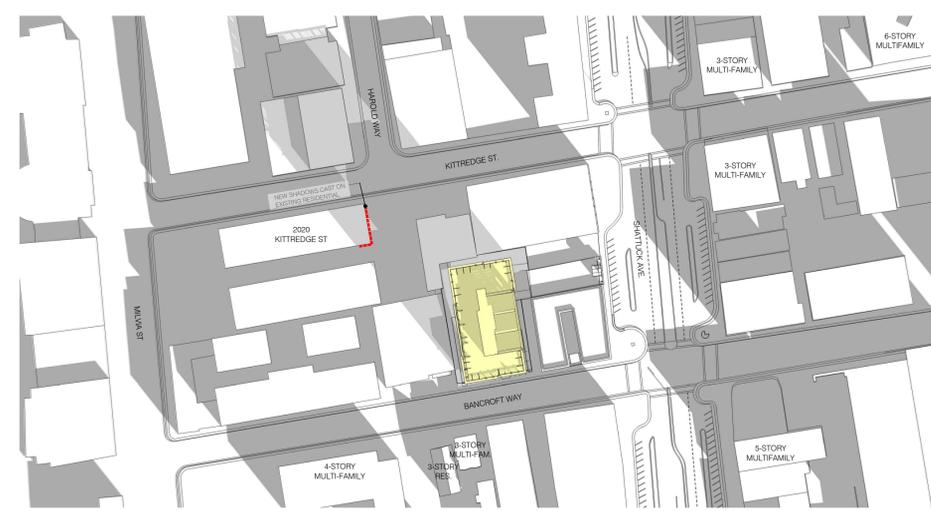
3 SHADOW STUDY - NOON
1:180 @ 11X17 1:90 @ 24X36

WINTER SOLSTICE
DEC 21ST:
2-HRS AFTER SUNRISE (AM)

- PROPOSED BUILDING
 - DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS
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2 SHADOW STUDY AXONOMETRIC - AM
N.T.S.



1 SHADOW STUDY - AM
1:180 @ 11X17 1:90 @ 24X36

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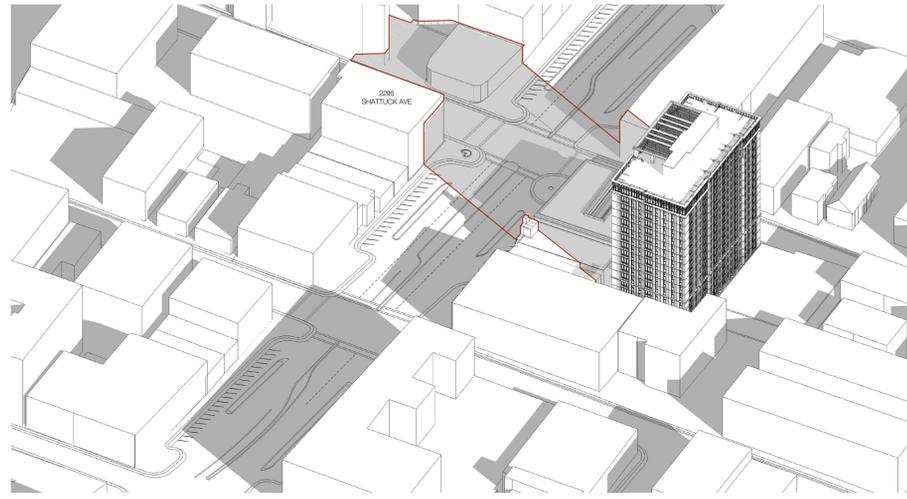
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SHADOW STUDIES
 JUNE 21ST

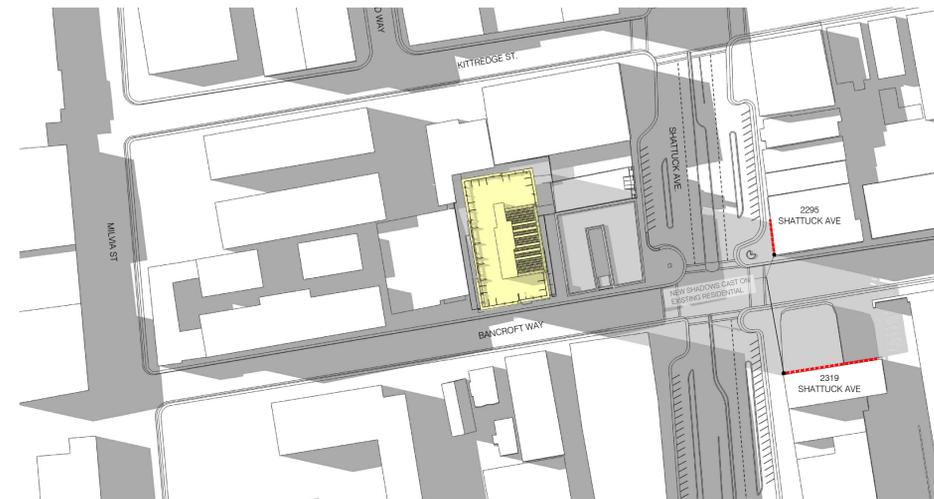
A0.4B

**SUMMER SOLSTICE
 JUN 21ST:
 2-HRS BEFORE SUNSET (PM)**

- PROPOSED BUILDING
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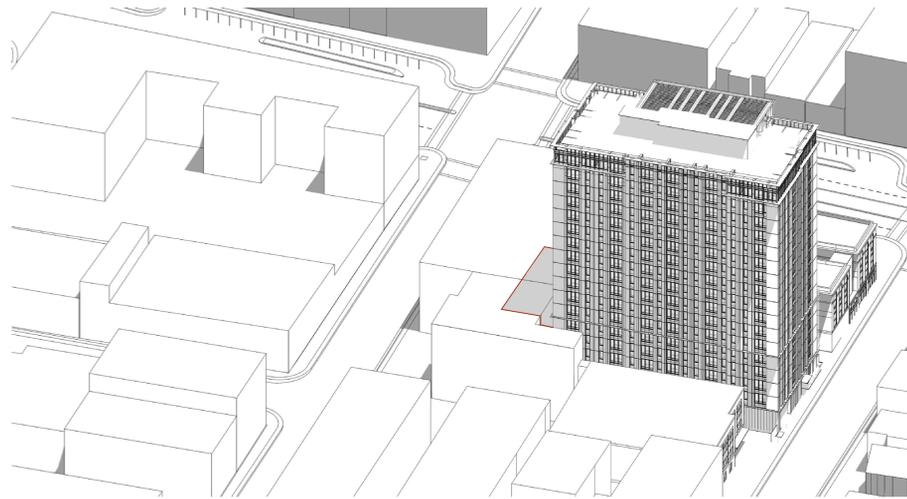
6 SHADOW STUDY AXONOMETRIC - PM
 N.T.S.



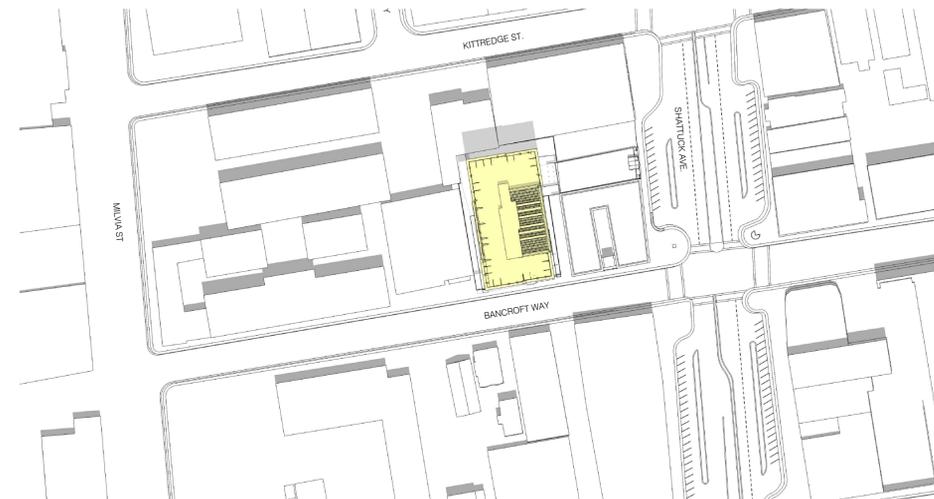
5 SHADOW STUDY - PM
 1:160 @ 11X17 1:80 @ 24X36

**SUMMER SOLSTICE
 JUN 21ST:
 NOON**

- PROPOSED BUILDING
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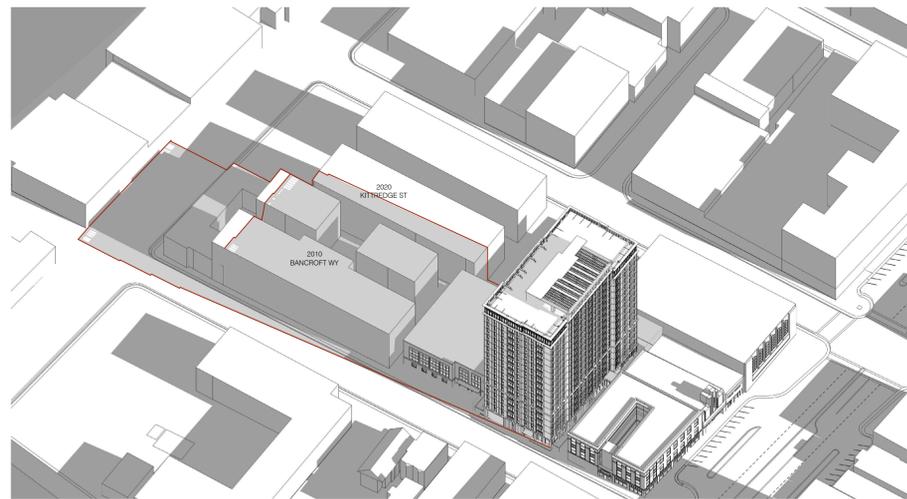
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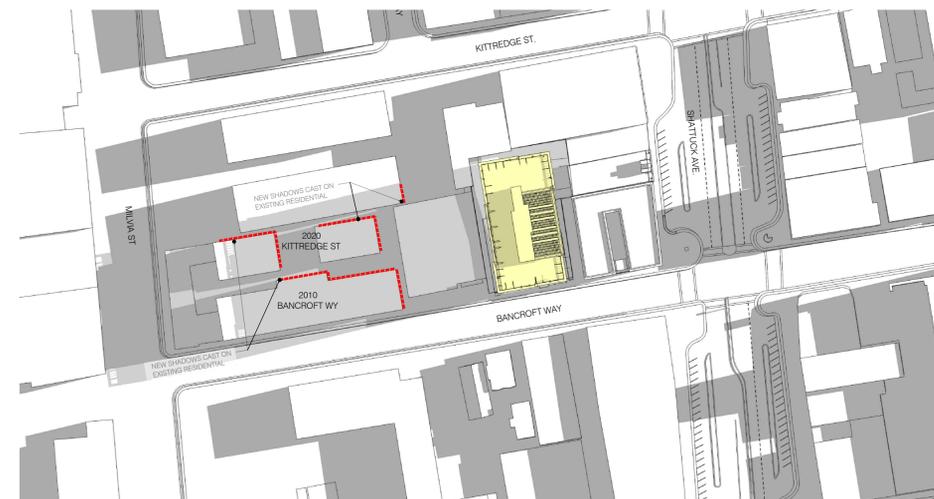
3 SHADOW STUDY - NOON
 1:160 @ 11X17 1:80 @ 24X36

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 JUN 21ST:
 2-HRS AFTER SUNRISE (AM)**

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2 SHADOW STUDY AXONOMETRIC - AM
 N.T.S.



1 SHADOW STUDY - AM
 1:160 @ 11X17 1:80 @ 24X36

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SHADOW STUDIES
MAY 9TH

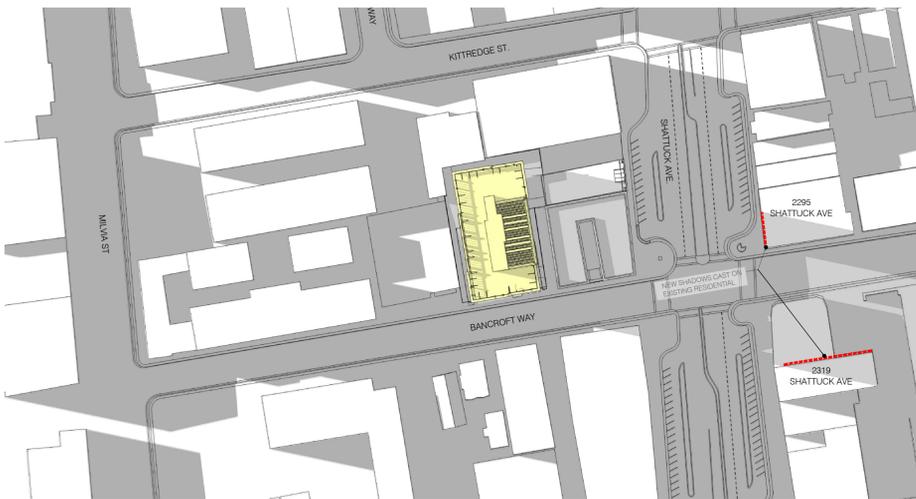
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**CURRENT
MAY 9TH:
2-HRS BEFORE SUNSET (PM)**

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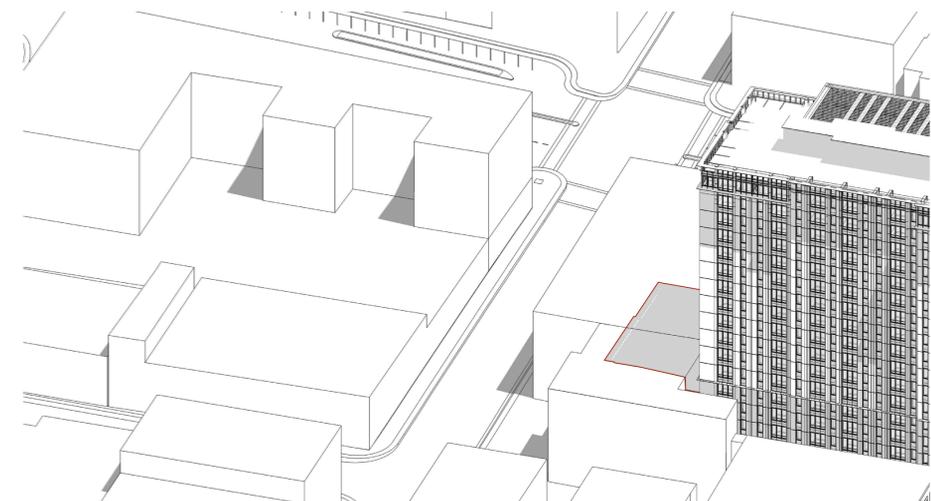
6 SHADOW STUDY AXONOMETRIC - PM
N.T.S.



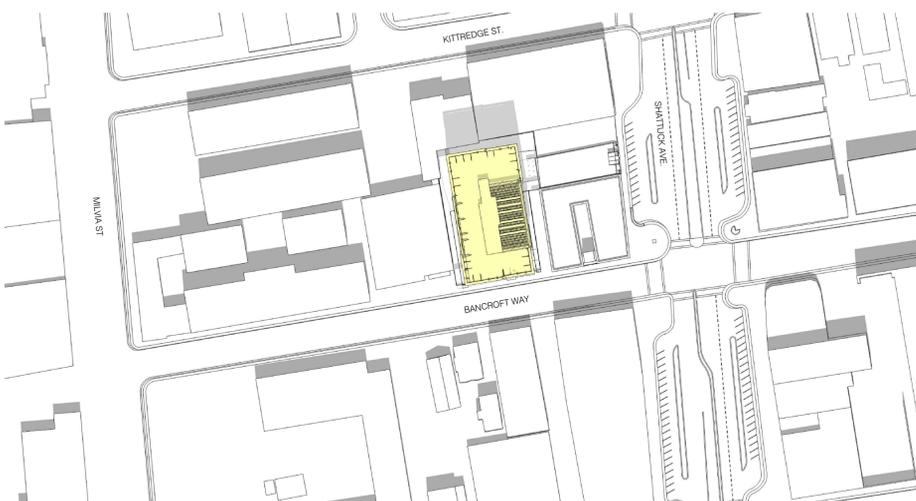
5 SHADOW STUDY - PM
1:160 @ 11X17 1:80 @ 24X36

**CURRENT
MAY 9TH:
NOON**

- PROPOSED BUILDING
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 - LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING
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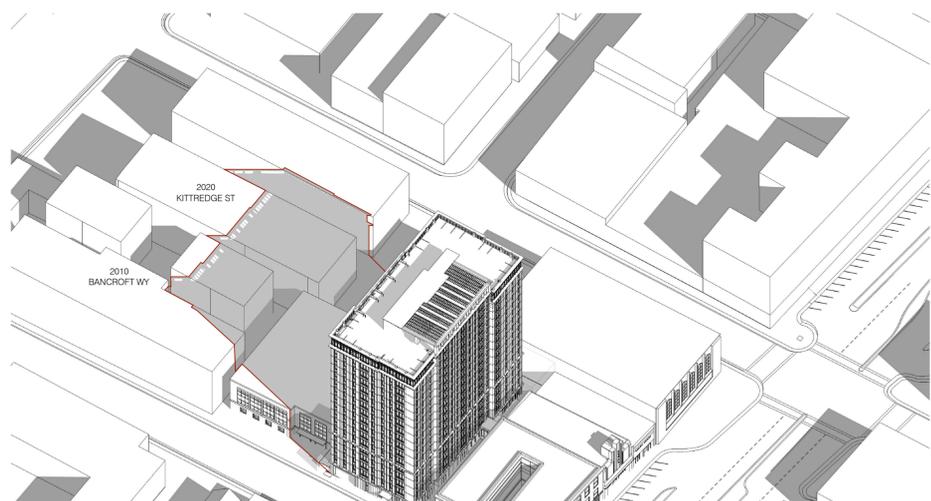
4 SHADOW STUDY AXONOMETRIC - NOON
N.T.S.



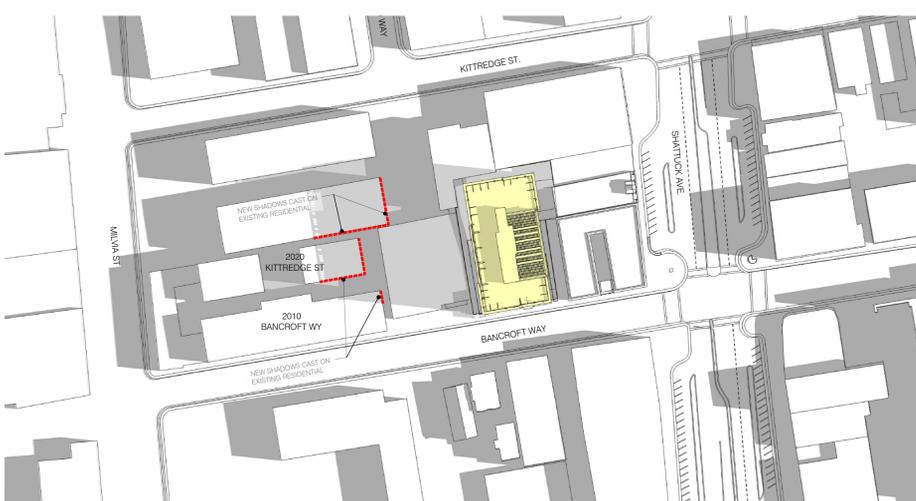
3 SHADOW STUDY - NOON
1:160 @ 11X17 1:80 @ 24X36

**CURRENT
MAY 9TH:
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2 SHADOW STUDY AXONOMETRIC - AM
N.T.S.



1 SHADOW STUDY - AM
1:160 @ 11X17 1:80 @ 24X36

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2110 KITTREDGE (3-STORY MIXED-USE) 2274 - 2283 SHATTUCK (1-2 STORY COMMERCIAL) 2105 BANCROFT (4-STORY COMMERCIAL) 2041 BANCROFT (3-STORY COMMERCIAL) 2274 SHATTUCK PROJECT SITE 2272 SHATTUCK (2-STORY COMMERCIAL) BERKELEY PUBLIC LIBRARY (CIVIC)



4 VIEW FROM SHATTUCK LOOKING SOUTH

2041 BANCROFT (3-STORY COMMERCIAL) 2274 SHATTUCK PROJECT SITE 2272 SHATTUCK (2-STORY COMMERCIAL) BERKELEY PUBLIC LIBRARY (CIVIC) 2110 KITTREDGE (3-STORY MIXED-USE) 2274 - 2283 SHATTUCK (1-2 STORY COMMERCIAL) 2105 BANCROFT (4-STORY COMMERCIAL)



2 VIEW FROM SHATTUCK LOOKING NORTH

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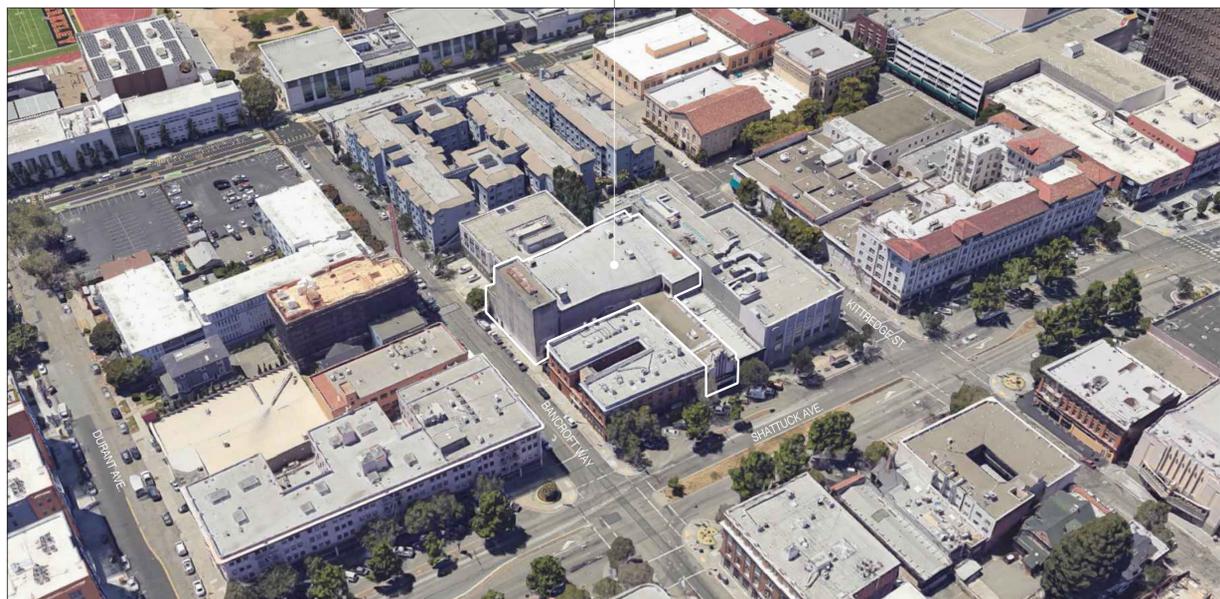
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- 12.08.2023 ZONING RESUBMITTAL

2322 SHATTUCK (4-STORY MIXED USE) PROJECT SITE FRONTING BANCROFT 2041 BANCROFT (3-STORY COMMERCIAL) 2274 SHATTUCK PROJECT SITE 2272 SHATTUCK (2-STORY COMMERCIAL) BERKELEY PUBLIC LIBRARY (CIVIC)



3 VIEW FROM BANCROFT LOOKING WEST

PROJECT SITE
2274 SHATTUCK AVE.



