



Office of the City Manager

PUBLIC HEARING
July 23, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Jordan Klein, Director, Planning & Development Department
Subject: Landmarks Preservation Commission Appeal: 2138 Kittredge, Landmark application #LMIN2024-0006

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt a Resolution upholding the appeal and reversing the Landmarks Preservation Commission (LPC) decision to designate the subject property as a City Landmark.

SUMMARY

On February 6, 2025, the LPC approved Landmark Designation Application #LMIN2024-0006, designating the property at 2138 Kittredge Street as a City Landmark. The designation was based on findings that the property meets criteria related to architectural merit, cultural value, and historical significance.

On March 24, 2025, StudioOne QOZB LLC, the applicant for a pending Use Permit on the same property (#ZP2024-0114) which was submitted pursuant to Senate Bill 330 (the Housing Crisis Act of 2019), filed an appeal of the LPC's decision. The appellant contends that landmark designation of the subject property would conflict with the provisions of SB 330 and adversely impact the proposed housing development project.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On February 14, 2024 the City received a Preliminary Use Permit (PLN2024-0011) application pursuant to SB330.

On April 4, 2024 the Preliminary Use Permit (PLN2024-0011) was deemed complete and vested to that date.

On August 6, 2024, the appellant submitted a Use Permit application pursuant to SB 330.

On September 5, 2024, the Use Permit application (#ZP2024-0114) was deemed complete.

On October 30, 2024, the City received a Landmark or Structure of Merit application for the subject property and initiated consideration of the property for the designation.

In December 2024, staff prepared notices for a public hearing scheduled for the LPC meeting of January 6, 2025. However, due to concerns raised by interested parties, the item was pulled from the agenda.

On January 27, 2025, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, as well as to interested neighborhood organizations.

On February 6, 2025, the LPC held a public hearing on the landmark designation application and received public comment. Following deliberations, the LPC unanimously approved the designation by a vote of 8-0-0-0 vote (Moved: Schwartz, Second: Orbuch, Ayes: Crandall, Enchill, Finacom, Leuschner, Montgomery, Orbuch, Plese and Schwartz, Noes: None; Abstain: None; Absent: None). See Attachment 3 for the LPC staff report.

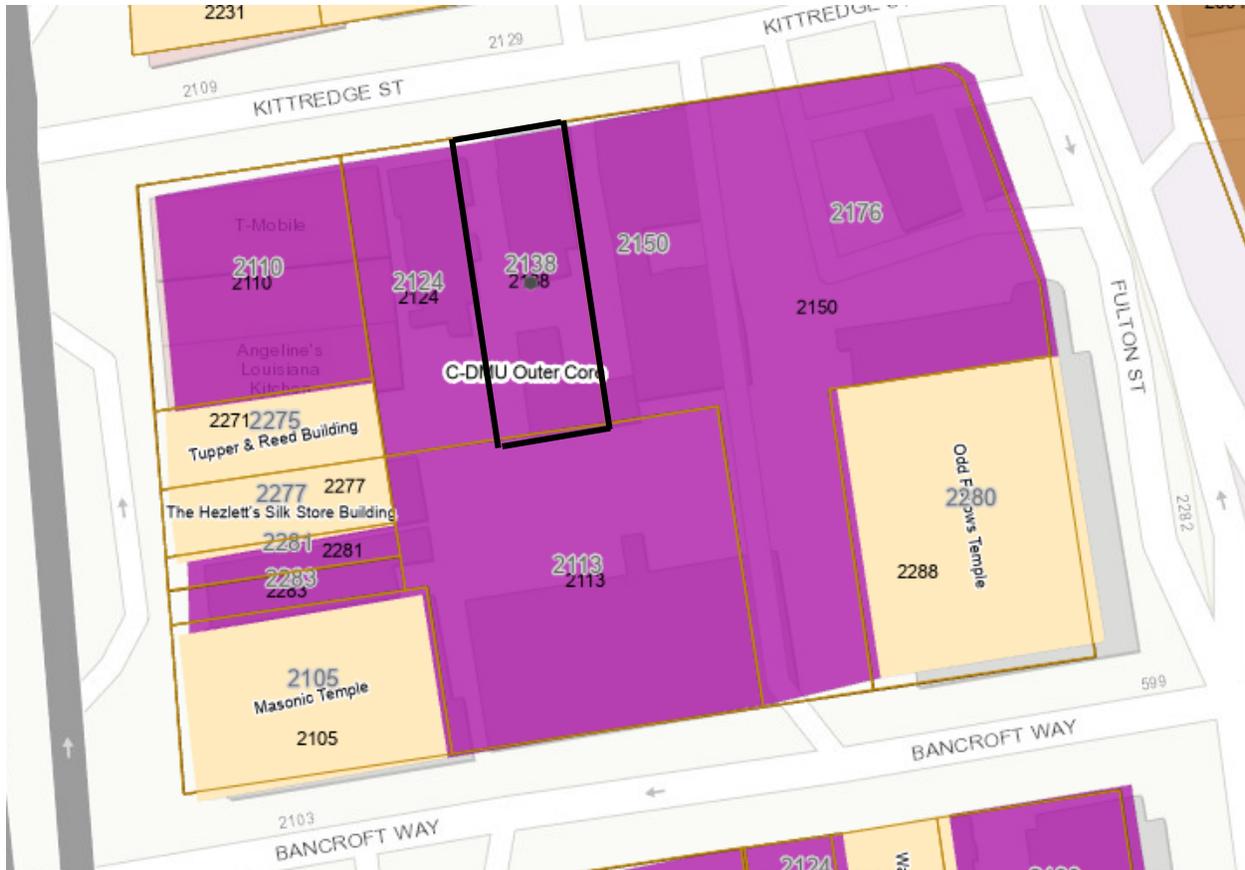
On March 24, 2025, StudioOne QOZB LLC filed an appeal of the LPC's decision.