1 GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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SHEET:

SITE CONTEXT
PHOTOS

A0.5

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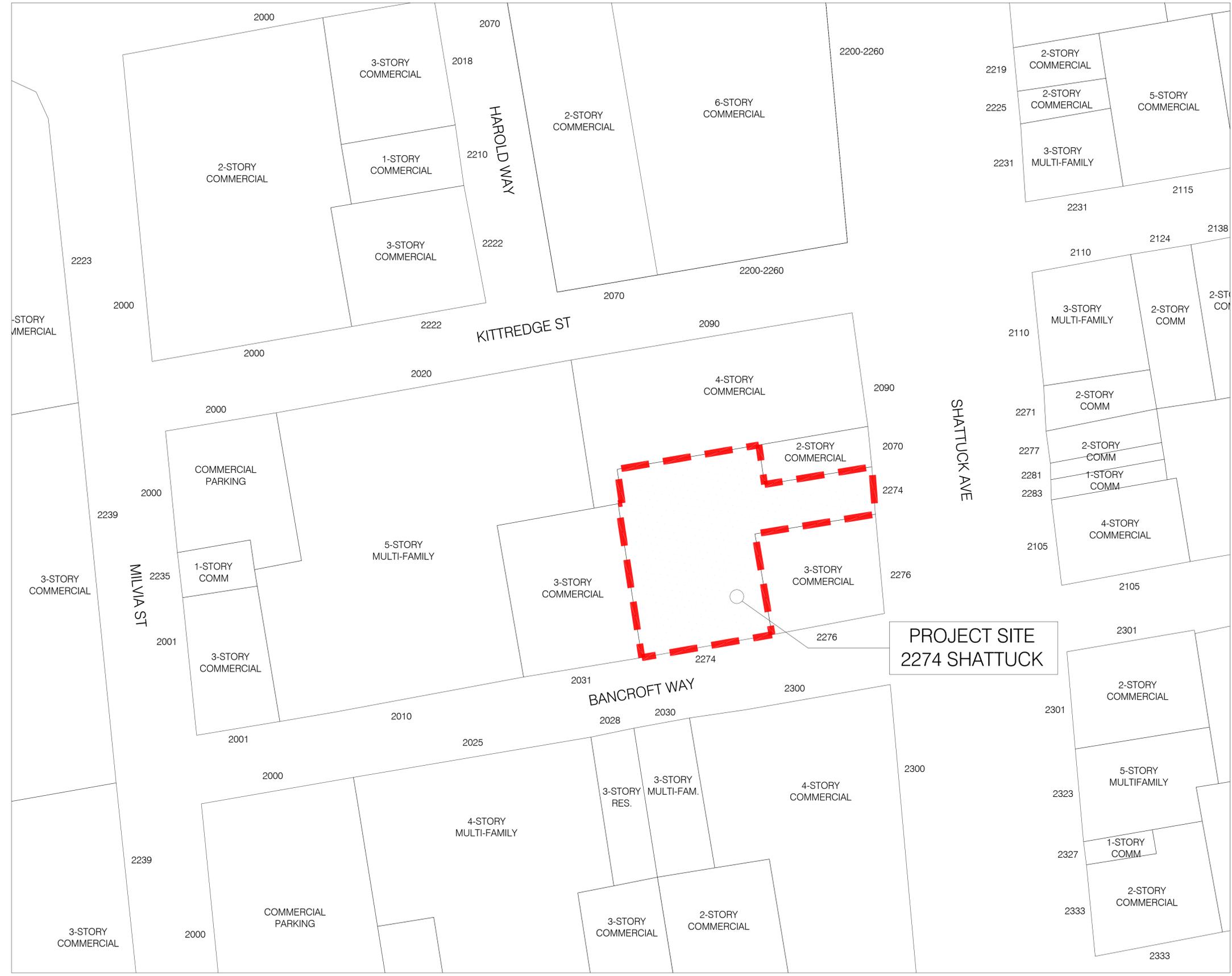
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JOB: 2201

SHEET:

VICINITY MAP

A0.6



1
 -
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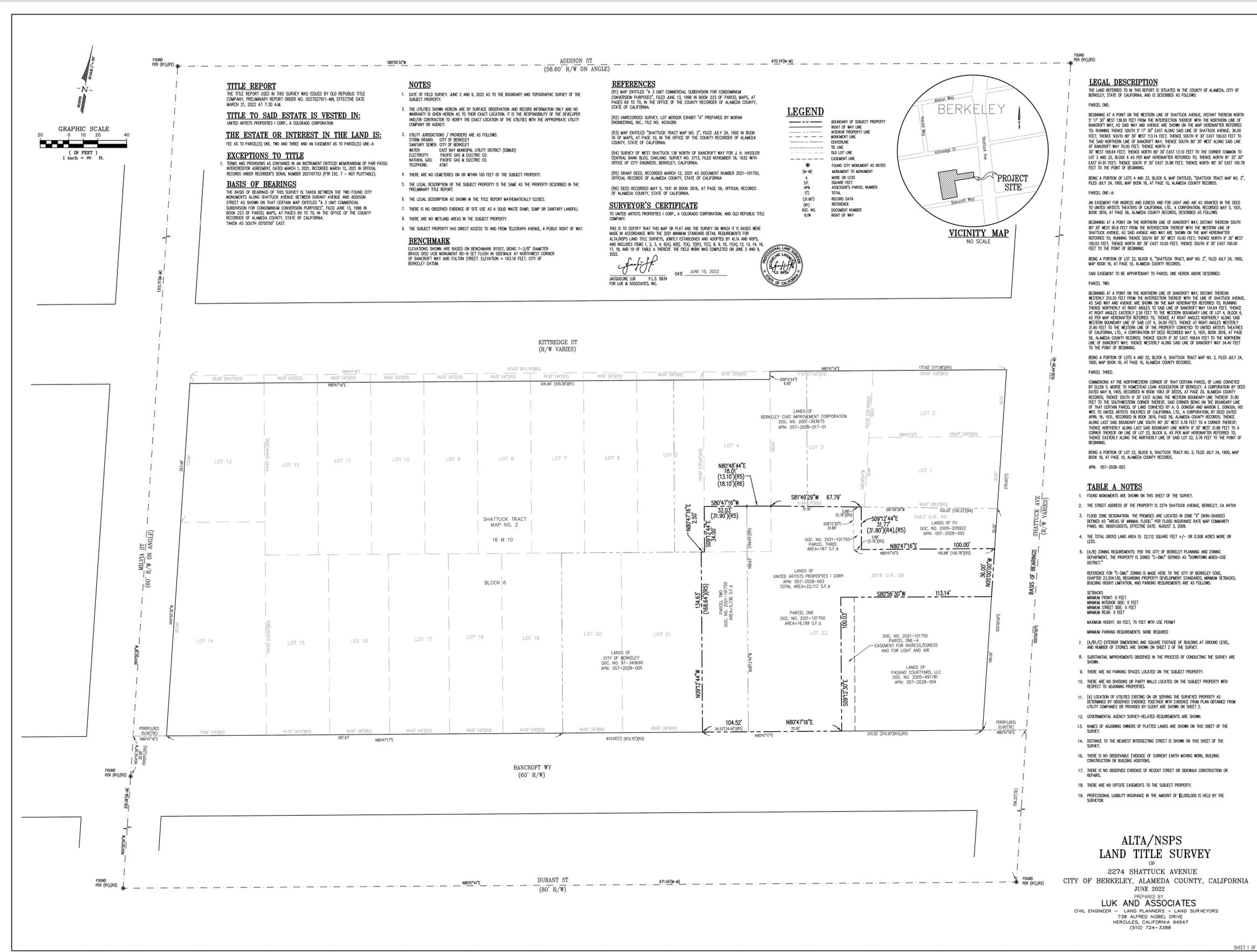
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SHEET:

SURVEY

A1.0



TITLE REPORT
THE TITLE REPORT USED IN THIS SURVEY WAS ISSUED BY OLD REPUBLIC TITLE COMPANY, PRELIMINARY REPORT ORDER NO. 022702711-WA, EFFECTIVE DATE MARCH 21, 2022 AT 7:30 A.M.
TITLE TO SAID ESTATE IS VESTED IN:
UNITED ARTISTS PROPERTIES I CORP., A COLORADO CORPORATION
THE ESTATE OR INTEREST IN THE LAND IS:
FEE AS TO PARCELS ONE, TWO AND THREE AND AN EASEMENT AS TO PARCELS ONE-A
EXCEPTIONS TO TITLE
1. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT ENTITLED MEMORANDUM OF PART PART INTERESTOR AGREEMENT, DATED MARCH 1, 2021, RECORDED MARCH 12, 2021 IN OFFICIAL RECORDS UNDER RECORDER'S SERIAL NUMBER 2021101753 (P/R E/C - NOT PLOTTABLE).
BASIS OF BEARINGS
THE BASIS OF BEARINGS OF THIS SURVEY IS TAKEN BETWEEN THE TWO FOUND CITY MONUMENTS ALONG SHATTUCK AVENUE BETWEEN DURANT AVENUE AND ADDISON STREET AS SHOWN ON THAT CERTAIN MAP ENTITLED "A 3 UNIT COMMERCIAL SUBDIVISION FOR CONDOMINIUM CONVERSION PURPOSES", FILED JUNE 13, 1998 IN BOOK 223 OF PARCEL MAPS, AT PAGES 69 TO 70, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.
TAKEN AS SOUTH 89°00'00" EAST.

NOTES
1. DATE OF FIELD SURVEY: JUNE 2 AND 9, 2022 AS TO THE BOUNDARY AND TOPOGRAPHIC SURVEY OF THE SUBJECT PROPERTY.
2. THE UTILITIES SHOWN HEREON ARE BY SURFACE OBSERVATION AND RECORD INFORMATION ONLY AND NO WARRANTY IS GIVEN HEREIN AS TO THEIR EXACT LOCATION. IT IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR CONTRACTOR TO VERIFY THE EXACT LOCATION OF THE UTILITIES WITH THE APPROPRIATE UTILITY COMPANY OR AGENCY.
3. UTILITY JURISDICTIONS / PROVIDERS ARE AS FOLLOWS:
STORM DRAIN: CITY OF BERKELEY
SANTARY SEWER: CITY OF BERKELEY
WATER: EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)
ELECTRICITY: PACIFIC GAS & ELECTRIC CO.
NATURAL GAS: PACIFIC GAS & ELECTRIC CO.
TELEPHONE: AT&T
4. THERE ARE NO CEMETERIES ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
5. THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY IS THE SAME AS THE PROPERTY DESCRIBED IN THE PRELIMINARY TITLE REPORT.
6. THE LEGAL DESCRIPTION AS SHOWN IN THE TITLE REPORT MATHEMATICALLY CLOSES.
7. THERE IS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SLUMP OR SANITARY LANDFILL.
8. THERE ARE NO WETLAND AREAS IN THE SUBJECT PROPERTY.
9. THE SUBJECT PROPERTY HAS DIRECT ACCESS TO AND FROM TELEGRAPH AVENUE, A PUBLIC RIGHT OF WAY.

REFERENCES
(R1) MAP ENTITLED "A 3 UNIT COMMERCIAL SUBDIVISION FOR CONDOMINIUM CONVERSION PURPOSES", FILED JUNE 13, 1998 IN BOOK 223 OF PARCEL MAPS, AT PAGES 69 TO 70, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.
(R2) UNRECORDED SURVEY, LOT MERGERS EXHIBIT "A" PREPARED BY MORAN ENGINEERING, INC., FILE NO. 403489.
(R3) MAP ENTITLED "SHATTUCK TRACT MAP NO. 2", FILED JULY 24, 1900 IN BOOK 16 OF MAPS, AT PAGE 10, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.
(R4) SURVEY OF WEST SHATTUCK 136 NORTH OF BANCROFT WAY FOR J. H. HASSLER CENTRAL BANK BLDG, OAKLAND, SURVEY NO. 3713, FILED NOVEMBER 18, 1932 WITH OFFICE OF CITY ENGINEER, BERKELEY, CALIFORNIA.
(R5) GRANT DEED, RECORDED MARCH 12, 2021 AS DOCUMENT NUMBER 2021-101750, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.
(R6) DEED RECORDED MAY 5, 1931 IN BOOK 2616, AT PAGE 56, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.
SURVEYOR'S CERTIFICATE
I, JACQUELINE LUK, P.L.S. 8804 FOR LUK & ASSOCIATES, INC. DO HEREBY CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2003 MINIMUM STANDARDS DETAIL REQUIREMENTS FOR ALTA/NPS/LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(A), 6(B), 7(A), 7(B), 7(C), 8, 9, 10, 11(A), 12, 13, 14, 16, 17, 18, AND 19 OF TABLE A THEREOF; THE FIELD WORK WAS COMPLETED ON JUNE 2 AND 9, 2022.

LEGEND
--- BOUNDARY OF SUBJECT PROPERTY
--- RIGHT OF WAY LINE
--- INTERIOR PROPERTY LINE
--- MONUMENT LINE
--- CENTERLINE
--- TIE LINE
--- OLD LOT LINE
--- EASEMENT LINE
--- FOUND CITY MONUMENT AS NOTED
--- MONUMENT TO MONUMENT
--- MORE OR LESS SQUARE FEET
--- ASSessor'S PARCEL NUMBER
--- TOTAL RECORDS DATA
--- REFERENCE DOCUMENT NUMBER
--- RIGHT OF WAY



LEGAL DESCRIPTION
THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF ALAMEDA, CITY OF BERKELEY, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:
PARCEL ONE:
BEGINNING AT A POINT ON THE WESTERN LINE OF SHATTUCK AVENUE, DISTANT THEREON NORTH 37° 37' 30" WEST 138.00 FEET FROM THE INTERSECTION THEREOF WITH THE NORTHERN LINE OF BANCROFT WAY, AS SAID WAY AND AVENUE ARE SHOWN ON THE MAP HERENAFTER REFERRED TO; RUNNING THENCE SOUTH 7° 17' 30" EAST ALONG SAID LINE OF SHATTUCK AVENUE, 30.00 FEET; THENCE SOUTH 80° 30' WEST 13.14 FEET; THENCE SOUTH 87° 30' EAST 100.00 FEET TO THE SAID NORTHERN LINE OF BANCROFT WAY; THENCE SOUTH 87° 30' WEST ALONG SAID LINE OF BANCROFT WAY 70.00 FEET; THENCE NORTH 9° 30' WEST 18.64 FEET; THENCE NORTH 87° 30' EAST 13.10 FEET TO THE CORNER COMMON TO LOT 3 AND 22; BLOCK 6 AS PER MAP HERENAFTER REFERRED TO; THENCE NORTH 87° 30' EAST 63.88 FEET; THENCE SOUTH 87° 30' EAST 33.88 FEET; THENCE NORTH 89° 30' EAST 105.78 FEET TO THE POINT OF BEGINNING.
BEING A PORTION OF LOTS 4 AND 22, BLOCK 6, MAP ENTITLED, "SHATTUCK TRACT MAP NO. 2", FILED JULY 24, 1900, MAP BOOK 16, AT PAGE 10, ALAMEDA COUNTY RECORDS.
PARCEL ONE-A:
AN EASEMENT FOR INGRESS AND EGRESS AND FOR LIGHT AND AIR AS GRANTED IN THE DEED TO UNITED ARTISTS THEATERS OF CALIFORNIA, LTD., A CORPORATION, RECORDED MAY 5, 1931, BOOK 2616, AT PAGE 56, ALAMEDA COUNTY RECORDS, DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE NORTHERN LINE OF BANCROFT WAY, DISTANT THEREON SOUTH 87° 30' WEST 58.8 FEET FROM THE INTERSECTION THEREOF WITH THE WESTERN LINE OF SHATTUCK AVENUE, AS SAID AVENUE AND WAY ARE SHOWN ON THE MAP HERENAFTER REFERRED TO; RUNNING THENCE SOUTH 87° 30' WEST 10.00 FEET; THENCE NORTH 9° 30' WEST 100.00 FEET; THENCE NORTH 87° 30' EAST 10.00 FEET; THENCE SOUTH 9° 30' EAST 100.00 FEET TO THE POINT OF BEGINNING.
BEING A PORTION OF LOT 22, BLOCK 6, "SHATTUCK TRACT MAP NO. 2", FILED JULY 24, 1900, MAP BOOK 16, AT PAGE 10, ALAMEDA COUNTY RECORDS.
SAID EASEMENT TO BE APPURTENANT TO PARCEL ONE ABOVE DESCRIBED.
PARCEL TWO:
BEGINNING AT A POINT ON THE NORTHERN LINE OF BANCROFT WAY, DISTANT THEREON WESTERLY 210.20 FEET FROM THE INTERSECTION THEREOF WITH THE LINE OF SHATTUCK AVENUE, AS SAID WAY AND AVENUE ARE SHOWN ON THE MAP HERENAFTER REFERRED TO; RUNNING THENCE NORTHERLY AT RIGHT ANGLES TO SAID LINE OF BANCROFT WAY 13.64 FEET; THENCE AT RIGHT ANGLES EASTERLY 2.50 FEET TO THE WESTERN BOUNDARY LINE OF LOT 4, BLOCK 6, AS PER MAP HERENAFTER REFERRED TO; THENCE AT RIGHT ANGLES NORTHERLY ALONG SAID WESTERN BOUNDARY LINE OF SAID LOT 4, 34.00 FEET; THENCE AT RIGHT ANGLES WESTERLY 33.80 FEET TO THE WESTERN LINE OF THE PROPERTY CONVEYED TO UNITED ARTISTS THEATERS OF CALIFORNIA, LTD., A CORPORATION BY DEED RECORDED MAY 5, 1931, BOOK 2616, AT PAGE 56, ALAMEDA COUNTY RECORDS; THENCE SOUTH 9° 30' EAST 18.64 FEET TO THE NORTHERN LINE OF BANCROFT WAY; THENCE WESTERLY ALONG SAID LINE OF BANCROFT WAY 24.40 FEET TO THE POINT OF BEGINNING.
BEING A PORTION OF LOTS 4 AND 22, BLOCK 6, SHATTUCK TRACT MAP NO. 2, FILED JULY 24, 1900, MAP BOOK 16, AT PAGE 10, ALAMEDA COUNTY RECORDS.
PARCEL THREE:
COMMENCING AT THE NORTHWESTERN CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED BY ELLEN S. MORSE TO HEMETASTAR LOW ASSOCIATION OF BERKELEY, A CORPORATION BY DEED DATED MAY 8, 1905, RECORDED IN BOOK 1063 OF DEEDS, AT PAGE 20, ALAMEDA COUNTY RECORDS; THENCE SOUTH 9° 30' EAST ALONG THE WESTERN BOUNDARY LINE THEREOF 31.80 FEET TO THE SOUTHWESTERN CORNER THEREOF; SAID CORNER BEING ON THE BOUNDARY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY A. O. DONOGH AND MARION E. DONOGH, HIS WIFE TO UNITED ARTISTS THEATERS OF CALIFORNIA, LTD., A CORPORATION BY DEED DATED APRIL 16, 1931, RECORDED IN BOOK 2616, PAGE 56, ALAMEDA COUNTY RECORDS; THENCE ALONG SAID BOUNDARY LINE SOUTH 87° 30' WEST 5.76 FEET TO A CORNER THEREOF; THENCE NORTHERLY ALONG SAID BOUNDARY LINE NORTHERLY 87° 30' WEST 33.88 FEET TO A CORNER THEREOF ON LINE OF LOT 22, BLOCK 6, AS PER MAP HERENAFTER REFERRED TO; THENCE EASTERLY ALONG THE NORTHERN LINE OF SAID LOT 22, 5.76 FEET TO THE POINT OF BEGINNING.
BEING A PORTION OF LOT 22, BLOCK 6, SHATTUCK TRACT MAP NO. 2, FILED JULY 24, 1900, MAP BOOK 16, AT PAGE 10, ALAMEDA COUNTY RECORDS.
APN: 057-2028-003

TABLE A NOTES
1. FOUND MONUMENTS ARE SHOWN ON THIS SHEET OF THE SURVEY.
2. THE STREET ADDRESS OF THE PROPERTY IS 2274 SHATTUCK AVENUE, BERKELEY, CA 94704
3. FLOOD ZONE DESIGNATION: THE PREMISES ARE LOCATED IN ZONE "X" (NON-SHADED) DEFINED AS "AREAS OF MINIMAL FLOOD", PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 06001000515, EFFECTIVE DATE: AUGUST 3, 2009.
4. THE TOTAL GROSS LAND AREA IS 22,112 SQUARE FEET +/- OR 0.508 ACRES MORE OR LESS.
5. (A/R) ZONING REQUIREMENTS: PER THE CITY OF BERKELEY PLANNING AND ZONING DEPARTMENT, THE PROPERTY IS ZONED "C-DMT" DEFINED AS "COMMUNITY MIXED-USE DISTRICT".
REFERENCE FOR "C-DMT" ZONING IS MADE HERE TO THE CITY OF BERKELEY CODE, CHAPTER 23.204.030, REGARDING PROPERTY DEVELOPMENT STANDARDS, MINIMUM SETBACKS, BUILDING HEIGHT LIMITATION, AND PARKING REQUIREMENTS ARE AS FOLLOWS:
SETBACKS
MINIMUM FRONT: 0 FEET
MINIMUM REAR: 0 FEET
MINIMUM SIDE: 0 FEET
MINIMUM STREET SIDE: 0 FEET
MINIMUM REAR: 0 FEET
MAXIMUM HEIGHT: 60 FEET, 75 FEET WITH USE PERMIT
MINIMUM PARKING REQUIREMENTS: NONE REQUIRED
7. (A/R/C) EXTERIOR DIMENSIONS AND SQUARE FOOTAGE OF BUILDING AT GROUND LEVEL, AND NUMBER OF STORES ARE SHOWN ON SHEET 2 OF THE SURVEY.
8. SUBSTANTIAL IMPROVEMENTS OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY ARE SHOWN.
9. THERE ARE NO PARKING SPACES LOCATED ON THE SUBJECT PROPERTY.
10. THERE ARE NO DIVISIONS OR PARTY WALLS LOCATED ON THE SUBJECT PROPERTY WITH RESPECT TO ADJACENT PROPERTIES.
11. (A) LOCATION OF UTILITIES EXISTING ON OR SERVING THE SURVEYED PROPERTY AS DETERMINED BY OBSERVED EVIDENCE TOGETHER WITH EVIDENCE FROM PLAN OBTAINED FROM UTILITY COMPANIES OR PROVIDED BY CLIENT ARE SHOWN ON SHEET 2.
12. GOVERNMENTAL AGENCY SURVEY-RELATED REQUIREMENTS ARE SHOWN.
13. NAMES OF ADJACENT OWNERS OF PLATTED LANDS ARE SHOWN ON THIS SHEET OF THE SURVEY.
14. DISTANCE TO THE NEAREST INTERSECTING STREET IS SHOWN ON THIS SHEET OF THE SURVEY.
15. THERE IS NO OBSERVABLE EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
16. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
17. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
18. THERE ARE NO OFFSITE EASEMENTS TO THE SUBJECT PROPERTY.
19. PROFESSIONAL LIABILITY INSURANCE IN THE AMOUNT OF \$2,000,000 IS HELD BY THE SURVEYOR.

ALTA/NPS
LAND TITLE SURVEY
OF
2274 SHATTUCK AVENUE
CITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA
JUNE 2022
PREPARED BY
LUK AND ASSOCIATES
CIVIL ENGINEER - LAND PLANNERS - LAND SURVEYORS
738 ALFRED NOBEL DRIVE
HERCULES, CALIFORNIA 94547
(510) 724-3388

SHEET 1 OF 2
JOB NO.: 22133A10 PLOT DATE: JUNE 15, 2022

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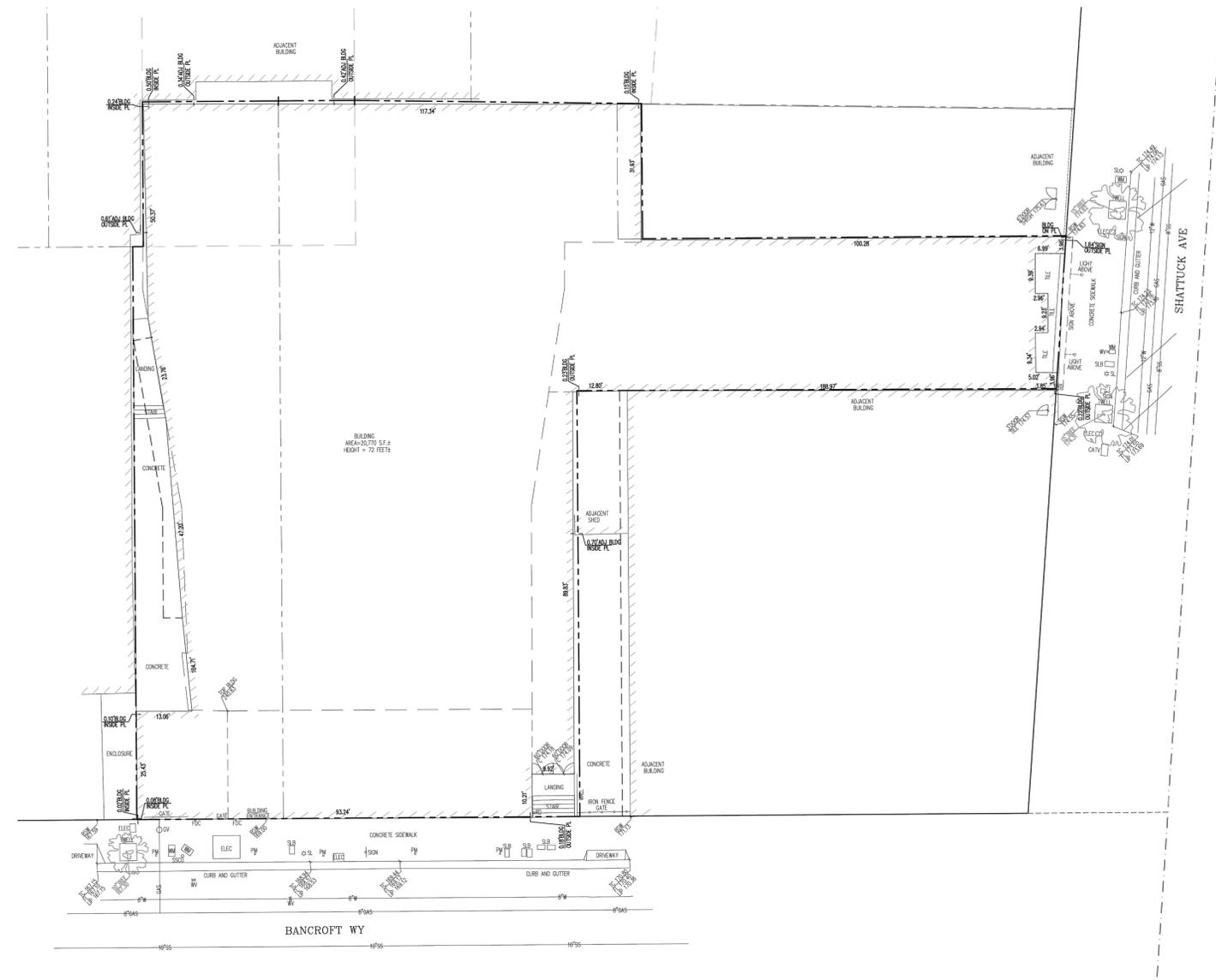
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SHEET:

SURVEY

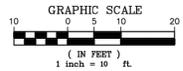
A1.1



LEGEND

SYMBOLS	DESCRIPTION
---	BOUNDARY OF SUBJECT PROPERTY
---	RIGHT OF WAY LINE
---	INTERIOR PROPERTY LINE
---	MONUMENT LINE
---	OLD LOT LINE
---	TI LINE
---	EASEMENT LINE
---	CENTERLINE
---	BUILDING LINE
---	WATER LINE
---	GAS LINE
---	SANITARY SEWER LINE
SL	STREET LIGHT
PM	PARKING METER
GV	GAS VALVE
FDC	FIRE DEPARTMENT CONNECTOR
WM	WATER METER
ELEC	ELECTRIC BOX
TRILL	TREE WELL
SLB	STREET LIGHT BOX
SSCO	SANITARY SEWER CLEAN OUT
RD	ROOF DRAIN
WV	WATER VALVE
CATV	CABLE AND TELEVISION BOX
C	TOP OF CONCRETE ELEVATION
THRS	THRESHOLD ELEVATION
TILE	TOP OF TILE ELEVATION
BSK	BACK OF SIDEWALK ELEVATION
TC	TOP OF CURB ELEVATION
FL	FLOW LINE ELEVATION
TOP BLDG	TOP OF BUILDING ELEVATION
TREE	TREE

ALTA/NSPS
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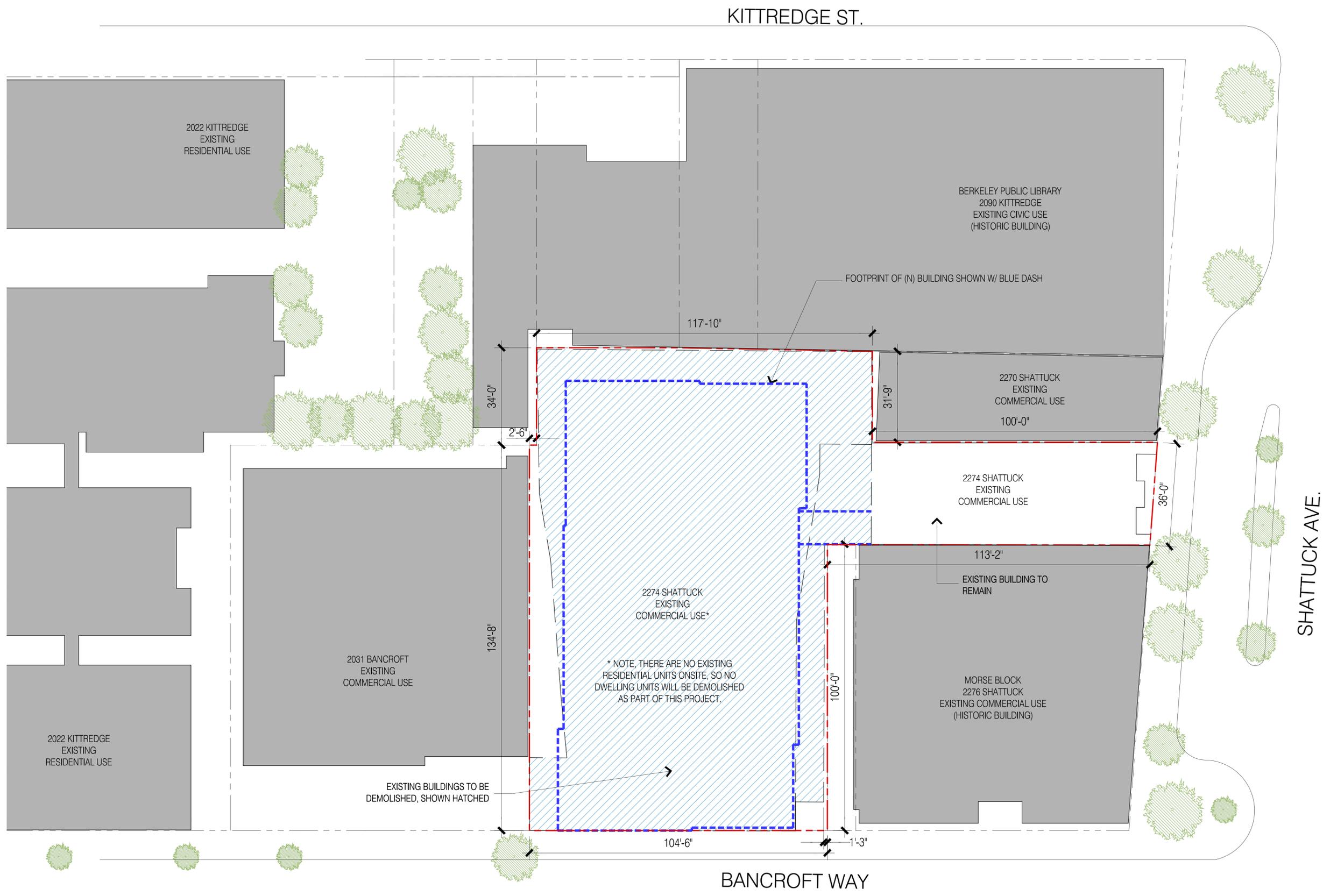
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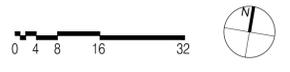
SHEET:

EXISTING
SITE & DEMO
PLAN

A2.0A



1
A2.0 EXISTING SITE & DEMO PLAN
1/32"=1'-0" @ 11x17 1/16"=1'-0" @ 24x36



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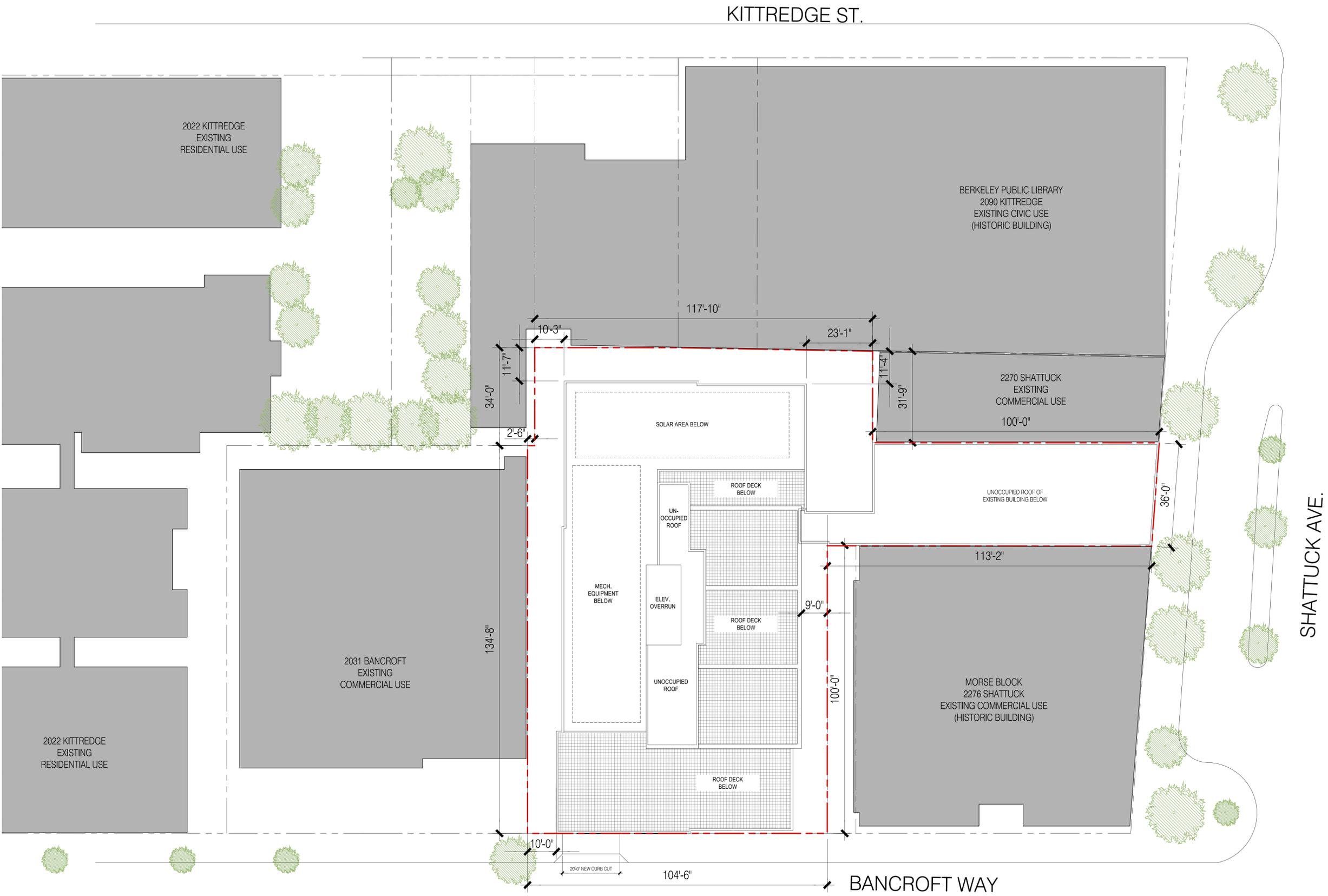
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SHEET:

SITE PLAN

A2.0B



1 SITE PLAN
 A2.0 1/32"=1'-0" @ 11x17 1/16"=1'-0" @ 24x36



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SHEET:

**GROUND LEVEL
FLOOR PLAN**

A2.1



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



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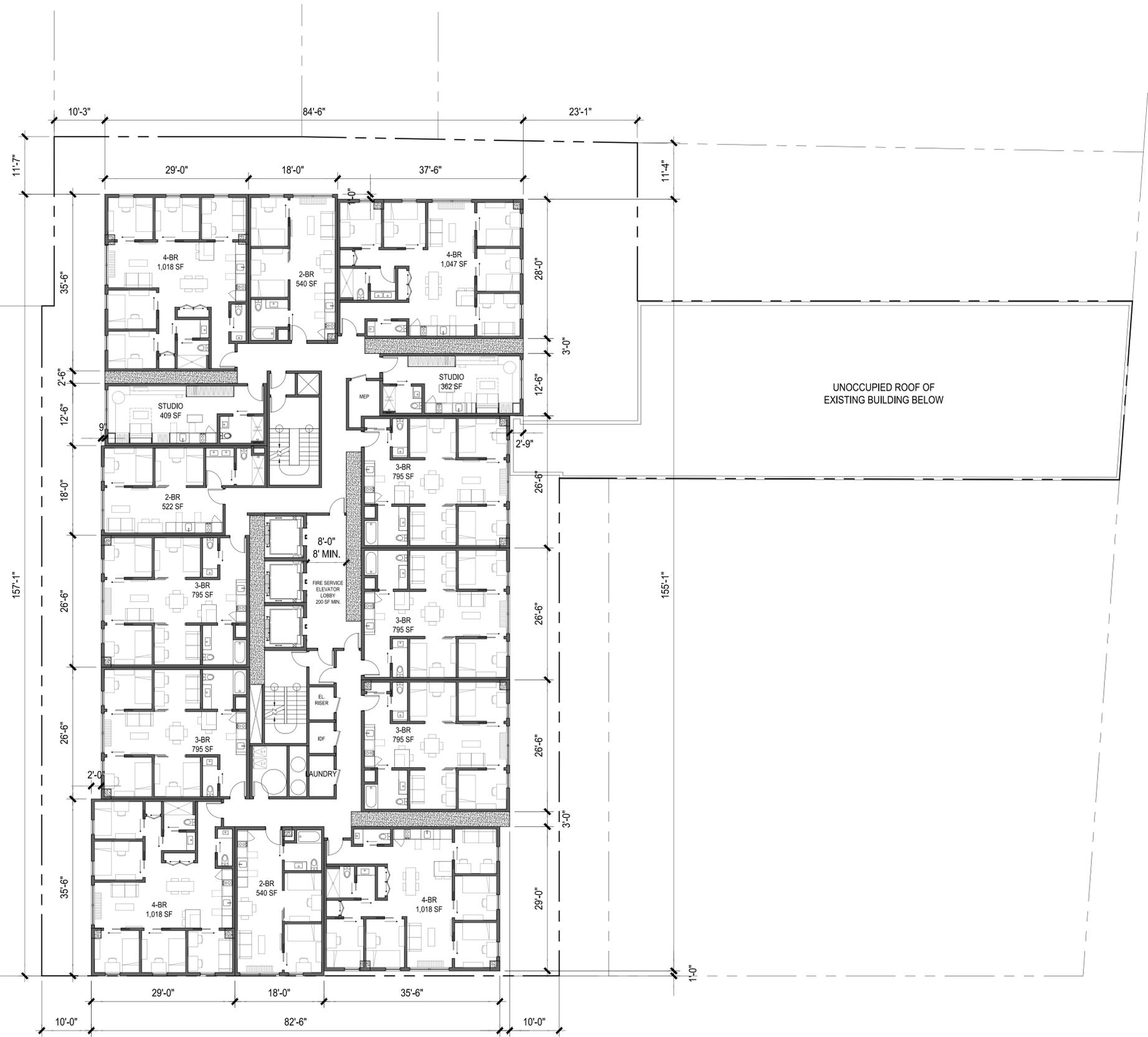
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JOB: 2201

SHEET:

LEVELS 2-16
 FLOOR PLANS

A2.2



1 PLAN AT LEVELS 2-17

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





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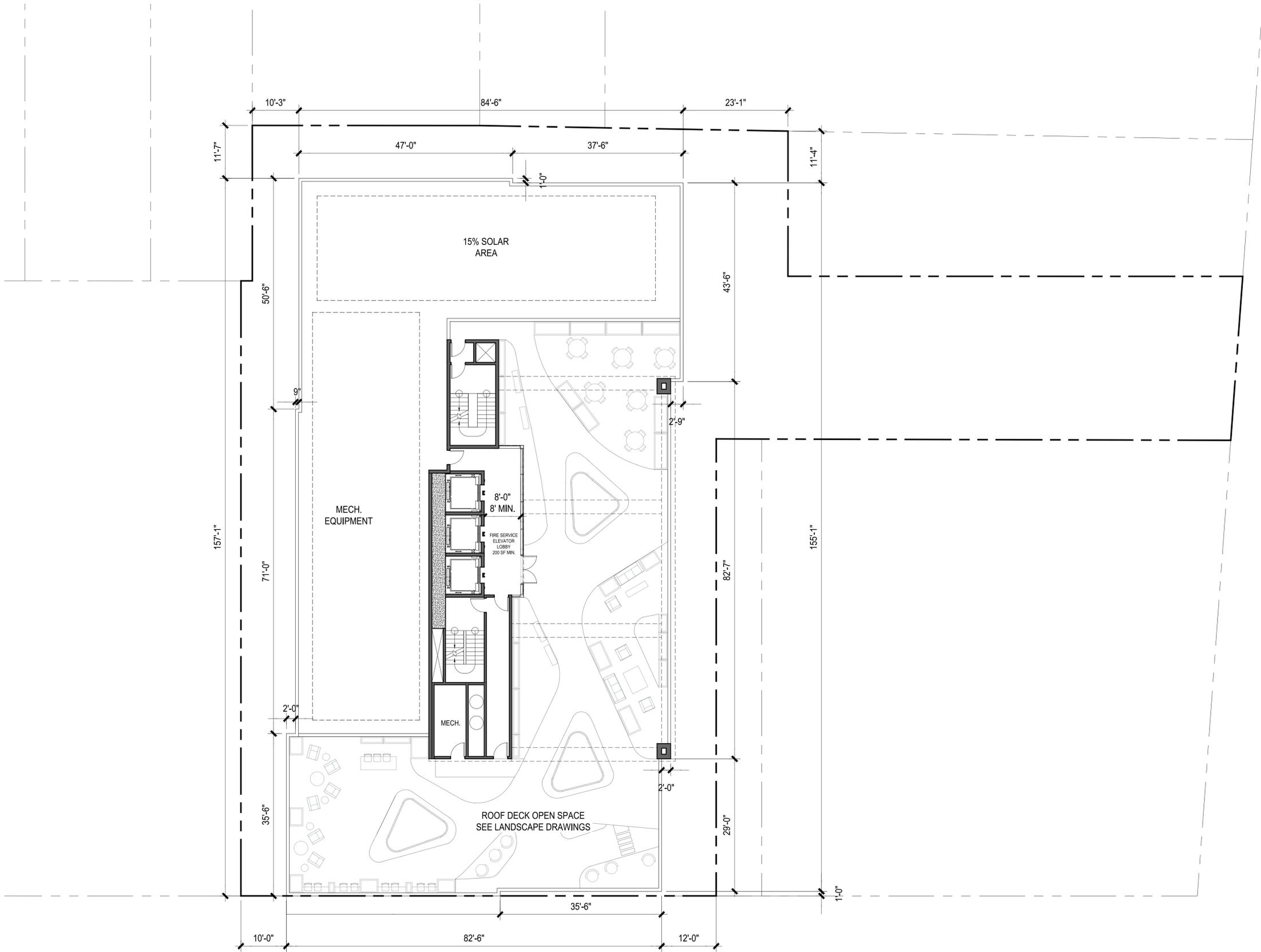
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JOB: 2201

SHEET:

**ROOF DECK
 LEVEL FLOOR
 PLAN**

A2.3



1 PLAN AT ROOF DECK

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





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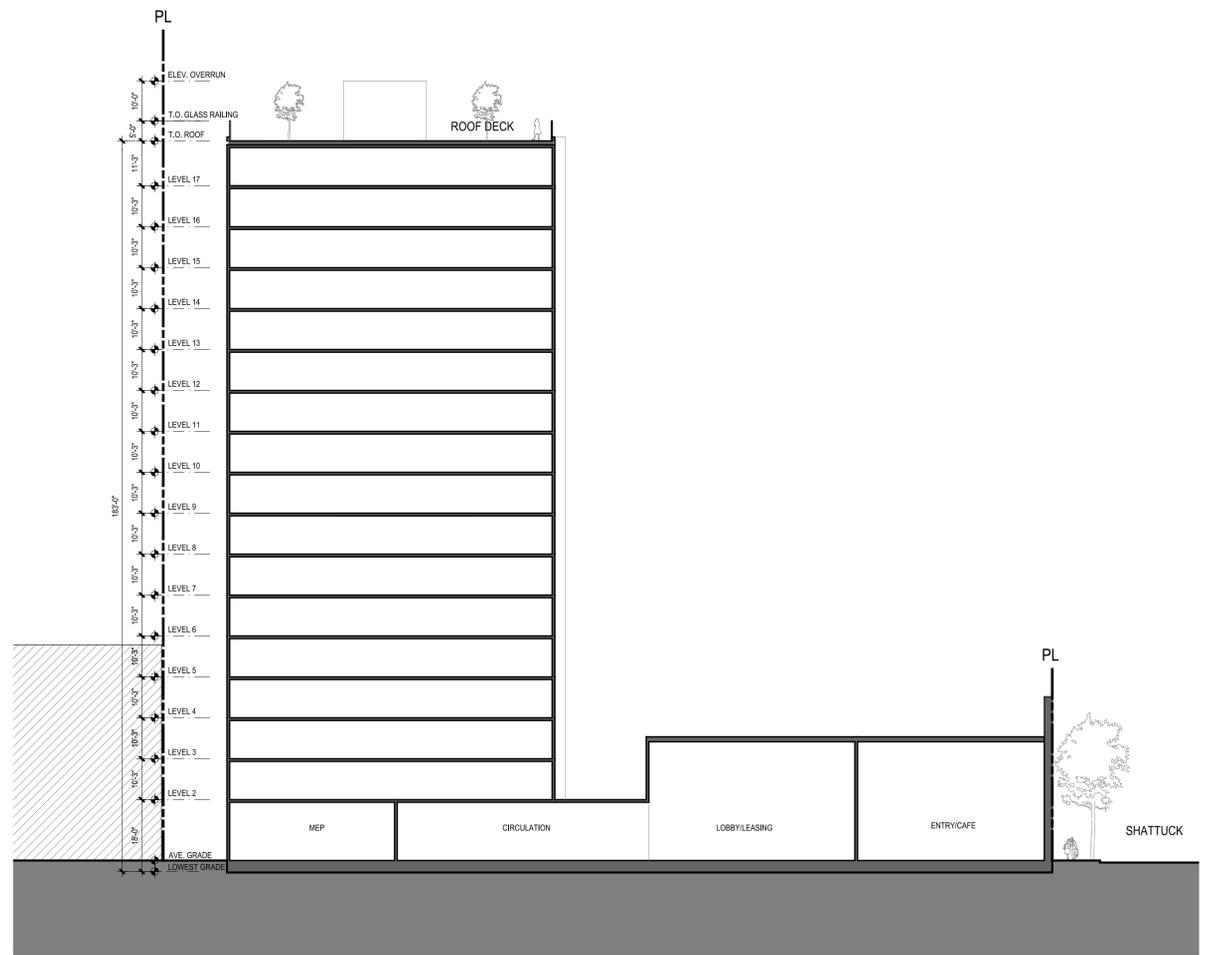
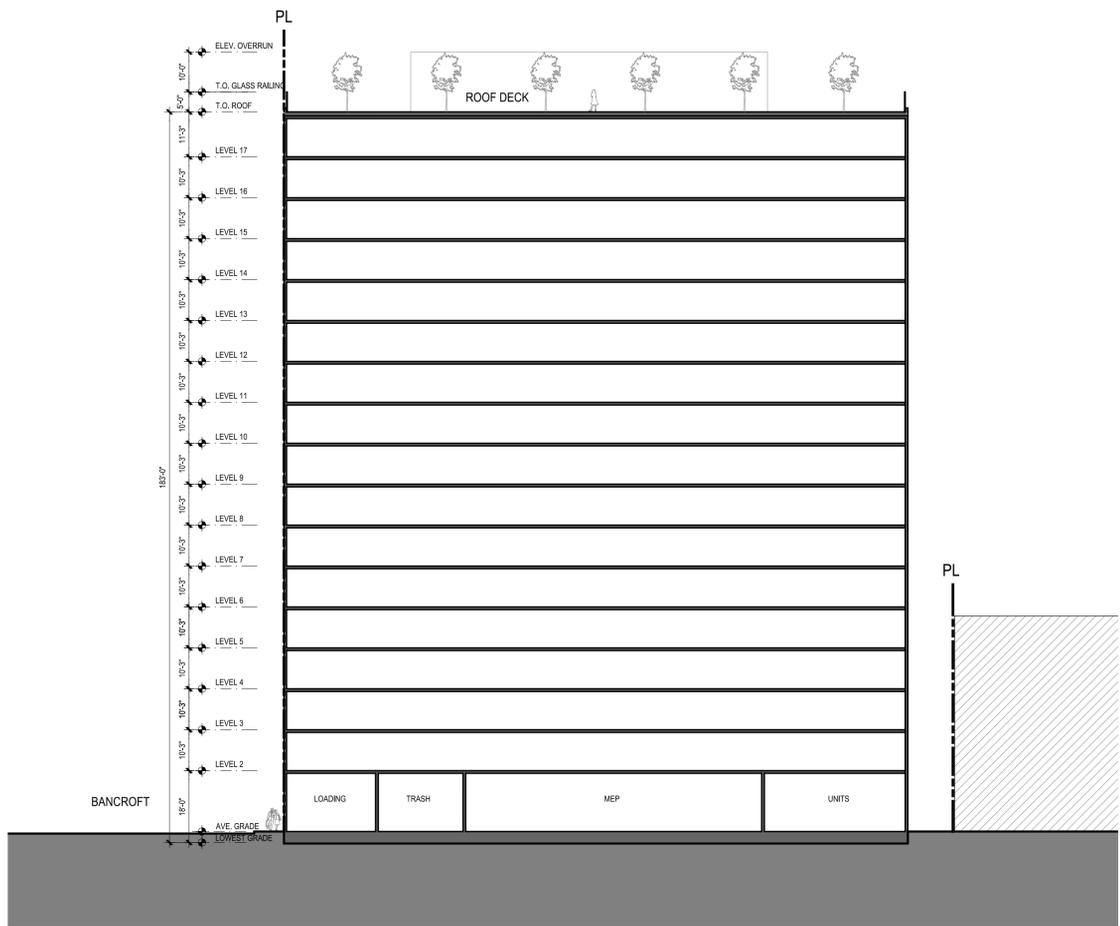
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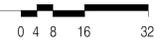
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SHEET:
BUILDING SECTIONS

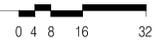
A3.0



2 N-S BUILDING SECTION
 3/128"=1'-0" @ 11X17 3/64"=1'-0" @ 24X36



1 E-W BUILDING SECTION
 3/128"=1'-0" @ 11X17 3/64"=1'-0" @ 24X36





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SHEET:
**BUILDING
 ELEVATIONS**

A3.1



1 EAST ELEVATION
 A3.1 3/64" = 1'-0" @ 11X17 3/32" = 1'-0" @ 24X36 0 4 8 16 32



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JOB: 2201

SHEET:
**BUILDING
 ELEVATIONS**

A3.2



1 NORTH ELEVATION
 A3.2 3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36 0 4 8 16 32



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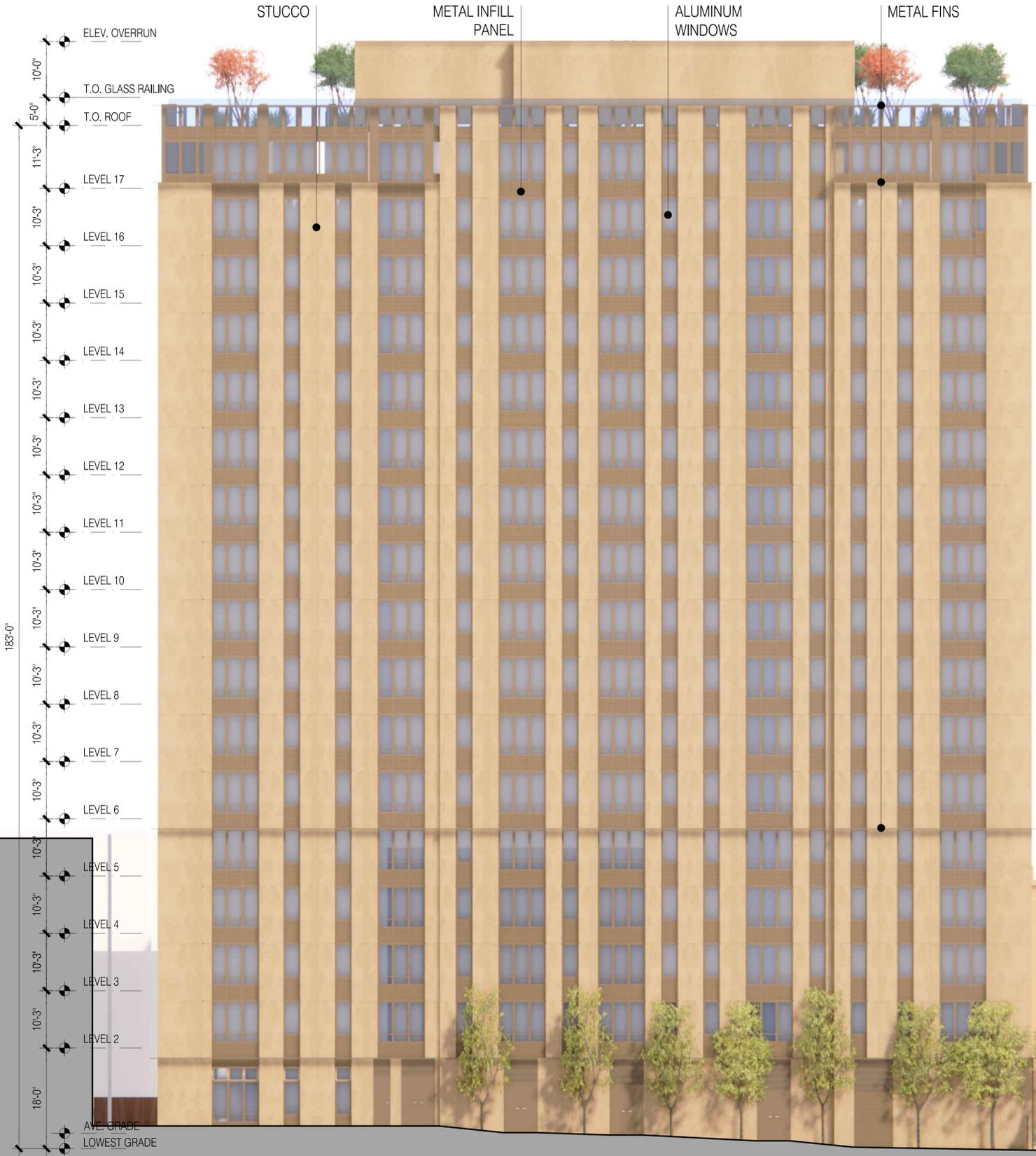
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JOB: 2201

SHEET:

BUILDING
 ELEVATIONS

A3.3



1 WEST ELEVATION
 A3.3 3/64" = 1'-0" @ 11X17 3/32" = 1'-0" @ 24X36 0 4 8 16 32

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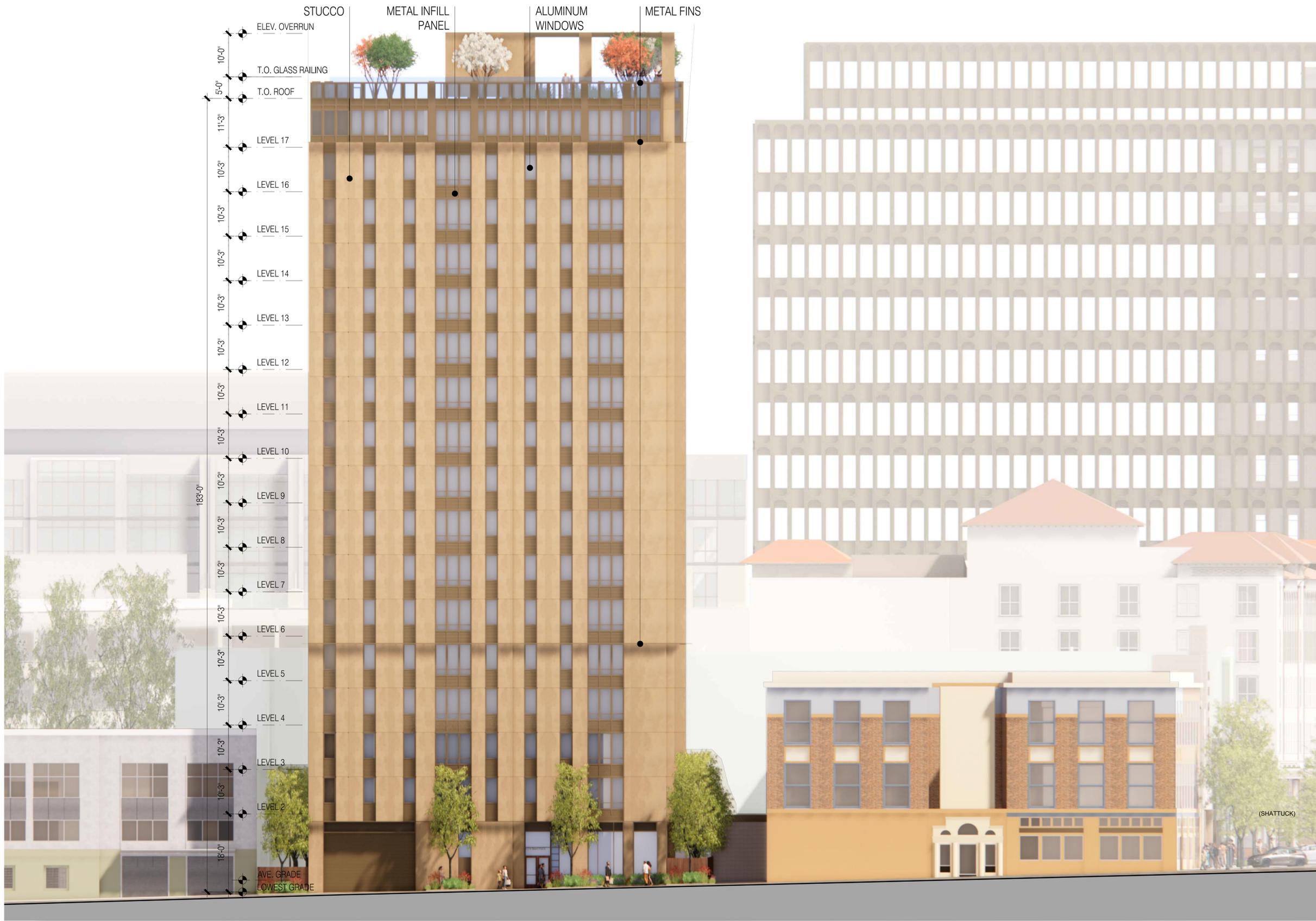
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JOB: 2201

SHEET:
**BUILDING
 ELEVATIONS**

A3.4



1 SOUTH ELEVATION
 A3.4 3/64" = 1'-0" @ 11X17 3/32" = 1'-0" @ 24X36 0 4 8 16 32

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JOB: 2201

SHEET:

STREET STRIP
ELEVATION

A3.5



2020 KITTREDGE

2031 BANCROFT

2274 SHATTUCK
(FRONTAGE ON BANCROFT)
(SUBJECT PROPERTY)

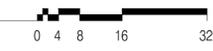
2041 BANCROFT

SHATTUCK AVE.



STREET STRIP ELEVATION @ BANCROFT

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



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SHEET:

STREET STRIP
 ELEVATION

A3.6



2322 SHATTUCK BANCROFT WAY 2286-2278 SHATTUCK 2274 SHATTUCK (SUBJECT PROPERTY) 2272 SHATTUCK 2090 KITTREDGE (BERKELEY PUBLIC LIBRARY) KITTREDGE STREET 2200-2240 SHATTUCK



STREET STRIP ELEVATION @ SHATTUCK

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



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JOB: 2201

SHEET:

PHOTO CONTEXT
VIEWS

A3.7



4 SHATTUCK LOOKING SOUTH - AFTER



2 SHATTUCK LOOKING NORTH - AFTER



3 SHATTUCK LOOKING SOUTH - BEFORE



1 SHATTUCK LOOKING NORTH - BEFORE

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JOB: 2201

SHEET:

PHOTO CONTEXT
VIEWS

A3.8



4 BANCROFT LOOKING EAST - AFTER



2 BANCROFT LOOKING WEST - AFTER



3 BANCROFT LOOKING EAST - BEFORE



1 BANCROFT LOOKING WEST - BEFORE

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JOB: 2201

SHEET:

RENDERED
PERSPECTIVE

A3.9



1
-
CONCEPTUAL RENDERING - SHATTUCK LOOKING WEST
N.T.S.

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JOB: 2201

SHEET:

RENDERED
PERSPECTIVE

A3.10



1 CONCEPTUAL RENDERING - SHATTUCK ENTRY
- N.T.S.

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JOB: 2201

SHEET:
**RENDERED
PERSPECTIVE**

A3.10B



1 CONCEPTUAL RENDERING - CAFE INTERIOR
- N.T.S.

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JOB: 2201

SHEET:
**RENDERED
PERSPECTIVE**

A3.10C



1 CONCEPTUAL RENDERING - COURTYARD
N.T.S.

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JOB: 2201

SHEET:

RENDERED
PERSPECTIVE

A3.10D



1 CONCEPTUAL RENDERING - RESIDENTIAL LOBBY
N.T.S.

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JOB: 2201

SHEET:

RENDERED
PERSPECTIVE

A3.11



1 CONCEPTUAL RENDERING - BANCROFT LOOKING WEST
- N.T.S.

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JOB: 2201

SHEET:

RENDERED
PERSPECTIVE

A3.12



1 CONCEPTUAL RENDERING - BANCROFT ENTRY
- N.T.S.

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JOB: 2201

SHEET:
**RENDERED
PERSPECTIVE**

A3.13



1 CONCEPTUAL RENDERING - BANCROFT LOOKING EAST
- N.T.S.

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JOB: 2201

SHEET:

RENDERED
PERSPECTIVE

A3.14



1 CONCEPTUAL RENDERING - SHATTUCK LOOKING NORTH
- N.T.S.

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JOB: 2201

SHEET:
**RENDERED
PERSPECTIVE**

A3.15



1 CONCEPTUAL RENDERING - SHATTUCK LOOKING SOUTH
- N.T.S.

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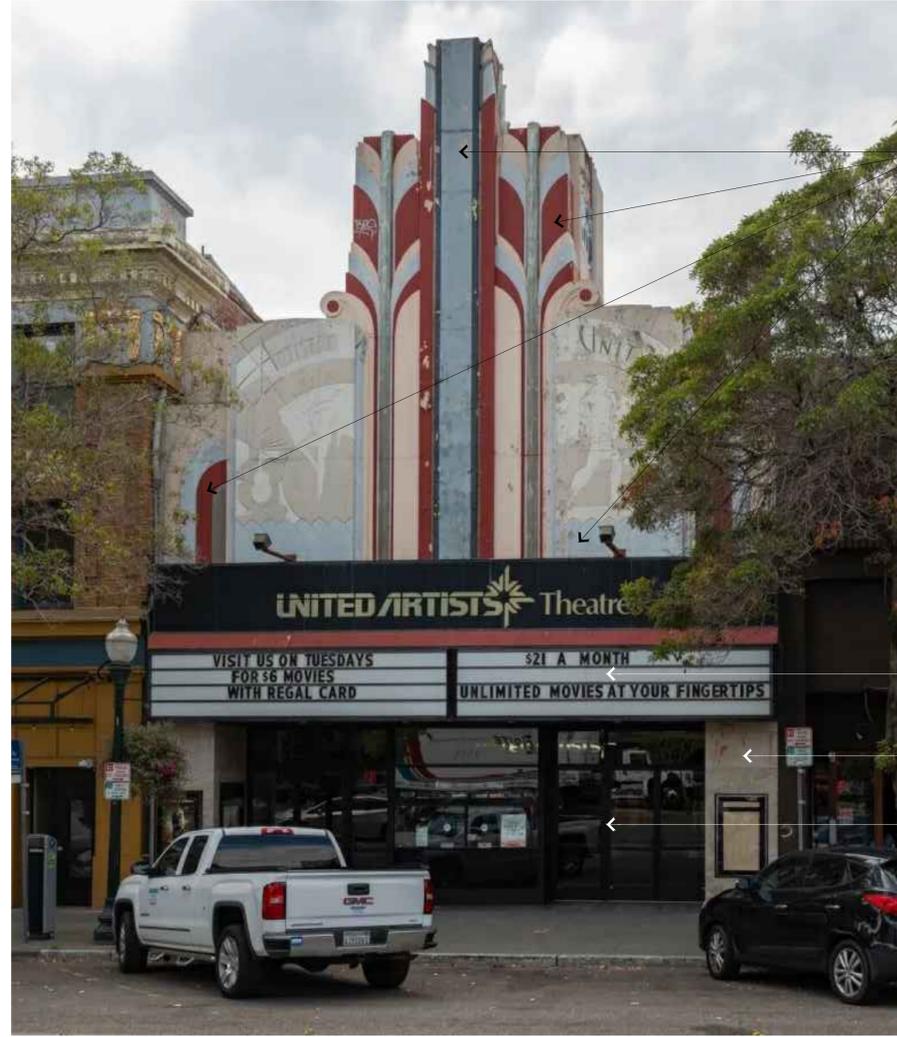
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REMOVE RECENT
NON-HISTORIC PAINT
VIA APPROVED
METHODS THAT DO NOT
DAMAGE THE EXISTING
STUCCO

REMOVE RECENT
NON-HISTORIC MARQUIS

REMOVE RECENT
NON-HISTORIC STONE
CLADDING

REMOVE RECENT
NON-HISTORIC
STOREFRONT



EXISTING STUCCO
FACADE, RESTORE TO
EARLIER SIMPLE WHITE
COLOR

NEW SIGNAGE

NEW ACCENT PAINT TO
HIGHLIGHT EXISTING
RELIEF SCULPTURES

NEW AWNING

NEW STOREFRONT
SYSTEM, MATERIALS TO
MATCH PROPOSED NEW
BUILDING BEYOND

2 EXISTING FACADE CHANGES

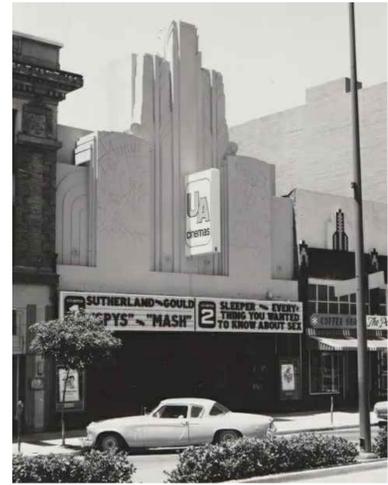
3 PROPOSED FACADE RESTORATIONS



~1932



~1968



~1974



~1980



~2023

1 EXAMPLE IMAGES OF PAST FACADE RENOVATIONS

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SHEET:

HISTORIC
FACADE
RESTORATION

A4.0

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JETT
 LANDSCAPE ARCHITECTURE + DESIGN
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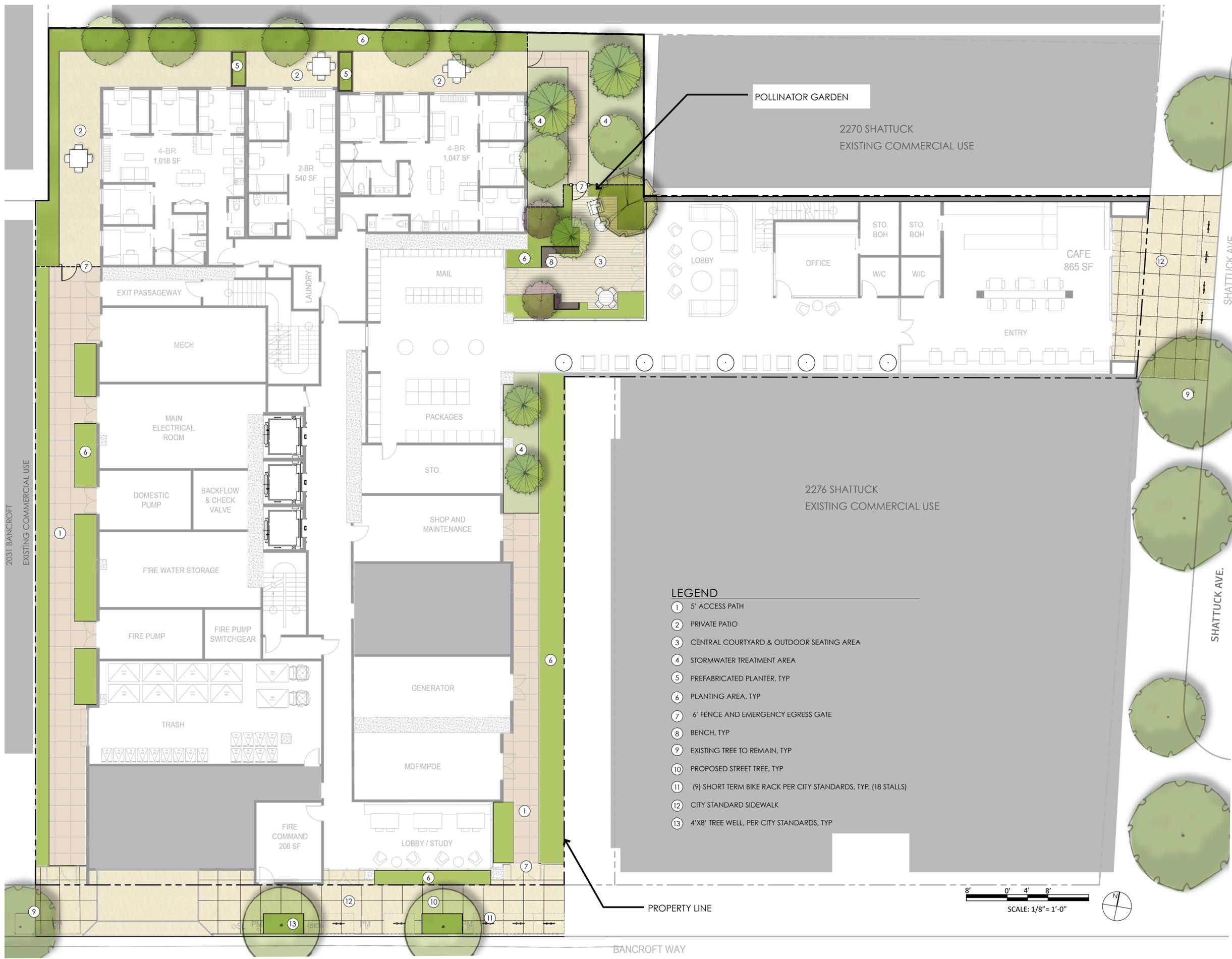
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SHEET:

LANDSCAPE PLAN- Ground Floor

L1.01



- LEGEND**
- ① 5' ACCESS PATH
 - ② PRIVATE PATIO
 - ③ CENTRAL COURTYARD & OUTDOOR SEATING AREA
 - ④ STORMWATER TREATMENT AREA
 - ⑤ PREFABRICATED PLANTER, TYP
 - ⑥ PLANTING AREA, TYP
 - ⑦ 6' FENCE AND EMERGENCY EGRESS GATE
 - ⑧ BENCH, TYP
 - ⑨ EXISTING TREE TO REMAIN, TYP
 - ⑩ PROPOSED STREET TREE, TYP
 - ⑪ (9) SHORT TERM BIKE RACK PER CITY STANDARDS, TYP. (18 STALLS)
 - ⑫ CITY STANDARD SIDEWALK
 - ⑬ 4'X8' TREE WELL, PER CITY STANDARDS, TYP



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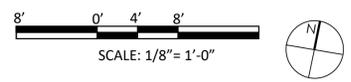
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SHEET:



LEGEND

- ① STUDY AREA
- ② PREFAB RAISED PLANTER, TYP
- ③ LOW GREENROOF PLANTING
- ④ FRAME STRUCTURE ABOVE
- ⑤ BAR TABLE AND CHAIRS
- ⑥ BENCH, TYP
- ⑦ LOUNGE FURNITURE
- ⑧ RAISED PLANTER AND BENCH, TYP
- ⑨ STEPPERS
- ⑩ FLEXIBLE SEATING AND GATHERING AREA
- ⑪ GREEN SCREEN



LANDSCAPE ROOF PLAN

L1.02



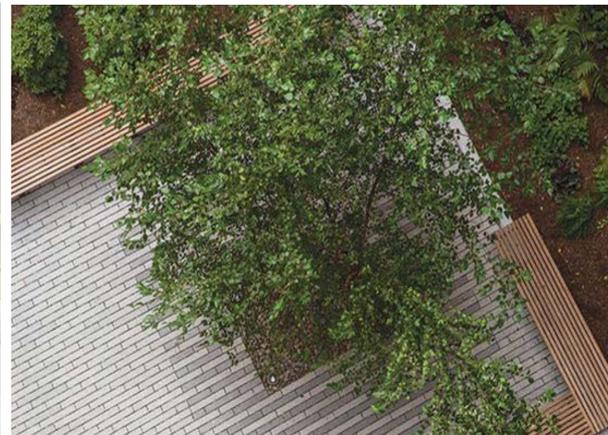
BENCH



RAISED PLANTER



CHAIRS



BENCH



FENCE

GROUND LEVEL



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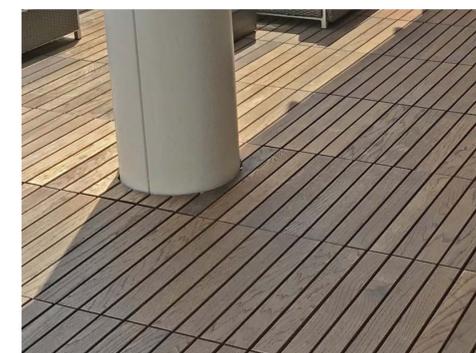
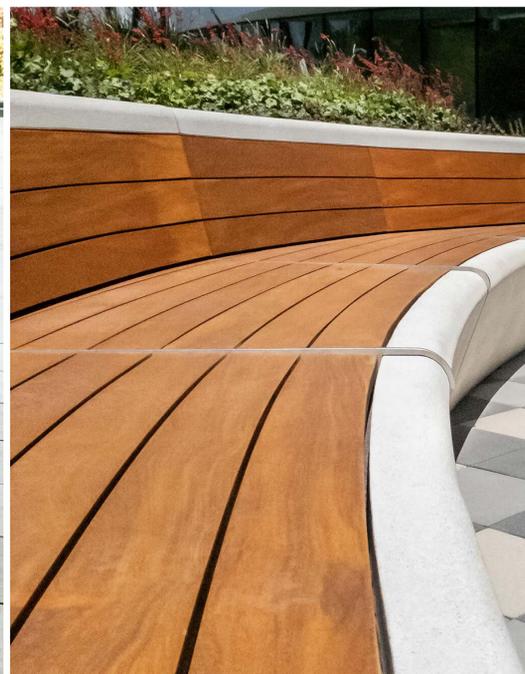
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TABLE AND CHAIRS



PREFABRICATED PLANTER AND BENCH



ROOF PAVERS AND TILES

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SHEET:

PRECEDENT IMAGES

L2.01



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SHEET:

PLANT IMAGES, NOTES AND CALCULATIONS

L3.01



TREES

DENOTES BUTTERFLY POLLINATED SPECIES



GROUNDCOVER



SHRUBS



VINES

GENERAL PLANTING AND IRRIGATION NOTES

1. LANDSCAPE AND IRRIGATION PLANS SHALL COMPLY WITH THE CRITERIA OF THE CALIFORNIA MODEL WATER EFFICIENCY ORDINANCE AND APPLY THOSE CRITERIA FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN PLAN.
2. LANDSCAPE AND IRRIGATION PLANS SHALL COMPLY WITH ALL APPLICABLE CITY CODES AND ORDINANCES.
3. ALL PLANTING AREAS SHALL BE TOP-DRESSED WITH A 3" LAYER OF ORGANIC, UN-DYED MULCH RECYCLED FROM LOCAL ORGANIC MATERIALS SUCH AS TREE TRIMMINGS, PLANT, OR CLEAN WOOD WASTE. COMPOST APPLICATION TO ACHIEVE A MINIMUM OF 6% ORGANIC MATTER IN SOIL COMPOSITION BASED ON MWEO SPECIFIED SOIL ANALYSIS RESULTS FOR THE SITE SOIL PER [CGBSC 4.304].
4. 50% OF ALL SHRUBS AND GROUNDCOVER SHALL BE A MINIMUM OF 5-GALLON SIZE OR LARGER.
5. IRRIGATION SYSTEM IS TO BE A FULLY AUTOMATIC WEATHER-BASED SYSTEM USING LOW FLOW DRIP AND BUBBLER SYSTEM.
6. STREET TREES SHALL BE TIED INTO IRRIGATION SYSTEM.
7. 75% OF ALL PLANTS PROPOSED ARE NATIVE AND WILD-LIFE SUPPORTING.
8. PLANT SELECTION AND DESIGN TO COMPLY WITH BAY-AREA FRIENDLY BASICS LANDSCAPE CHECKLIST.

IRRIGATION SYSTEM DESIGN INTENT

1. THIS PLAN SHALL COMPLY WITH THE REQUIREMENTS OF THE STATE OF CALIFORNIA'S MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWEO), CITY OF BERKELEY, AND EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) WATER DISTRICT.
2. THE IRRIGATION SYSTEM SHALL BE DESIGNED TO PROVIDE THE MINIMUM AMOUNT OF WATER NECESSARY TO SUSTAIN GOOD PLANT HEALTH.
3. THE IRRIGATION SYSTEM IS TO BE A FULLY AUTOMATIC, WEATHER-BASED SYSTEM USING RAIN SENSOR, LOW FLOW DRIP, BUBBLER DISTRIBUTION, AND ROTOR WITH MATCHED PRECIPITATION RATE NOZZLES DESIGNED FOR HEAD-TO-HEAD COVERAGE.
4. ALL SELECTED COMPONENTS SHALL BE PERMANENT, COMMERCIAL GRADE, SELECTED FOR DURABILITY, VANDAL RESISTANCE AND MINIMUM MAINTENANCE REQUIREMENT, INSTALLED BELOW-GRADE, AND DESIGNED FOR 100% COVERAGE.
5. THE SYSTEM SHALL INCLUDE A MASTER CONTROL VALVE, RAIN SENSOR AND FLOW SENSING CAPABILITY CONNECTED TO THE IRRIGATION CONTROLLER WHICH WILL SHUT DOWN ALL OR PART OF THE SYSTEM IF LEAKS ARE DETECTED.
6. THE IRRIGATION SYSTEM SHALL BE DESIGNED TO DELIVER WATER TO HYDROZONES BASED ON MOISTURE REQUIREMENTS OF THE PLANT GROUPING.
7. COLOR CODED HYDROZONE LANDSCAPING HYDROZONE MAP WITH GROUPING AND COLLOCATING PLANTING MATERIALS BY WUCOLS WATER USE CATEGORY VL, L, M, OR H, PER [CGBSC 4.304], TO BE PROVIDED IN PERMIT DRAWINGS.
8. RAIN SENSOR AND CONTROLLER LOCATION TO BE PROVIDED IN PERMIT DRAWINGS.

LANDSCAPE AREA CALCULATION:

	LANDSCAPE AREA
LEVEL 1:	2,559 SF
ROOF LEVEL:	1,525 SF
TOTAL:	4,084 SF (69%)

STORMWATER TREATMENT AREA:

REQUIRED STORMWATER TREATMENT AREA= 4% OF THE ROOF AREA (16810 SF) = 672 SF
PROPOSED STORMWATER TREATMENT AREA= 762 SF

BIKE PARKING CALCULATIONS:

(1) COMMERCIAL BIKE PARKING STALL
(16) SHORT TERM RESIDENTIAL BIKE PARKING STALLS
TOTAL SHORT TERM BIKE PARKING STALLS REQUIRED: 17 STALLS
TOTAL SHORT TERM BIKE PARKING STALLS PROVIDED: 18 STALLS (9 BIKE RACKS)

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ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
www.TrachtenbergArch.com

JETT
LANDSCAPE ARCHITECTURE + DESIGN
CRLA #3335 2 Theatre Square #218 Orinda CA 94563
925.254.5422 www.jett.land

**2274
SHATTUCK**

Berkeley, CA

- 11.29.2022 SB-330 APPLICATION
- 05.22.2023 ZONING APPLICATION
- 08.09.2023 ZONING RESUBMITTAL
- 12.08.2023 ZONING RESUBMITTAL

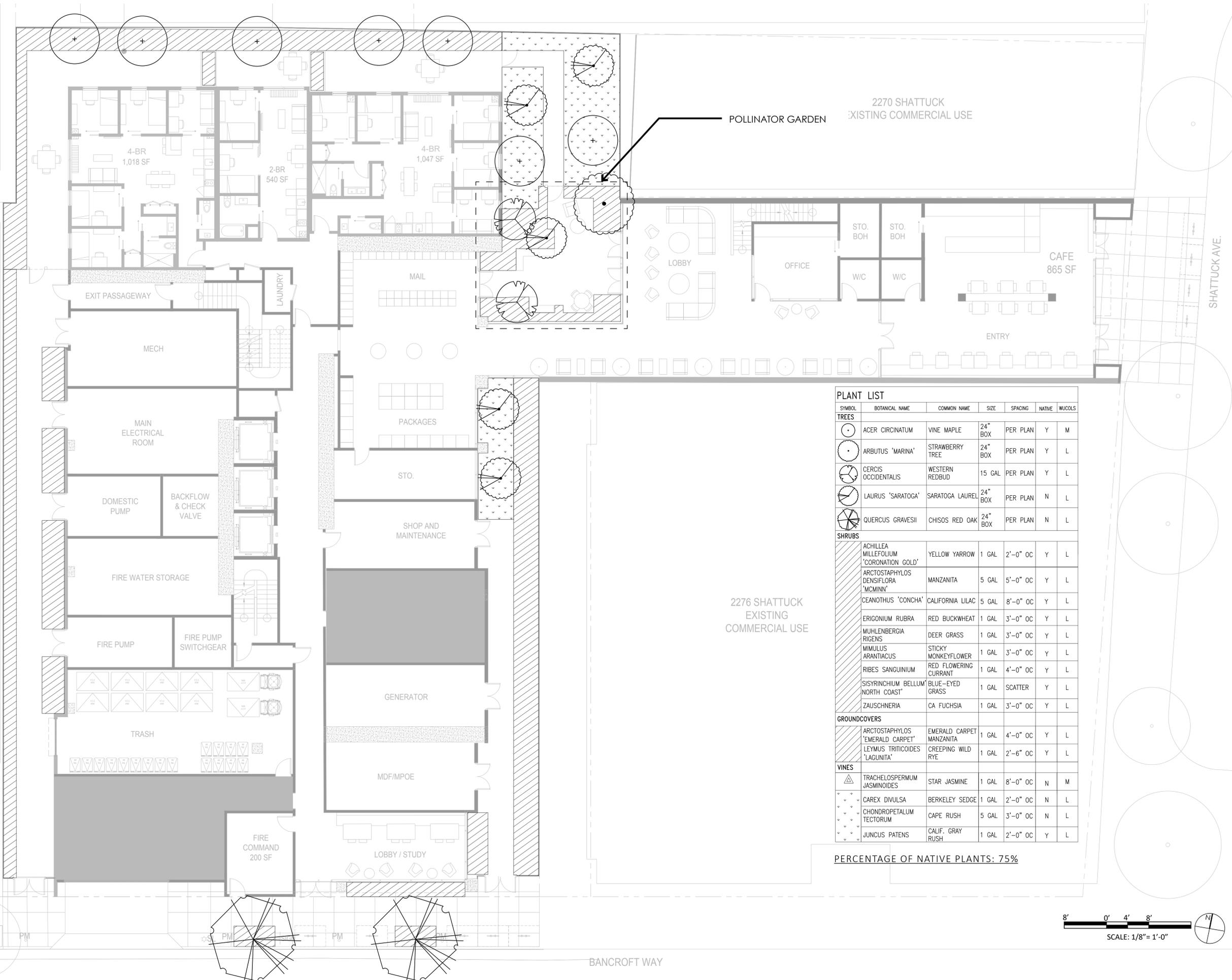
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JOB: 2201

SHEET:

PRELIMINARY PLANTING PLAN_
GROUND FLOOR

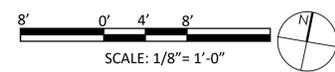
L4.01



PLANT LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	NATIVE	WUCOLS
TREES						
○	ACER CIRCINATUM	VINE MAPLE	24" BOX	PER PLAN	Y	M
○	ARBUTUS 'MARINA'	STRAWBERRY TREE	24" BOX	PER PLAN	Y	L
○	CERCIS OCCIDENTALIS	WESTERN REDBUD	15 GAL	PER PLAN	Y	L
○	LAURUS 'SARATOGA'	SARATOGA LAUREL	24" BOX	PER PLAN	N	L
○	QUERCUS GRAVESII	CHISOS RED OAK	24" BOX	PER PLAN	N	L
SHRUBS						
○	ACHILLEA MILLEFOLIUM 'CORONATION GOLD'	YELLOW YARROW	1 GAL	2'-0" OC	Y	L
○	ARCTOSTAPHYLOS DENSIFLORA 'MCMINN'	MANZANITA	5 GAL	5'-0" OC	Y	L
○	CEANOTHUS 'CONCHA'	CALIFORNIA LILAC	5 GAL	8'-0" OC	Y	L
○	ERIGONIUM RUBRA	RED BUCKWHEAT	1 GAL	3'-0" OC	Y	L
○	MUHLENBERGIA RIGENS	DEER GRASS	1 GAL	3'-0" OC	Y	L
○	MIMULUS ARANTIACUS	STICKY MONKEYFLOWER	1 GAL	3'-0" OC	Y	L
○	RIBES SANGUINIUM	RED FLOWERING CURRRANT	1 GAL	4'-0" OC	Y	L
○	SISYRINCHIUM BELLUM 'NORTH COAST'	BLUE-EYED GRASS	1 GAL	SCATTER	Y	L
○	ZAUSCHNERIA	CA FUCHSIA	1 GAL	3'-0" OC	Y	L
GROUNDCOVERS						
○	ARCTOSTAPHYLOS 'EMERALD CARPET'	EMERALD CARPET MANZANITA	1 GAL	4'-0" OC	Y	L
○	LEYMUS TRITICOIDES 'LAGUNITA'	CREEPING WILD RYE	1 GAL	2'-6" OC	Y	L
VINES						
○	TRACHELOSPERMUM JASMINOIDES	STAR JASMINE	1 GAL	8'-0" OC	N	M
○	CAREX DIVULSA	BERKELEY SEDGE	1 GAL	2'-0" OC	N	L
○	CHONDRPETALUM TECTORUM	CAPE RUSH	5 GAL	3'-0" OC	N	L
○	JUNCUS PATENS	CALIF. GRAY RUSH	1 GAL	2'-0" OC	Y	L

PERCENTAGE OF NATIVE PLANTS: 75%



BANCROFT WAY

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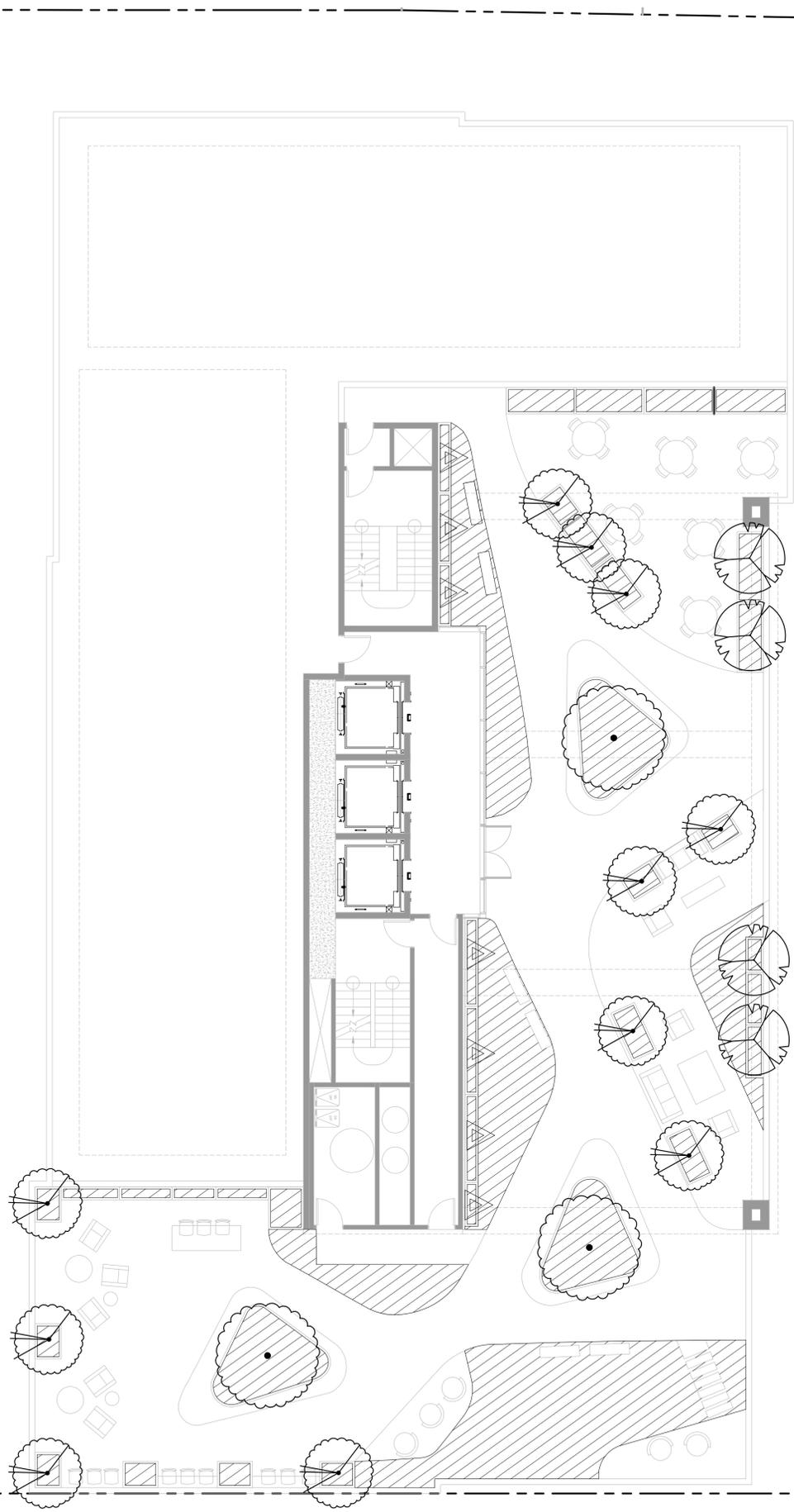
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JOB: 2201

SHEET:

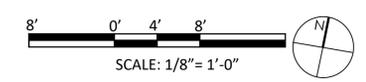
PRELIMINARY PLANTING PLAN_
ROOF PLAN

L4.02



PLANT LIST						
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	NATIVE	WUCOLS
TREES						
○	ACER CIRCINATUM	VINE MAPLE	24" BOX	PER PLAN	Y	M
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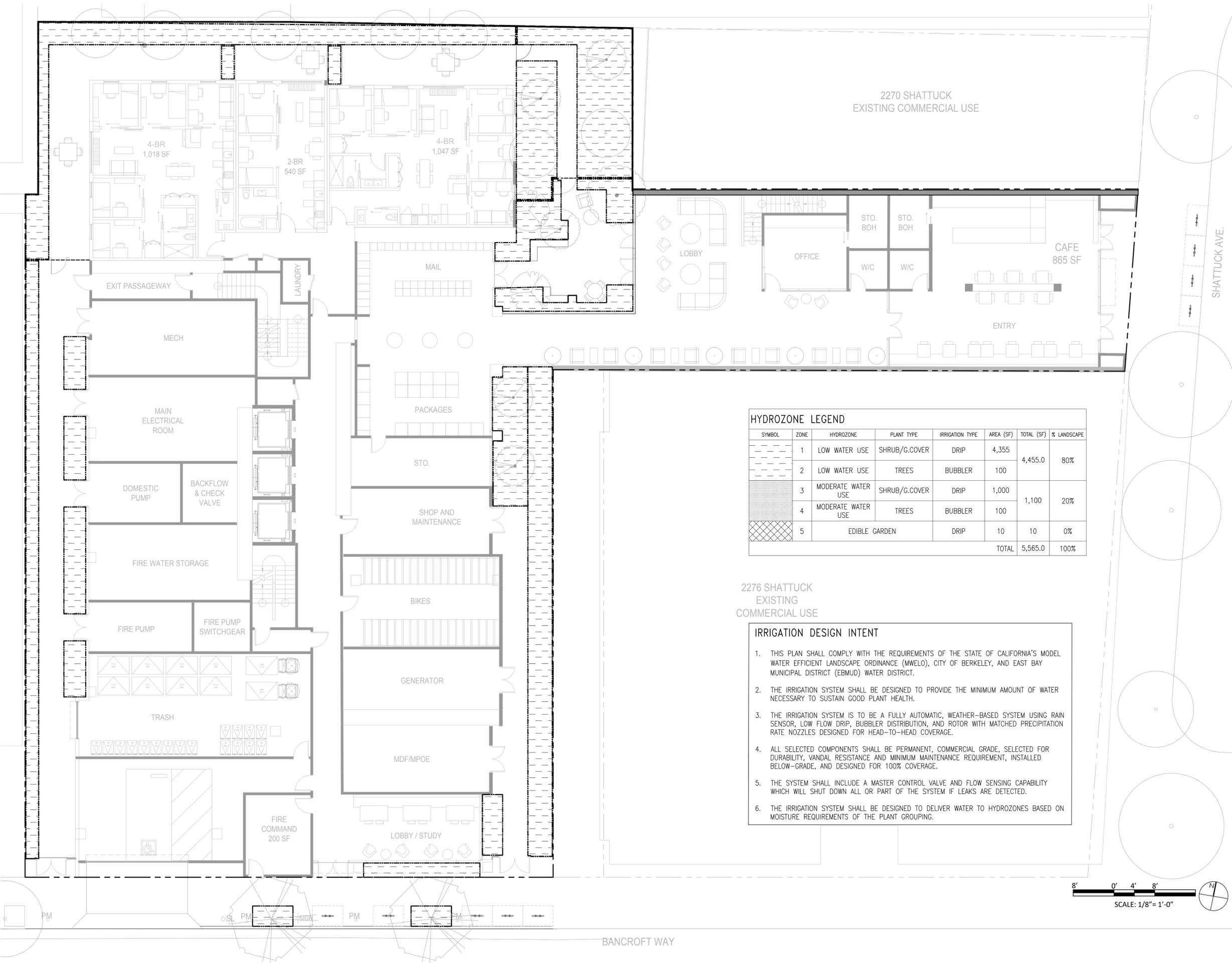
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**PRELIMINARY IRRIGATION
PLAN - GROUND FLOOR**

L5.01

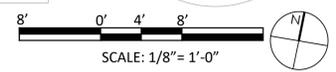


HYDROZONE LEGEND

SYMBOL	ZONE	HYDROZONE	PLANT TYPE	IRRIGATION TYPE	AREA (SF)	TOTAL (SF)	% LANDSCAPE
[Symbol]	1	LOW WATER USE	SHRUB/G.COVER	DRIP	4,355	4,455.0	80%
[Symbol]	2	LOW WATER USE	TREES	BUBBLER	100		
[Symbol]	3	MODERATE WATER USE	SHRUB/G.COVER	DRIP	1,000	1,100	20%
[Symbol]	4	MODERATE WATER USE	TREES	BUBBLER	100		
[Symbol]	5	EDIBLE GARDEN		DRIP	10	10	0%
					TOTAL	5,565.0	100%

**2276 SHATTUCK
EXISTING
COMMERCIAL USE**

- IRRIGATION DESIGN INTENT**
- THIS PLAN SHALL COMPLY WITH THE REQUIREMENTS OF THE STATE OF CALIFORNIA'S MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWELO), CITY OF BERKELEY, AND EAST BAY MUNICIPAL DISTRICT (EBMUD) WATER DISTRICT.
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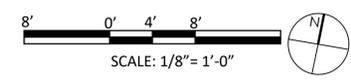
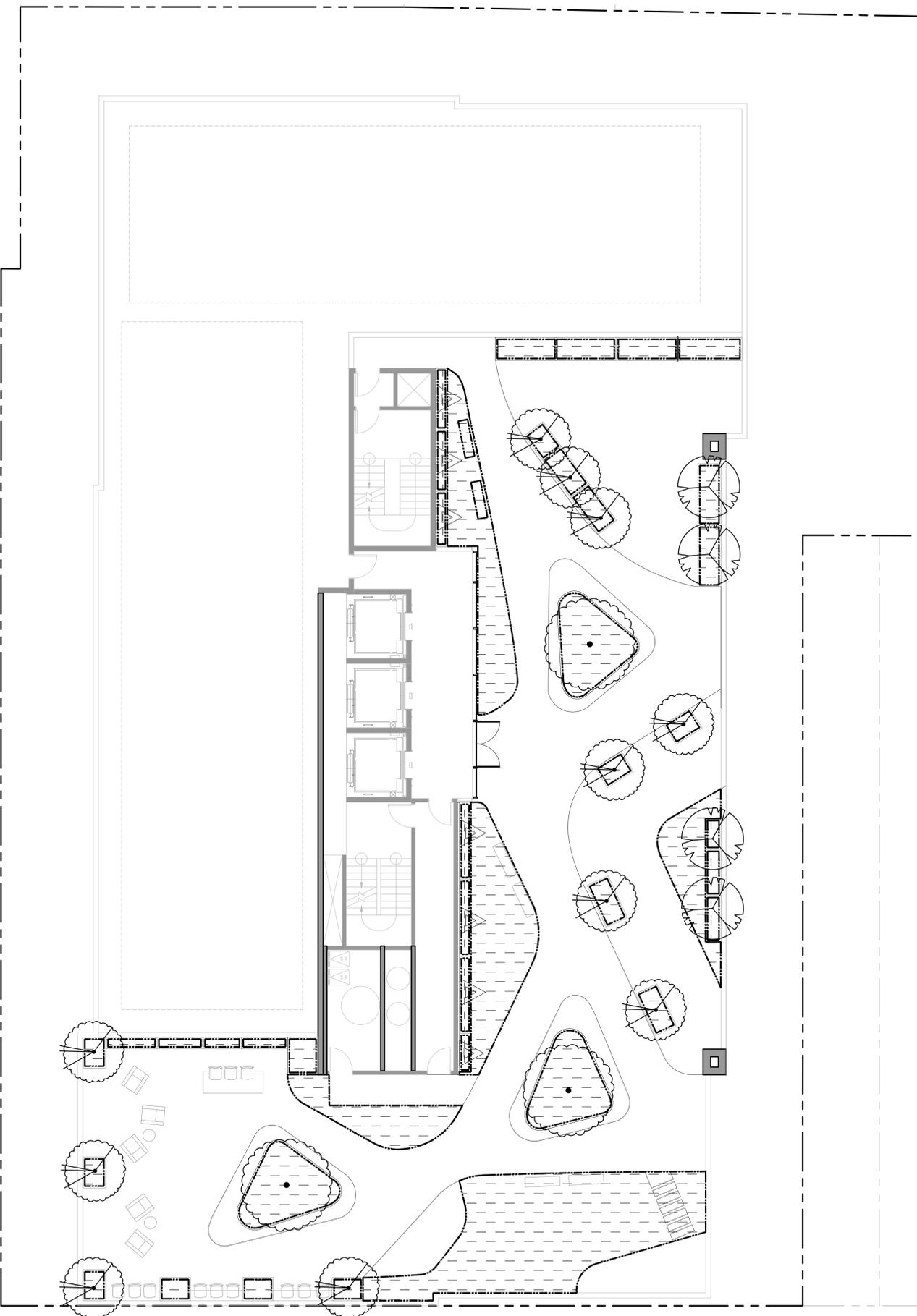
SHEET:

PRELIMINARY IRRIGATION PLAN - ROOF PLAN

L5.02

HYDROZONE LEGEND							
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[Symbol]	3	MODERATE WATER USE	SHRUB/G.COVER	DRIP	1,000	1,100	20%
[Symbol]	4	MODERATE WATER USE	TREES	BUBBLER	100		
[Symbol]	5	EDIBLE GARDEN		DRIP	10	10	0%
					TOTAL	5,565.0	100%

HYDROZONE INFORMATION TABLE							
REFERENCE ANNUAL ET ₀ FOR:		OAKLAND (NEAREST LOCATION, WUCOLS)				41.8	
ET ADJUSTMENT FACTOR	0.55	ET ADJ FACTOR PER MWELD & CALGREEN: 0.80= EXISTING NON-REHABILITATED LANDSCAPE, 0.65= SCHOOL 0.55= RESIDENTIAL, 0.45= NON-RESIDENTIAL		SLA ADDITIONAL WATER ALLOWANCE (1.0-ETAF)		0.45	
HYDROZONE	WUCOLS IV PLANT FACTOR (PF)	IRR METHOD D RIP & BUBB.: 0.81 SPRAY & ROTOR: 0.75	IRRIGATION EFFICIENCY (IE)	ETAF ₂ (PF/IE)	LANDSCAPE AREA (SQ FT)	ETAF ₂ x AREA	ESTIMATED TOTAL WATER USE (ETWU)
1	0.3	D	0.81	0.37	4355	1612.96	41801.55
2	0.3	B	0.81	0.37	100	37.04	959.85
3	0.3	D	0.81	0.37	1000	370.37	9598.52
4	0.6	B	0.81	0.74	100	74.07	1919.70
-	0	D	.81	0.00	0	0.00	0.00
-	0	D	.81	0.00	0	0.00	0.00
SPECIAL LANDSCAPE AREAS					TOTAL	2094.44	54,279.62
5				1	10	10.00	259.16
---				0	0	0.00	0.00
					TOTAL	10	259.16
TOTAL LANDSCAPE AREA (LA + SLA)					5,565.00		
TOTAL ETWU	TOTAL ETWU ALL AREAS (SLA AND REGULAR LA)					TOTAL ETWU	54,538.78
MAWA	ANNUAL ETO(0.62 CONVERSION FACTOR) [(ET ADJUSTMENT FACTOR)(TOTAL LANDSCAPE AREA) + (1-ETAF)*SLA]]					MAWA	79,439.02
AVERAGE ETAF	SUM(ETAF ₂ X AREA) / TOTAL AREA (AVERAGE ETAF AS DESIGNED, EXCLUSIVE OF SLA ₂)						0.38
SITEWIDE ETAF	TOTAL ETAF X AREA / TOTAL LANDSCAPE AREA (INCLUDES SLA ₂)						0.38



ROBIN R. BARAL
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DIRECT DIAL (916) 491-3052
DIRECT FAX (916) 491-3085
E-MAIL rbaral@hansonbridgett.com



March 4, 2024

VIA EMAIL

Sharon Gong
Senior Planner
City of Berkeley Planning Department
1947 Center Street, 3rd Floor
Berkeley, CA 94704

Re: 2274 Shattuck Avenue – AB 1633 Notice of CEQA Exemption

Dear Ms. Gong:

As you know, our office represents the applicant team for the proposed mixed-use project at 2274 Shattuck Avenue ("Project"). In accordance with Assembly Bill 1633 ("AB 1633"),¹ we request that the City find the Project exempt from review under the California Environmental Quality Act ("CEQA") pursuant to the "Class 32" exemption for Infill Development Projects,² as well as the "Class 31" exemption for Historical Resource Restoration/Rehabilitation.³

Substantial evidence supports the application of both the Class 32 and Class 31 exemptions for this Project, as documented in the technical reports submitted with the Project application and concurrently with this letter. Moreover, substantial evidence supports that no exceptions to the exemptions apply.⁴ We therefore request that the City find the Project exempt from CEQA under Class 32 as well as Class 31, as those exemptions are now mandated by the Housing Accountability Act ("HAA"),⁵ within the next 90 days.

AB 1633 makes CEQA exemptions mandatory under the Housing Accountability Act for eligible high-density infill residential projects.

AB 1633 amended the HAA as of January 1, 2024, to require that cities find certain high-density infill residential projects, such as this Project, exempt from CEQA. AB 1633 redefines an unlawful disapproval of a housing development project under the HAA (for eligible projects) to now include "any instance in which a local agency... fails to make a determination of whether the project is exempt from [CEQA] or commits an abuse of discretion as defined in [the HAA]."⁶

¹ Gov. Code § 65589.5

² 14 Cal. Code Reg. § 15332

³ 14 Cal. Code Reg. § 15331

⁴ 14 Cal. Code Reg. § 15300.2(c) and (f)

⁵ Gov. Code § 65589.5(h)(6)(D)

⁶ *Id.*

Hanson Bridgett LLP

425 Market Street, 26th Floor, San Francisco, CA 94105 hansonbridgett.com

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Sharon Gong, Senior Planner
March 4, 2024
Page 2

AB 1633 also amended the HAA to include a new statutory definition of "abuse of discretion" as follows: "'abuse of discretion' means the conditions set forth [by AB 1633] are satisfied, but the local agency does not determine that the project is exempt from [CEQA]."⁷ The legislature therefore expressly modified the standard of review under CEQA to *require that* cities find eligible, high-density infill residential projects such as this one exempt in *any* instance in which there is substantial evidence to support a CEQA exemption and lack of exception.⁸ As a result, an unlawful denial or abuse of discretion now occurs, for eligible high-density infill residential projects, if (1) an applicant provides substantial evidence that the project is eligible for a CEQA exemption and there are no exceptions to the exemption, but (2) the agency fails to find the project exempt.⁹ The legislature therefore revised the substantial evidence standard to establish that an HAA violation occurs if a city fails to make a *mandatory* AB 1633/CEQA exemption finding for eligible infill projects.

AB 1633 requires that the City find this Project exempt within 90 days.

By rewriting the substantial evidence standard to favor housing production, the legislature intended that AB 1633 CEQA exemption findings be made promptly – i.e., within 90 days after the submission of this notice.¹⁰ The HAA allows cities to extend the 90-day deadline by an additional 90 days. An extension, however, is only authorized if "necessary to determine if there is substantial evidence in the record that the housing development project is eligible for the exemption."¹¹ In this case, the applicant has provided all of the reports and studies needed to support the exemption. The reports submitted concurrently with this letter constitute substantial evidence to support all of the necessary findings for the Class 32 and Class 31 CEQA exemptions. As such, there is no legal basis or need for the City to peer review or provide additional studies to document the Class 32 and Class 31 CEQA exemptions for this Project.

The applicant therefore requests that the City promptly find that the Project is exempt under both the Class 31 and Class 32 CEQA exemptions, and that no exceptions to these exemptions apply. We request that this decision be made within the next 30-60 days but in no case should the determination require more than 90 days for this Project.

This Project meets all of the requirements for a mandatory Class 32 CEQA exemption.

Project Description

Trachtenberg Architects is the applicant for this Project, which proposes to construct a 214,082 square-foot mixed-use project at 2274 Shattuck Avenue, at the corner of Shattuck Avenue and Bancroft Way. The project sponsor is 2274 Shattuck QOZB, LLC (Panoramic Interests). The Project is located on the east side of Shattuck Avenue, with frontage on Shattuck Avenue and the north side Bancroft Way. The Project entails renovation of the commercial frontage on Shattuck Avenue, and renovations to the interior foyer and lobby, with a café and repurposed commercial space that celebrates the site's prior use as a theater. The ground floor and roof will include open space and other amenities for Project residents. The subdivided theater space will be demolished to facilitate the construction of 227 housing units. The units will be diverse in

⁷ Gov. Code § 65589.5(h)(6)(D)(ii)(I)

⁸ Gov. Code § 65589.5(h)(6)(D)(i)(IV)

⁹ Gov. Code § 65589.5(h)(6)(D)(i)(IV)

¹⁰ Gov. Code § 65589.5(h)(6)(D)(i)(V)(ia)

¹¹ *Id.* subd. (h)(6)(D)(i)(V)(ic)

Sharon Gong, Senior Planner
March 4, 2024
Page 3

size, consisting of 32 studios, 49 two-bedrooms, 80 three-bedrooms, and 66 four-bedrooms. In accordance with state density bonus law, 23 of those units will be reserved for very-low income households earning no more than 50% of the area median income (AMI) for Alameda County.

The following reports support the findings for the Class 32 CEQA exemption: (1) Traffic Impact Analysis, 2274 Shattuck Avenue Project, Abrams Associates, dated August 9, 2023 (**Attachment 1**); (2) 2274 Shattuck Avenue Historic Resources Evaluation Memorandum, West Coast Architectural History, dated December 7, 2023 (**Attachment 2**); (3) 2274 Shattuck Avenue Project Impacts Analysis Memorandum, Left Coast Architectural History, dated March 1, 2024 (**Attachment 3**); (4) Air Quality Impacts Analysis for the 2274 Shattuck Avenue Mixed Use Project in Berkeley, California, FirstCarbon Solutions, dated March 1, 2024 (**Attachment 4**); (5) Noise Impact Analysis for the 2274 Shattuck Avenue Mixed Use Project in Berkeley, California, FirstCarbon Solutions, dated March 1, 2024 (**Attachment 5**), and (6) Water Quality Impact Analysis for the 2274 Shattuck Avenue Mixed Use Project in Berkeley, California, FirstCarbon Solutions, dated March 1, 2024 (**Attachment 6**). The Historic Resources Evaluation and Project Impact Analysis also support the findings for the Class 31 CEQA exemption.

AB 1633 Eligibility Criteria

The HAA requires the Project to meet the following criteria in order to qualify for a mandatory CEQA exemption:

1. The Project cannot be on an environmentally sensitive site or a site subject to certain environmental hazards;
2. The Project must be on a legal parcel, in an urbanized area that is also a transit priority area, low vehicle miles traveled area, or amenity-rich area;
3. The density of the housing development project must meet or exceed 15 dwelling units per acre; and
4. There must be substantial evidence in the record that the Project qualifies for an exemption and is not subject to any exceptions.

As detailed below, the Project satisfies each criterion and is therefore subject to a mandatory Class 32 CEQA exemption under AB 1633. In other words, this Project meets all requirements imposed by the state legislature to facilitate expedited review under the HAA for high-density residential infill projects. The applicable findings, backed by substantial evidence as detailed below, demonstrate that this Project is categorically exempt under CEQA, and that a decision to the contrary would constitute an unlawful denial under the HAA.¹²

1. The Project is not located on an environmentally sensitive site and it is not subject to certain environmental hazards.

AB 1633 requires the Project to not be located on any site that is environmentally sensitive, subject to certain environmental hazards, or within a very high fire hazard severity zone.¹³ The following environmentally sensitive sites and hazards must be avoided: (A) coastal zones;

¹² Gov. Code § 65589.5(h)(6)(D)(i)

¹³ See Gov. Code § 65589.5(h)(6)(D)(i)(I), citing Gov. Code § 65913.4(a)(6)(A)-(C) and (E)-(K)

Sharon Gong, Senior Planner
March 4, 2024
Page 4

(B) prime farmland; (C) wetlands; (D) hazardous waste sites; (E) earthquake fault zones; (F) flood hazard areas; (G) regulatory floodways; (H) conservation lands; (I) habitat for protected species; (J) conservation easements; and (K) very-high fire severity zones. As detailed below, the Project site does not contain any of these characteristics.

A. The Project is not in the Coastal Zone.

AB 1633 applies to projects that are generally not located in an area of the Coastal Zone.¹⁴ The "Coastal Zone" is the land and water area along the entire the California Coast that generally extends 1,000 yards from the mean high tide line of the sea, and is identified on a detailed map adopted by the Coastal Commission.¹⁵ The City of Berkely is not within the Coastal Zone, as documented in **Attachment 7** attached to this letter.

B. The Project is not located on prime farmland.

AB 1633 applies to projects that are not (i) located on prime farmland or farmland of statewide importance, as defined by the United States Department of Agriculture and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or (ii) zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.¹⁶ It should be abundantly clear that the existing site is not located on prime farmland or farmland of statewide importance, and is not otherwise zoned for agricultural protection. Substantial evidence to support this finding is provided by reference to the Department of Conservation's Important Farmland Finder Map, where the Project site is identified as Urban and Built Up Land. (See **Attachment 7**).¹⁷

C. The Project site is not located in a wetland.

AB 1633 applies to projects that are not located on federally designated wetlands.¹⁸ The Project site is an infill, urbanized location that has no water features. Accordingly, the U.S. Fish & Wildlife Service has determined the site does not contain any potential for wetlands or aquatic resources.(See National Wetlands Inventory in **Attachment 7**).¹⁹

¹⁴ See, e.g., Gov. Code, §§ 65913.4(a)(6)(A)(ii) ["An area of the coastal zone that is not subject to a certified local coastal program or certified land use plan."]; 65913.4(a)(6)(A)(iv) ["In a parcel within the coastal zone that is not zoned for multifamily housing."]; 65589.5 (h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(A).)

¹⁵ Pub. Res. Code § 30103.

¹⁶ Gov. Code, §§ 65589.5(h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(B).

¹⁷ California Department of Conservation, California Important Farmland Finder [<https://maps.conservation.ca.gov/DLRP/CIFF/>], last accessed on February 21, 2024

¹⁸ Gov. Code, §§ 65589.5 (h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(C)

¹⁹ See U.S. Fish and Wildlife Service, National Wetlands Inventory <https://www.fws.gov/wetlands/>, last accessed on February 21, 2024

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D. The Project is not located on a hazardous waste site.

AB 1633 generally applies to projects that are not located on the "Cortese List" or on hazardous waste sites designated by the Department of Toxic Substances Control ("DTSC").²⁰ The Project site is not listed on either of these lists and is not located on a hazardous waste site.²¹

E. The Project is not located in a fault zone.

AB 1633 applies to projects that are not located "[w]ithin a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law."²² The Project is not located within a delineated earthquake fault zone on an official map published by the United States Geologic Service ("USGS") (see **Attachment 7**).²³

F. The Project is not located in a special flood hazard area or regulatory floodway.

AB 1633 applies to projects that are not located "[w]ithin a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency ("FEMA") in any official maps published by [FEMA],"²⁴ and to projects that are not located "[w]ithin a regulatory floodway as determined by [FEMA] in any official maps published by [FEMA]. The Project is not located in a special flood hazard area²⁵ or regulatory floodway²⁶ as determined by FEMA (see **Attachment 7**).

G. The Project site is not identified in a natural resource protection plan.

AB 1633 applies to projects that are not located on land identified for conservation in (i) an adopted natural community conservation plan under the California Fish and Game Code, (ii) a habitat conservation plan pursuant to the federal Endangered Species Act, or (iii) another adopted natural resource protection plan.²⁷ The Project is located on an urban, infill site in Downtown Berkeley. It is not located in an adopted natural community conservation plan,

²⁰ Gov. Code, §§ 65589.5 (h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(E); 65962.5; Health and Safety Code § 78760. Note that certain sites on the Cortese List may still be eligible under AB 1633, however those provisions do not apply here as this site is not on the Cortese List.

²¹ DTSC, Hazardous Waste and Substance Site List, https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site_type=CSITES,FUDS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29, last accessed on February 21, 2024.) The Cortese list as of February 21, 2024, is incorporated by reference into the project's administrative record of proceeding

²² Gov. Code §§ 65589.5 (h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(F)

²³ See USGS, U.S. Quaternary Faults Map <https://www.usgs.gov/programs/earthquake-hazards/faults>, last accessed on February 21, 2024

²⁴ Gov. Code §§ 65589.5(h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(G)

²⁵ See FEMA, National Flood Hazard Layer Viewer <https://www.fema.gov/flood-maps/national-flood-hazard-layer>, last accessed on February 21, 2024

²⁶ *Id.*

²⁷ Gov. Code §§ 65589.5 (h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(I)

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Page 6

habitat conservation plan or any other adopted natural resource protection plan (see **Attachment 7**).²⁸

H. The Project site is not habitat for protected species.

AB 1633 applies to projects that are not located on habitat for candidate, sensitive, or special status species as identified under the federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act.²⁹ The Project site is located in the urban landscape of Downtown Berkeley and has no value as habitat for any listed species.

I. The Project site is not under a conservation easement.

AB 1633 applies to projects that are not located on lands under conservation easement.³⁰ The Project site is in an entirely urbanized infill location, and accordingly is not encumbered by any conservation easement (see **Attachment 7**).³¹

J. The Project is not located in a Very High Fire Hazard Severity Zone.

AB 1633 applies to projects that are not located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection.³² The Project is not located in a very high fire hazard severity zone (see **Attachment 7**).³³

2. The Project is located on a legal parcel, in an urbanized area as defined by AB 1633.

AB 1633 applies to a housing development project "located on a legal parcel or parcels within an urbanized area" that meets at least one of the following criteria:

- (ia) The housing development project is located within one-half mile walking distance to either a high-quality transit corridor or a major transit stop;
- (ib) The housing development project is located in a very low vehicle travel area; or
- (ic) The housing development project is proximal to six or more of the following amenities pursuant to subclause (IV) of clause (ii) as of the date of submission of the project application:

²⁸ California Department of Fish and Wildlife, California Natural Community Conservation Plans (August 2023); see also Federal Conservation Plans of West Coast <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/habitat-conservation-plans-west-coast>, last accessed on February 21, 2024

²⁹ Gov. Code §§ 65589.5(h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(J)

³⁰ Gov. Code §§ 65589.5 (h)(6)(D)(i)(I)(ia); 65913.4(a)(6)(K)

³¹ (See California Natural Resources Agency, California Conservation Easement Database [<https://data.cnra.ca.gov/dataset/california-conservation-easement-database>]; [<https://databasin.org/datasets/65202ded0d40478a847f019630950570/>], last accessed on February 21, 2024

³² Gov. Code, § 65589.5(h)(6)(D)(i)(I)(ia)

³³ See Dept. of Forestry and Fire Protection <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones/fire-hazard-severity-zones-maps>, last accessed on February 21, 2024

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Page 7

(IV) "Proximal" to an amenity means either of the following:

(ia) Within one-half mile of either of the following amenities:

(la) A bus station.

(lb) A ferry terminal.

(ib) Within two miles of any of the following amenities:

(la) A supermarket or grocery store.

(lb) A public park.

(lc) A community center.

(ld) A pharmacy or drugstore.

(le) A medical clinic or hospital.

(lf) A public library.

(lg) A school that maintains a kindergarten or any of grades 1 to 12, inclusive

(id) Parcels that are developed with urban uses adjoin at least 75 percent of the perimeter of the project site or at least three sides of a four-sided project site. For purposes of this clause, parcels that are only separated by a street or highway shall be considered to be adjoined.³⁴

Although only required to meet one of the four "urbanized area" scenarios, the Project meets all four, as the Project is:

- Located within a transit priority area designated by the City of Berkeley, which means it is within 1/2-mile from a rail station and/or 1/4-mile from bus stops with service at least every 15 minutes. This is supported by the transit priority area map included in the City's VMT Criteria and Thresholds guidance, which establishes that the Project site is within 1/2-mile from a rail station or 1/4-mile from bus stops with service at least every 15 minutes. (See **Attachment 7**.)
- Located in a very low vehicle travel area. A "very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled ("VMTs") per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. (Gov. Code, § 659159(o)(9).) The City defines low-VMT areas based on the results of the Alameda County Transportation Commission model, and depicts these areas in the map included

³⁴ Gov. Code §65589.5 (h)(6)(D)(i)(II)

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in Exhibit I. The areas shaded green are those identified as "Low VMT Areas," where "VMT per capita ... is 15% lower than the baseline regional average."³⁵ The Project is located in a Low VMT Area (see **Attachment 7**).

- Located proximal to the following amenities:
 - Numerous bus stops;
 - Within one mile of a supermarket or grocery store (Trader Joe's);
 - Within one mile of a public park (Martin Luther King Jr. Civic Center Park and Ohlone Park);
 - Within one mile of a community center (Multicultural Community Center);
 - Within one mile of a pharmacy or drugstore (CVS pharmacy);
 - Within one mile of a public library (Berkeley Public Library);
 - Within one mile of a school that maintains a kindergarten or any of grades 1 to 12, inclusive (Washington Elementary School).
- Located in an urban area, on a property surrounded on all sides by urban uses.

The Project therefore meets all of the urbanized criteria for a mandatory CEQA exemption.

3. The Project's density qualifies under AB 1633.

AB 1633 applies to projects that meet or exceed 15 dwelling units per acre.³⁶ Here, the Project proposes 227 dwelling units on 0.51 acres, resulting in a density of more than 440 dwelling units per acre.

4. Substantial evidence establishes that the Project is exempt under Class 32 and Class 31, and there are no applicable exceptions.

A. Substantial evidence supports the Class 32 exemption.

The Class 32 exemption applies to infill development projects that are (a) consistent with the applicable general plan and zoning designation, (b) on a site smaller than five acres and substantially surrounded by urban uses with no potential value as habitat for endangered, rare or threatened species, and where (c) approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality, and (d) the site can be adequately served by all required utilities and public services.³⁷

³⁵ City of Berkeley VMT Criteria and Thresholds, June 29, 2020, p. 7 and attachments <https://berkeleyca.gov/sites/default/files/2022-02/VMT-Criteria-and-Thresholds.pdf>, last accessed on February 21, 2024.

³⁶ Gov. Code § 65589.5(h)(6)(D)(i)(III)

³⁷ 14 Cal. Code Reg. § 15332

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Here, the City has already conclusively established that the Project is consistent with the applicable general plan and zoning standards, given that no notice or other documentation was provided to the applicant within 30 days after the City deemed the zoning application complete.³⁸ The site is approximately one-half acre and, as noted above, has no potential habitat value.

The applicant submitted a traffic report with the zoning application to confirm that the Project meets the City's local VMT threshold and is screened from further review due to its location within a transit priority area. Concurrently submitted with this letter are additional reports confirming that the Project will not result in impacts related to air quality, noise and water quality.

B. Substantial evidence supports the Class 31 exemption.

While the Class 32 exemption is sufficient for clearing this Project from environmental review, the Class 31 exemption also applies here. Class 31 "consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings."³⁹ The Historic Resources Evaluation recently conducted for the Project site, and submitted as part of the zoning application, establishes the remaining historical context of the Project site. The Project Impact Analysis (PIA) analyzes the Project in connection with the site's historical context and with the proposed Shattuck Avenue Downtown Historic District. The PIA concludes that the Project will not cause a significant impact on any historical resources. In connection with that finding, the PIA establishes that implementation of the Project will be consistent with the Secretary of Interior's Standards for Rehabilitation pursuant to the SOI Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, & Reconstructing Historic Buildings (1995, rev. 2017).

C. Substantial evidence supports the finding that no exceptions may be found to the Class 32 or Class 31 CEQA exemptions for this Project.

Under CEQA, an exception may prohibit the application of a categorical exemption if the Project (a) is located in an environmentally sensitive area; (b) causes cumulative impacts due to successive projects implemented of the same type, in the same place; (c) causes a significant impact due to unusual circumstances; (d) causes damage to scenic resources within a state scenic highway; (e) is on the "Cortese List" of hazardous sites; or (f) causes a substantial adverse change in the significance of a historical resource.⁴⁰

None of these exceptions apply here. The Project is located in Downtown Berkeley, and does not contain environmentally sensitive features, as the building envelope is virtually coextensive with the entire parcel. There are no cumulative impacts resulting from the City's implementation of the Downtown Area Plan, which the City adopted for the purpose of *reducing* environmental impacts, such as vehicle-miles traveled, by locating higher density housing near high-quality public transit and near the University of California, Berkeley campus. There are no unusual circumstances associated with this Project, as it proposes a high-quality mixed-use development in the Downtown Berkeley core area, consistent with the goals of the Downtown

³⁸ Gov. Code § 65589.5(j)(2)(A)(i)

³⁹ 14 Cal. Code Reg. § 15331

⁴⁰ 14 Cal. Code Reg. § 15300.2

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Area Plan. The site will cause no impacts to scenic resources within a state scenic highway (to the extent this criterion even applies after the enactment of SB 743), and the site is not located on the Cortese List. With regard to historical resources, the PIA submitted concurrently with this letter confirms that the Project will not have an impact on any mandatory or potential historical resources, and that implementation of the Project will be consistent with the SOI Standards for Rehabilitation. Given the project's eligibility for a Class 31 exemption, and the findings in the PIA, the Project cannot legally be deemed to have a significant impact on historical resources.

As a result, substantial evidence in the zoning application, materials submitted concurrently with this letter, and the record of proceedings as a whole supports the finding that there are no impacts to historical resources, unusual circumstances, nor any other exceptions that could apply to the Class 31 and Class 32 exemptions for this Project.

In summary, this Project meets all of the criteria under the HAA to qualify as an eligible high-density residential infill project subject to an expedited CEQA exemption under AB 1633.

Given the mandatory effect of the HAA as to this Project, the applicant requests that the City find that the Project is subject to the Class 32 and Class 31 CEQA exemptions and that there are no applicable exceptions to these exemptions. While up to 90 days may be allowed for this decision, the applicant respectfully requests that a decision be made sooner, if possible. As noted above, there is no basis that would justify the City in needing an additional 90 days to respond, given that there is no basis for seeking a peer review of the submitted studies, or preparing additional studies to support the Class 32 exemption.

Thank you for considering this request and please do not hesitate to contact me if you have any questions regarding the applicability of the mandatory Class 32 and Class 31 CEQA exemptions under AB 1633 for this Project.

Very truly yours,



Robin R. Baral
Senior Counsel

cc: Farimah Brown, City Attorney
Anne Hersch, Planning Manager
Client

DOWNTOWN AREA PLAN, MMRP
 ITEM 34, ATTACHMENT 1, EXHIBIT B

MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: All (*)

Dept: CoB

Phase: P, W, C, O

Mitigation Measure or Continuing Best Practice

Question for Checklist

Responsible for Implementation

When Implemented

Aesthetics & Visual Quality

DAP MM AES-1: Conduct Site-Specific Visual Analysis for Buildings Proposed Between Shattuck Avenue and Oxford Street. In order to reduce development-related impacts on existing views of the Berkeley Hills for observers traveling east along east-west streets in the Downtown Area, the City should require site-specific visual analysis for proposed buildings that have the potential to affect existing view corridors to determine the extent to which such structures may interfere with existing views of the Berkeley Hills, and should consider whether stepping back such buildings is feasible and would result in a substantial reduction in impact.

- a) Has the project conducted site-specific visual analysis for buildings proposed between Shattuck Avenue and Oxford Street. In order to reduce development-related impacts on existing views of the Berkeley Hills for observers traveling east along east-west streets in the Downtown Area?
- b) Has the project considered whether stepping back such buildings is feasible and would result in a substantial reduction in impact?

CoB

P

DAP MM AES-2: Evaluate Shadow Effects for Proposed Structures near the Eastern Edge of the Downtown Area. The extent of the impact on the Crescent will depend on the location, height and bulk of structures to the southwest. While the impact may be significant, it is not possible to determine with any certainty the level of impact. Accordingly, all structures with a proposed height of 85 feet or more to be located within an area bounded by Addison Street on the north, Oxford Street on the east, Allston Way on the south, and Shattuck Avenue/Shattuck Square on the west shall be evaluated in a site-specific basis to determine the extent to which such buildings may cast shadows within the Crescent. Modifications to building heights, bulk or location should be considered as a way to reduce such shadowing.

- a.) Has the proposed structure with a proposed height of 85 feet or more, located within an area bounded by Addison Street on the north, Oxford Street on the east, Allston Way on the south, and Shattuck Avenue/Shattuck Square on the west shall be evaluated in a site-specific basis to determine the extent to which such buildings may cast shadows within the Crescent?
- b) Have modifications to building heights, bulk or location been considered as a way to reduce such shadowing?

CoB

P

Air Quality

DAP MM AIR-1: None listed in draft DAP

- a) N/A

CoB

O

DAP MM AIR-2: Buffer Toxics Air Contaminants (TAC) and Odor Emission Sources and Sensitive Land Uses. Consider potential air pollution and odor impacts from future development that may emit pollution and/or odors when locating (a) air pollution sources, and (b) residential and other pollution-sensitive land users in the vicinity of air pollution sources (which may include areas where buses idle, diesel generators, parking garage vents, restaurants, and other similar uses). Buffer sensitive receptors from TACs whenever possible, and if buffering is not feasible, apply appropriate mitigation to reduce impacts to a less than significant level, such as air filtration systems or other technologies.

- a) Has the project considered potential air pollution and odor impacts from future development that may emit pollution and/or odors when locating air pollution sources?
- b) Has the project considered potential air pollution and odor impacts from future development that may emit pollution and/or odors when locating residential and other pollution-sensitive land users in the vicinity of air pollution sources (which may include areas where buses idle, diesel generators, parking garage vents, estaurants, and other similar uses)?
- c) If buffering is not feasible, have appropriate mitigation measures been incorporated into the project to reduce the impact on sensitive receptors?

CoB

P

MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: All (*)

Dept: CoB

Phase: P, W, C, O

Mitigation Measure or Continuing Best Practice

Question for Checklist

Responsible for Implementation

When Implemented

DAP MM AIR-3: Implement BAAQMD Recommended Measures to Control PM10 Emissions during Construction. Measures to reduce diesel particulate matter and PM10 from construction are recommended to ensure that short-term health impacts to nearby sensitive receptors are avoided. Dust (PM10) Control Measures:

- Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
- Cover all hauling trucks or maintain at least two feet of freeboard.
- Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas.
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for 10 days or more).
- Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
- Limit traffic speeds on any unpaved roads to 15 mph.
- Replant vegetation in disturbed areas as quickly as possible.
- Suspend construction activities that cause visible dust plumes to extend beyond the construction site. Measures to Reduce Diesel Particulate Matter and PM2.5:
- Clear signage at all construction sites will be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite or adjacent to the construction site.
- Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately
- The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g. compressors).
- Properly tune and maintain equipment for low emissions.

- a) Have the following BAAQMD recommended measures to control particulate matter PM (10) and diesel emissions during construction been implemented? (Indicate each measure implemented in questions b - l)
- b) Have all active construction areas been watered at least twice daily and more often during windy periods?
- c) Have active areas adjacent to residences been kept damp at all times?
- d) Has the project hydroseeded or applied (non-toxic) soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for 10 days or more)?
- e) Have exposed stockpiles been enclosed covered, watered twice daily, or applied with (non-toxic) soil binders?
- f) Has traffic speeds on any unpaved roads been limited to 15 mph?
- g) Has vegetation been replanted in disturbed areas as quickly as possible?
- h) Have construction activities been suspended if and when visible dust plumes extended beyond the construction site?
- i) Has clear signage been posted to limit unnecessary diesel idling exceeding 5 minutes?
- j) Has the project ensured that exhaust from all construction diesel powered equipment used on the project site does not exceed 40 percent opacity for more than three minutes in any one hour AND that any equipment found to exceed 40 percent opacity was repaired immediately?
- k) Has temporary electrical service been installed whenever possible to avoid the need for independently powered equipment (e.g. compressors)?
- l) Has all equipment been properly tuned and maintained to ensure emission standards are not exceeded?

CoB

C W

MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: All (*)

Dept: CoB

Phase: P, W, C, O

Mitigation Measure or Continuing Best Practice

Question for Checklist

**Responsible for
Implementation**

**When
Implemented**

Cultural & Historic Resources

DAP MM CUL-1: None listed in draft DAP

a) N/A

CoB

O

MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: All (*)

Dept: CoB

Phase: P, W, C, O

Mitigation Measure or Continuing Best Practice

Question for Checklist

Responsible for Implementation When Implemented

DAP MM CUL-2: Establish Parameters for Compatible Infill Development in the Downtown Area within Updated Design Guidelines. Using the Secretary of the Interior's "Standards" as a starting point (in compliance with DAP Policy HD-1-1a), the Design Guidelines for future development in the Downtown Area should be updated to ensure that new construction respects the authentic character, significance and integrity of the existing building stock in areas that may have the potential for designation as historic districts. Specific guidelines that could be added for this purpose include, but are not limited to, the following:

- a) Have design guidelines for future development in the Downtown Area been updated to ensure that new construction respects the authentic character, significance and integrity of the existing building stock in areas that may have the potential for designation as historic districts, and is the proposed project consistent with the design guidelines? CoB P
- b) If revised design guidelines have not been adopted, is the proposed project consistent with the guidelines contained within the mitigation measure?

- Consider the difference in character of individual blocks. The scale of buildings change within the potential historic district(s) and new construction should reflect the appropriate scale per block.
- Priorities for new construction and additions include: build-to-the-street, particularly at corners; construct infill buildings at vacant or underutilized sites along major streets; and modify non-historic buildings so that they contribute visual interest and quality.
- Construct new buildings, of compatible design with the surrounding neighborhood.
- Encourage creative and innovative contemporary designs for new buildings in the downtown.
- Streetscape plays an important role in drawing individuals to a particular area of the city. Use signage, lighting, and paving to improve the pedestrian experience.
- Build consistently with the street wall, particularly at corner sites. Continue dominant rhythms for structural bays, bay windows, large pilasters, and other repeating vertical elements. Also, continue dominant cornice lines, such as between ground floors and upper stories, and at the top of facades that meet a street.
- Design new buildings to respond to the existing building context within a block, and provide continuity to the overall streetscape. Frequently, a new building will be inserted on a site between two existing buildings of disparate scale and design.
- Set back upper floors where taller buildings are permitted, so that dominant roof and cornice lines remain generally consistent in the Downtown, as seen from the street.
- Explore options for multi-use buildings, combining residential, commercial, and other compatible uses where appropriate.
- Provide multi-tenant retail space and other active publicly-accessible uses at the street level. These should be accessible directly from the sidewalk,

Monday, July 06, 2009

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MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: All (*)

Dept: CoB

Phase: P, W, C, O

Mitigation Measure or Continuing Best Practice

Question for Checklist

Responsible for Implementation

When Implemented

rather than through common interior lobbies.

- Provide easy-to-locate building entrances on all street-facing facades. Where a building extends through an entire block or is located at a corner, connect its entrances with a suitably scaled public lobby. Highlight entrances with signage and lighting to distinguish them from storefronts.

- Use vertically-proportioned windows. Group such windows in sets where a horizontally proportioned window opening is desired, especially for the expression of structural bays.

DAP MM CUL-3: Halt Work/ Archaeological Evaluation/Site-Specific Mitigation. If archaeological resources are uncovered during construction activities, all work within 50 feet of the discovery shall be redirected until a qualified archaeologist can be contacted to evaluate the situation, determine if the deposit qualifies as an archaeological resource, and provide recommendations. If the deposit does not qualify as an archaeological resource, then no further protection or study is necessary. If the deposit does qualify as an archaeological resource, then the impacts to the deposit shall be avoided by project activities. If the deposit cannot be avoided, adverse impacts to the deposit must be mitigated. Mitigation may include, but is not limited to, archaeological data recovery. Upon completion of the archaeologist's assessment, a report should be prepared documenting the methods, findings and recommendations. The report should be submitted to the City, the project proponent and the NWIC.

- a) Have archaeological resources been uncovered during construction activities?
- b) If the answer to (a) is yes, has all work within 50 feet of the discovery been redirected until a qualified archaeologist could be contacted to evaluate the situation, determine if the deposit qualifies as an archaeological resource, and provide recommendations?
- c) If the answer to (a) is yes AND if the deposit does qualify as an archaeological resource, have impacts to the deposit been avoided or mitigated by project activities?
- d) If the answer to (a) is yes, was the archaeologist's assessment or report documenting the methods, findings and recommendations been prepared and submitted to the City, the project proponent and the NWIC?

CoB

C W

DAP MM CUL-4: Halt Work/ Paleontological Evaluation/Site-Specific Mitigation. Should paleontological resources be encountered during construction or site preparation activities, such works shall be halted in the vicinity of the find. A qualified paleontologist shall be contacted to evaluate the nature of the find and determine if mitigation is necessary. All feasible recommendations of the paleontologist shall be implemented. Mitigation may include, but is not limited to, in-field documentation and recovery of specimen(s), laboratory analysis, the preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate paleontological collection facility.

- a) Was work halted if paleontological resources were discovered during construction?
- b) If answer to (a) is yes, was a qualified paleontologist contacted to evaluate the find and determine if further mitigation is necessary?
- c) If mitigations were deemed necessary by the paleontologist, were all feasible measures implemented?

CoB

C W

MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: All (*)

Dept: CoB

Phase: P, W, C, O

Mitigation Measure or Continuing Best Practice

Question for Checklist

Responsible for Implementation

When Implemented

DAP MM CUL-5: Halt Work/Coroner's Evaluation/Native American Heritage Consultation/ Compliance with Most Likely Descendent Recommendations. If human remains are encountered during construction activities, all work within 50 feet of the remains should be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and any associated grave goods. The archaeologist shall recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. Upon completion of the archaeologist's assessment, a report should be prepared documenting methods and results, as well as recommendations regarding the treatment of the human remains and any associated archaeological materials. The report should be submitted to the City, the project proponent and the NWIC.

- a) Was work halted if any human remains were found at the construction site?
- b) If the answer to (a) is yes, was the county coroner notified immediately and an archaeologist contacted to assess the situation?
- c) If the answer to (a) is yes, and the human remains were of Native American origin, was an archaeologist's report prepared and submitted to the City, the Project Proponent and the NWIC?

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MITIGATION MONITORING AND REPORTING PROGRAM

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Noise

DAP MM NOL-1: Site-Specific Noise Studies/Site Planning/Noise Control Treatments. Future residential units proposed under the DAP would be exposed to outdoor noise levels in excess of 60 Ldn and indoor levels in excess of 45 Ldn, which would exceed the City's and state's established land use compatibility thresholds. In areas where residential development would be exposed to an Ldn of greater than 60 dBA, site-specific noise studies should be conducted to determine the area of impact and to present appropriate mitigation measures, which may include the following:

- Utilize site planning to minimize noise in shared residential outdoor activity areas by locating these areas behind the buildings, in courtyards, or orienting the terraces to alleyways rather than streets, whenever possible.

- The California Building Code and the City of Berkeley require project specific acoustical analyses to achieve interior noise levels of 45 dBA Ldn or lower in residential units exposed to exterior noise levels greater than 60 dBA Ldn. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation in noise environments exceeding 70 dBA Ldn so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building façade treatments) may be required where exterior noise levels exceed 65 dBA Ldn. These treatments include, but are not limited to, sound rated windows and doors, sound rated exterior wall assemblies, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis during project design. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA Ldn or lower.

a) In areas where residential development would be exposed to L (dn) exceeding 60 dBA, were site specific noise studies conducted to determine the area of impact and to present mitigation measures, and were appropriate mitigation measures incorporated into the proposed project?

CoB

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DAP MM NOI-2: Site-Specific Noise Studies/Activities Scheduling. The following measures should be implemented to reduce noise exposure of Downtown Area residents to noise associated with nearby commercial activities:

- Noise levels at residential property lines from commercial development should be maintained not in excess of the Berkeley Municipal Code Limits. The approvals of the commercial development should require a noise study demonstrating how the business (including loading docks, refuse areas, and ventilation systems) would meet, and be consistent with, the City's noise standards.

- Ensure that noise-generating activities, such as maintenance activities and loading and unloading activities are limited to the hours of 7:00 AM to 9:00 PM.

- a) Have studies been provided to demonstrate how a proposed business would comply with the City's noise standards to ensure that noise levels at residential property lines from commercial development will not exceed Berkeley Municipal Code limits?
- b) Have noise generating activities, such as maintenance, refuse collection and loading dock functions been limited to the hours of 7:00 AM to 9:00 PM?

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DAP MM NOI-3: Site-Specific Noise Analysis/Noise Barriers/Pavement Modifications/Traffic Calming/Sound Insulation. Where anticipated noise levels would exceed City of Berkeley standards for interior noise, methods available to mitigate DAP-related noise level increases would need to be studied on a case-by-case basis as individual development projects are proposed at receivers that would be considered noise impacted along Shattuck Avenue between University Avenue and Allston Way, and along Allston Way between Shattuck Avenue and Oxford Street. Since these increases in noise levels are related to the closure of Center Street and the elimination of travel lanes on Shattuck Avenue assumed under the DAP, retaining existing travel lane configurations in the Downtown Area street network would reduce this impact to a level of less than significant. With the proposed DAP street network modifications in place, however, noise reduction methods could include the following:

- Installing traffic calming measures to slow traffic. Typically, each 5 mph reduction in travel speeds equates to 1 dBA of noise reduction.

- Affected residences could be provided building sound insulation such as sound-rated windows and doors on a case-by-case basis as a method of reducing noise levels in interior spaces.

- a) In projects where noise levels will exceed COB standards for interior noise, have impacts and mitigations been studied?

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DAP MM NOI-4: Site-Specific Noise Analysis/Noise Barriers/Pavement Modifications/Traffic Calming/Sound Insulation. Where anticipated noise levels would exceed City of Berkeley standards for interior noise, methods available to mitigate DAP-related noise level increases would need to be studied on a case-by-case basis as individual development projects are proposed at receivers that would be considered noise impacted along Shattuck Avenue between University Avenue and Allston Way, along Allston Way between Shattuck Avenue and Oxford Street, and along Durant Avenue between Milvia Street and Shattuck Avenue. Since these increases in noise levels are related to the closure of Center Street and the elimination of travel lanes on Shattuck Avenue assumed under the DAP, retaining existing travel lane configurations in the Downtown Area street network would reduce this impact to a level of less than significant. With the proposed DAP street network modifications in place, however, noise reduction methods could include the following:

a) In projects where noise levels will exceed COB standards for interior noise, have impacts and mitigations been studied?

CoB

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- Installing traffic calming measures to slow traffic. Typically, each 5 mph reduction in travel speeds equates to 1 dBA of noise reduction.

- Affected residences could be provided building sound insulation such as sound-rated windows and doors on a case-by-case basis as a method of reducing noise levels in interior spaces.

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DAP MM NOI-5: Develop Site-Specific Noise Reduction Programs and Implement Noise Abatement Measures during Construction. Prior to the issuance of building permits, the applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include appropriate time limits for construction (7:00 AM to 7:00 PM on weekdays and between the hours of 9:00 AM and 8:00 PM on weekends or holidays) as well as technically and economically feasible controls to meet the requirements of the Berkeley Municipal Code. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

- a) Has a site specific noise reduction program been prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible?
- b) Has a construction liaison been identified to address local complaints?

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- Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- Prohibit unnecessary idling of internal combustion engines.
- If impact pile driving is required, predrill foundation pile holes to minimize the number of impacts required to seat the pile.
- Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control

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blanket barriers can be rented and quickly erected.

- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

- Businesses, residences or other noisesensitive land uses within 500 feet of construction sites should be notified of the construction schedule in writing prior to the beginning of construction. Designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

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DAP MM NOI-6: Avoidance of Pile- Driving/Site-Specific Vibration Studies/ Monitoring/Contingency Planning. The following measures are recommended to reduce vibration from construction activities:

- Avoid impact pile-driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.
- Avoid using vibratory rollers and tampers near sensitive areas.
- In areas where project construction is anticipated to include vibration generating activities, such as piledriving in close proximity to existing above ground and below ground structures, site-specific vibration studies should be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:
 - Identification of sites that would include vibration compaction activities such as pile-driving and that have the potential to generate groundborne vibration, and the sensitivity of nearby above ground and below ground structures to groundborne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.
 - Development of a vibration monitoring and construction contingency plan to identify above ground and below ground structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
 - Construction contingencies would be identified for when vibration levels approached the limits.
 - At a minimum, vibration monitoring should be conducted during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
 - When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
 - Conduct post-survey on above ground and below ground structures where either monitoring has indicated high levels or complaints of damage has been

- a) Does the project avoid the use of pile driving?
- b) Does the project avoid the use of vibratory rollers and tampers near sensitive areas?
- c) In ares where vibration inducing activities cannot be avoided, has a site specific vibration study been conducted to present appropriate mitigation measures?

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made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

Transportation & Traffic

DAP MM TRA-1: Modify Lane Configuration at Martin Luther King Jr. Way/Hearst Avenue Intersection. A lane should be added for left turns in the westbound direction, changing the right lane to throughright. Implementation of this mitigation would still result in LOS F in the PM peak hour, but delay would be reduced to 131.2s, eliminating the significant DAP-related impact. The implementation of this mitigation measure requires re-striping of Hearst Avenue east of Martin Luther King Jr. Way to accommodate the new lane, eliminating the bike lane in part of the block; or the acquisition of additional right-of-way on this segment of Hearst Avenue to accommodate the new lane and maintain the bike lane. This measure is not anticipated to cause significant impacts to pedestrian traffic.

a) Has lane reconfiguration been implemented at MLK and Hearst Ave intersection?

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DAP MM TRA-10: Modify Lane Configurations at Oxford Street/University Avenue Intersection. The existing eastbound lane configuration should be maintained. This mitigation measure will result in change of LOS to D in the AM peak hour, with delay of 40.2s. Proposed lane reduction on University could be maintained west of the intersection. The implementation of this mitigation measure requires the maintenance of the eastbound lane configuration. This measure is not anticipated to cause significant impacts to pedestrian traffic.

a) Has the lane configuration been maintained at University Ave. and Oxford St. intersection?

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DAP MM TRA-11: Modify Lane Configurations at Oxford Street/Allston Way Intersection and Alter Signal Cycle Timing. One lane should be added in the southbound direction, changing the lane configuration to two through and one right turn lane. One lane should be added to the northbound direction, changing the configuration to one left turn and two through lanes. One lane should be added in the eastbound direction, changing the configuration to one left turn lane and one right turn lane. Cycle length should be increased to 25s and to provide a protected left turn signal phase in the northbound direction. This mitigation measure would result in change of LOS to C in the PM peak hour, with delay of 33.6s. On Oxford Street, the implementation of this mitigation measure would require the removal of 5 of the parking spaces in the southbound direction and the restriping of the segment in the block north of Allston Way. In the northbound direction there is the need to use the median space, as well as re-stripe the roadway. On Allston Way, the addition of the extra lane would require the loss of 4 on-street parking spaces on the south side of the street, as well as re-striping. This measure is not anticipated to cause significant impacts to pedestrian traffic. The loss of onstreet parking spaces on Oxford Street and Allston Way is not anticipated to generate significant impacts.

- | | | |
|---|-----|-----------------------|
| a) Has lane reconfiguration been implemented at Oxford St. and Allston Way intersection? | CoB | <input type="radio"/> |
| b) Has signal cycle timing been altered to meet LOS level standards? | | |

DAP MM TRA-13: Incorporate Emergency Access Lane in Design for Center Street Pedestrian Corridor. In order to maintain adequate emergency access to buildings located along Center Street between Shattuck Avenue and Oxford Street, the design of the proposed Center Street pedestrian corridor shall be required to incorporate a clear area, a minimum of 20 feet in width, where permanent and temporary structures, landscaping, and other physical features are prohibited. This area shall be designated as an emergency access lane, and must be accessible from both Shattuck Avenue and Oxford Street.

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| a) Have emergency access lanes been incorporated in the design for the Center St. pedestrian corridor? | CoB | <input type="radio"/> |
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<p>DAP MM TRA-14a: Install Class 2 Bike Lanes on Milvia Street between University Avenue and Allston Way. This mitigation measure may result in the loss of on-street parking stalls along Milvia Street in order to accommodate the bike lanes. Up to 35 on-street parking stalls could be impacted by this mitigation measure. As noted in the parking demand discussion, sufficient public parking capacity is anticipated in the Year 2030 With Project condition, so the loss of these parking stalls would not be anticipated to cause a Install Class 2 Bike Lanes on Milvia Street between University Avenue and Allston Way. This mitigation measure may result in the loss of on-street significant impact. This mitigation measure would also not preclude the implementation of the traffic mitigation measures at the University Avenue/Milvia Street intersection and the Center Street/Milvia Street intersection.</p>	<p>a) Have Class 2 bike lanes been installed on Milvia St between University Ave. and Allston Way?</p>	<p>CoB</p>	<p>0</p>
<p>DAP MM TRA-14b: Install Traffic Calming Devices. Traffic calming devices should be installed on Milvia Street either between University Avenue and Allston Way or immediately north and south of this segment to discourage through vehicle traffic from traveling on this section of the roadway. Traffic calming devices could include speed humps, turn restrictions/prohibitions, or other measures determined by the City of Berkeley.</p>	<p>a) Have traffic calming devices been installed on Milvia St. between University Ave and Allston Way to discourage through traffic?</p>	<p>CoB</p>	<p>0</p>
<p>DAP MM TRA-2: Modify Lane Configuration at Martin Luther King Jr. Way/Allston Way Intersection. The eastbound lane configuration should be changed, turning the existing through-left lane to left turn only and the right lane to a throughright. A right turn lane to Martin Luther King Jr. Way in the southbound direction should be added, changing the through-right lane to through only. This mitigation measure would result in changing the LOS to D, with delay of 49.8s. The implementation of this mitigation measure requires re-striping of Allston Way west of Martin Luther King Jr. Way to accommodate the lane changes, and the acquisition of right-of-way north of Allston Way to accommodate the southbound right turn lane. This measure is not anticipated to cause significant impacts to pedestrian traffic.</p>	<p>a) Has lane reconfiguration been implemented at MLK and Allston Way Intersection?</p>	<p>CoB</p>	<p>0</p>

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DAP MM TRA-3: Modify Lane Configuration at Milvia Street/University Avenue Intersection. A right turn lane should be added to University Avenue to the eastbound direction and one left turn lane should be added to University Avenue in the westbound direction. In the eastbound direction, the configuration of lanes would be one through-left lane, one through and one right turn lane. In the westbound direction, the configuration of lanes would be one left turn lane, one through lane and one through-right lane. This mitigation measure would change LOS to B, with delay of 14.9s in the AM peak hour, and to LOS C with delay of 25.8s in the PM peak hour. The implementation of this mitigation measure requires the removal of the median east of the intersection in order to accommodate the extra lane, and the restriping of University Avenue on both sides of Milvia Street. This measure is not anticipated to cause significant impacts to pedestrian traffic, but a right turn on green only with an advance stop bar can be implemented on University Avenue to avoid conflicts with pedestrians crossing Milvia Street. This measure would increase pedestrian safety and does not change the LOS of the intersection. The implementation of a bicycle waiting area placed ahead of the cars waiting to turn right can reduce the conflicts through bicycle flows and right-turn vehicle movements on Milvia Street in the southbound direction. This measure requires re-striping of Milvia Street.

a) Has lane reconfiguration been implemented at Milvia St. and University Ave. intersection?

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DAP MM TRA-4: Modify Lane Configuration at Milvia Street/Center Street Intersection. One left turn lane should be added to Milvia Street in the northbound and southbound directions, changing the lane configuration to one through-right and one left turn lane. This mitigation measure would result in change of LOS to C, with delay of 24.0s in the PM peak hour. The implementation of this mitigation measure requires the removal of onstreet parking spaces in the northbound and southbound directions to accommodate the left turn, and the re-striping of Milvia Street on both sides of Center Street. This measure is not anticipated to cause significant impacts to pedestrian traffic. Milvia Street would remain a Bicycle Boulevard and sufficient traffic lane width would be provided for bicycles and vehicles to make through movements at this intersection. This improvement would result in the loss of about eight on-street parking spaces, but is not anticipated to generate significant impact with regard to parking.

a) Has lane reconfiguration been implemented at Milvia St. and Center St. intersection?

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DAP MM TRA-5: Modify Lane Configuration at Shattuck Avenue/Center Street. The significant impact at this intersection is mitigated by maintaining at least two traffic through lanes in the northbound direction on Shattuck Avenue along with a left turn lane, as provided by the DAP under consideration for adoption (dated July 6, 2009). No further mitigation is needed.	a) Have at least two traffic through lanes in the northbound direction on Shattuck Avenue been maintained along with a left turn lane?	CoB	O
DAP MM TRA-6: Modify Lane Configurations at Shattuck Avenue/Allston Way Intersection. The existing number of lanes in the northbound and southbound directions (i.e. three in each direction) should be configured to have a minimum one left turn lane, one through lane and one right turn lane, as provided by the DAP under consideration for adoption. Furthermore, a right turn land will be added in the westbound direction of Allston Way.	a) Has lane reconfiguration been implemented at Shattuck Ave and Allston Way intersection?	CoB	O
DAP MM TRA-7: Modify Lane Configurations at Shattuck Avenue/ Bancroft Way Intersection. The existing number of lanes in the southbound direction should be maintained, changing lane configuration to one through lane and one through-right lane. This mitigation measure would result in change of LOS to D, with delay of 37.6s in the PM peak hour. The proposed mitigation measure would not maintain the single through concept of the Shattuck Boulevard plan. On Shattuck Avenue, the implementation of this mitigation measure would require the reconfiguration of the parking spaces and sidewalk in the southbound direction and the re-striping of the segment of the block north of Bancroft Way. This measure is not anticipated to cause significant impacts to pedestrian traffic.	a) Has lane reconfiguration been implemented at Shattuck Ave and Bancroft Way intersection?	CoB	O
DAP MM TRA-8: Modify Lane Configurations at Shattuck Avenue/Durant Avenue Intersection. The existing number of lanes in the northbound direction should be maintained, changing the lane configuration to one left turn lane, one through and one right turn lane. This mitigation measure will result in change of LOS to B in the AM peak hour (17.8s delay). LOS C is achieved in the PM peak hour (21.6s delay) applying the mitigation measures described above plus a 20s increase in cycle time. On Shattuck Avenue, the implementation of this mitigation measure would require the reconfiguration of the parking spaces and sidewalk in the northbound direction and the re-striping of the segment in the block south of Durant Avenue. This measure is not anticipated to cause significant impacts to pedestrian traffic.	a) Has lane reconfiguration been implemented at Shattuck Ave. and Durant Ave intersection?	CoB	O

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DAP MM TRA-9: Maintain Existing Lane Geometry in the Westbound Direction. The DAP-proposed lane reduction on Hearst Avenue would be maintained to the west of the intersection, with the lane reduction occurring in a transition to the west of the intersection. Add one lane in southbound direction, changing lane configuration to one left-turn, one through and one through-right lane. Change the eastbound direction lane configuration to one through-left lane one through-right lane. Maintain split signal phasing for eastbound and westbound directions. Add a right turn only lane to the northbound direction and provide right turn overlap signal phasing for this movement. The right turn only lane would not be a free-right turn, but a striped, exclusive right turn lane adjacent to the northbound through lanes. Change northbound and southbound signal phasing to protected + permitted for left turns. This mitigation measure would change LOS to D in the AM peak hour (54.9 seconds delay). In the PM peak hour, the 2030 LOS is improved to LOS D, with delay reduced from 166.4 seconds With Project to 54.4 seconds. On Oxford Street, the implementation of this mitigation measure requires the removal of seven parking spaces in the southbound direction and the re-striping of the segment in the block north of Hearst Avenue. On Hearst Avenue, existing configuration should be maintained in both directions. This measure is not anticipated to cause significant impacts to pedestrian traffic. The loss of on-street parking spaces on Oxford is not anticipated to generate significant impacts.

- a) Has lane reconfiguration been implemented at Oxford St. and Hearst Ave. intersection?
- b) Has signal cycle timing been adjusted to meet LOS AM and PM peak hour targets?

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Utilities & Service Systems

DAP MM USS-1: Site-Specific Analysis of Project-Related Effects on the Sanitary Sewer conveyance System/Project-Related Contribution to Necessary Capacity Expansion. As individual development projects are proposed in the Downtown Area, each project will be subject to site-specific analysis by the City of Berkeley to determine whether the development proposed would exceed the capacity of the sanitary sewer conveyance system that directly serves the project. In the event that existing sanitary sewer modeling demonstrates that sanitary sewer conveyance system capacity would be exceeded by the proposed project, then the project proponents and the City shall enter into negotiations to determine the financial contribution required from the project proponents to enable the City to expand sanitary sewer conveyance capacity as necessary to accommodate the project as proposed.

- a) Has a project/site specific analysis been conducted to determine whether the project would exceed the sanitary sewer system capacity that directly serves the project?
- b) If modeling demonstrates that sewer capacity will be exceeded, have negotiations between the project proponents and city been held to determine the financial contribution necessary to expand the sewer system to accommodate the project, and have contributions been required?

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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

2274 Shattuck Avenue

Use Permit #ZP2023-0079 to demolish the commercial building (preserving and renovating the front façade and lobby), and construct a 17-story (183 feet, plus 5-foot parapet), 214,032-square-foot, mixed-use residential building with 227 dwelling units (including 23 Very Low-Income Density Bonus qualifying units), and one ADA parking space.

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: DT – Downtown; Downtown Area Plan
- Zoning: C-DMU (Corridor) – Downtown Mixed-Use Commercial District – Corridor Sub-Area

B. Zoning Permits Required:

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use residential development
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limit, up to 75 feet (plus 5-foot parapet, by right)
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify front and side setback requirements
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district

C. Concessions and Waivers Requested Pursuant to State Density Bonus Law (California Government Code Section 65915):

- Concession – none.
- Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 183 feet to roof (plus 5-foot parapet, by right), where 75 feet is the limit (plus 5-foot parapet by right)
- Waiver of BMC Section 23.204.130(E)(3)(b) to waive front and side setback minimums
- Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to 7-foot, 1 inch, where 5 feet maximum is required, at 0-20-foot building height;
- Waiver of BMC Section 23.204.130(E)(3)(b)(i) to exceed 120 feet in width in diagonal measurement above 120 feet in height – to be 178 feet, 9 inches in width, where 120 feet is required
- Waiver of BMC Section 23.204.130(E)(4) to reduce the usable open space requirement – to provide 7,737 square feet, where 18,160 square feet is required
- Waiver of BMC Section 23.322.090(A) to provide 72 long term residential bicycle parking, where 210 is required

D. CEQA Exemption Determination: Pursuant to Government Code Section 65589.5, it is staff's determination that the project is categorically exempt under Section 15332 ("Infill Development Projects") of the CEQA Guidelines.

D. Project Recommendation: Approve Use Permit #ZP2023-0079, pursuant to BMC Section 23.406.040(D)

E. Parties Involved:

- Applicant Isaiah Stackhouse, 2421 Fourth St., Berkeley, CA 94710
- Property Owner 2274 Shattuck QOZB, LLC, C/O JP Walsh, 2539 Telegraph Avenue, Suite 101, Berkeley CA 94704

Further Information:

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

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

Questions about the project should be directed to the project planner, Sharon Gong, at (510) 981-7429 or sgong@berkeleyca.gov.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@berkeleyca.gov.

Communication Disclaimer:

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

Written Comments, Communications, and Reports:

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@berkeleyca.gov. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>

All persons are welcome to attend the hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.



Accessibility Information / ADA Disclaimer:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@berkeleyca.gov) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within 14 days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than 90 days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that 90-day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
 - a. That this belief is a basis of your appeal.
 - b. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - c. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above. If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

Gong, Sharon

From: LZ Zephyr <dogspirit@sbcglobal.net>
Sent: Monday, December 2, 2024 8:32 PM
To: Hersch, Anne; Gong, Sharon; Planning Dept. Mailbox; Zoning Adjustments Board (ZAB); All Council; City Attorney's Office
Cc: savetheuaberkeley@gmail.com
Subject: Stop the demolition of the historic UA theater

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Berkeley city staff, ZAB, and City Council,

I'm writing to demand that city staff, the Zoning Adjustments Board, and the City Council take action to prevent the destruction of the historic United Artists theater at 2274 Shattuck Ave. in downtown Berkeley. It is unacceptable to let a developer retain a fraction of the facade and lobby while tearing down the palatial four-story theater itself.

Built in 1932, the UA is on the California Register of Historical Resources, is National Register-eligible, and is also now a city landmark, thanks to an LPC decision earlier this year. Without a doubt, the building is a cultural and historical resource under the CEQA statute; the proposal to demolish it is a "substantial adverse change" requiring extensive CEQA review. The city must insist that all oversight laws and processes are followed and not give baseless exemptions to the developer.

Constructed during the Great Depression by Hollywood icons Charlie Chaplin and Mary Pickford, the UA Berkeley is arguably the finest theater ever built in the city and one of the few Art Deco movie palaces of its kind in the state that could be preserved. Despite being converted to a multiplex 50 years ago, the theater is resplendent with Art Deco architectural detail, decor, and furnishings; it has been relatively well-maintained over the decades, its historic features surviving various retrofits thanks to local preservationists who insisted the original auditorium be preserved behind false walls. The Historical Resource Evaluation on the UA, paid for by the developer, is not an honest and credible assessment; it would be unethical for city officials to consider this document the final word on the status of this landmark property.

The UA presents a tremendous opportunity for Berkeley. It has the potential to be restored as a glorious, midsize live performance venue like Oakland's Paramount, galvanizing an economic and cultural renaissance in the downtown. The many cities in the Bay Area and nationwide that have chosen to preserve their historic theaters never regret doing so. Another option is for the UA to remain a historic multiplex theater that serves a public eager to resume moviegoing after the pandemic. The future possibilities for this splendid building are numerous—but not if complacent city leaders allow a developer to level it into oblivion.

Berkeley citizens are watching with alarm as a mass extinction event for movie theaters unfolds: The Shattuck Cinemas has been freshly demolished while the beloved art deco California and the most valuable of them all, the UA, sit on the precipice of ruin. This all goes against the city's Downtown Area Plan, which was the product of over 200 public meetings and explicitly calls for the retention and support of downtown cinemas. This plan is still in effect.

Building more housing is no doubt vitally important, but it does not have to cost Berkeley one of its most magnificent landmark buildings in the UA. City officials must maintain control over land use decisions, fostering downtown development that maintains a mix of arts and culture and commerce alongside residential growth.

The UA Berkeley served as a community hub and entertainment venue for 91 years, and that tradition should continue. Its destruction would be an irreparable blow to the city's historic and cultural fabric that leaders must avoid at all costs.

Architecture is part of what makes a community, not more ticky tacky housing. Let the generations to come view that art AND function. can co-exist...should co-exist. Do not destroy this beauty, it is a treasure and should be treated as such.

Thank you for your consideration.

-- LZ Zephyr
dogspirit@sbcglobal.net

Gong, Sharon

From: Gong, Sharon
Sent: Tuesday, December 3, 2024 12:10 PM
To: Gong, Sharon
Subject: FW: PLEASE SAVE THE U.A. THEATER!

From: Jane Stillwater <jpstillwater@yahoo.com>
Sent: Monday, December 02, 2024 1:30 PM
To: All Council <council@berkeleyca.gov>; Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Subject: PLEASE SAVE THE U.A. THEATER!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

This theater is just so historic and fabulously wonderful. We already have over 80 new high-rises here and don't need any more -- but we do need to save the U.A. Thanks.

Jane Stillwater
Berkeley, CA

Gong, Sharon

From: Gong, Sharon
Sent: Wednesday, December 4, 2024 12:49 PM
To: Gong, Sharon
Subject: FW: 2274 Shattuck Avenue

From: Melanie Bowden <mbowden4007@gmail.com>
Sent: Tuesday, December 03, 2024 2:30 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Subject: 2274 Shattuck Avenue

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Zoning Board,

I am writing to protest the destruction of the historic UA theater in downtown Berkeley. The building should be saved as it is historic and we need to save the few theaters we have left in Berkeley.

Sincerely,
Melanie Bowden
2028 Woolsey Street, Berkeley CA 94703