BACKGROUND

Landmarks Designation

The subject property is a 6,750-square-foot lot located on the south side of Kittredge Street, between Shattuck Avenue and Fulton Street. It is located in the C-DMU (Downtown Mixed-Use) Outer Core Zoning District (Figure 1) and contains two structures: a two-story residence and a detached carport (Image 1 and Image 2).

Figure 1. Zoning



The primary structure, historically known as the Fitzpatrick House and later as the Pepper Tree Tea Room, is situated near the northwest corner of the lot, with its north-facing façade built directly along the northern property line. The one-story carport is located at the rear of the site, occupying the southwest corner and spanning the full width of the rear property line. Vehicle access is provided by a gated driveway at the northwest corner of the parcel, running along the eastern side of the residence.



Image 1. Street View

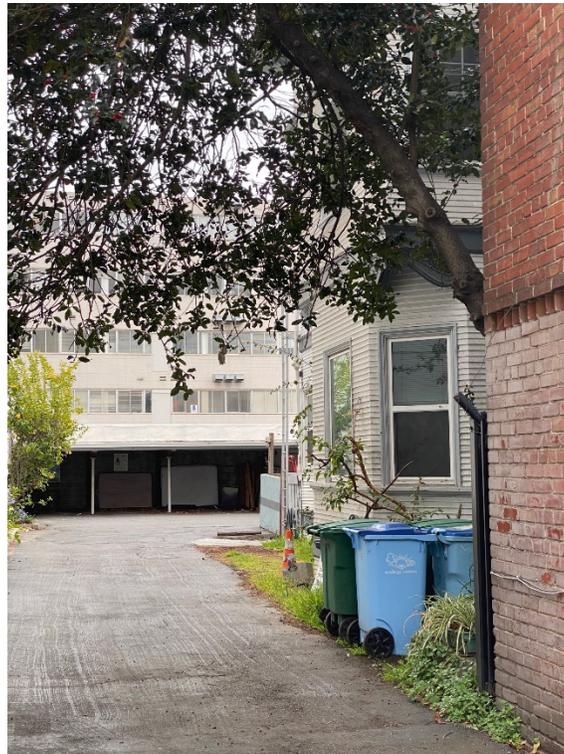


Image 2. Driveway/Carport View

The subject property is not listed on the National Register of Historic Places (NR) or the California Register of Historical Resources (CR), but it was recorded for the State Historic Resources Inventory in 1978 and recommended eligible for the NR. It is also listed on the Berkeley Urban Conservation Survey (form #21280).

In 2015, the City completed the Shattuck Avenue Commercial Corridor Historic Context and Survey, which identified a potential Shattuck Avenue Commercial Corridor Historic District. The subject property was assigned a California Historical Resource Status Code (CHRSC) of 3S, signifying it as locally significant and a contributor to the proposed district under Criterion A/1 of the NR/CR, with a period of significance spanning 1904–1958. While the district has not been formally established, it has been identified through a State Historic Preservation Officer (SHPO) compliant evaluation and survey. Therefore, both the potential district and the subject building qualify as cultural resources pursuant to CEQA Guidelines Section 15064.5(a).

Several City Landmarks and Structures of Merit are located nearby, including the A.H. Broad House and Storefront at 2117 Kittredge Street, California Theater at 2115 Kittredge Street, Brooks Apartment Building at 2231 Shattuck Avenue, Tupper and Reed Building at 2271 Shattuck Avenue, Hezlett's Silk Store Building at 2277 Shattuck Avenue, Odd Fellows Temple at 2288 Fulton Street, Masonic Temple at 2105 Bancroft Way, and Edwards Stadium at 2594 Hearst Avenue.

Senate Bill 330 (Housing Crisis Act of 2019) Vesting Rights

SB 330, also known as "The Housing Crisis Act of 2019," provides a sponsor of a housing development project a pathway to preserve planning and zoning rights from the date of application filing. This allows the project to vest under laws in place when the application is filed and limits the number of public meetings about the project application to five. An SB 330 Preliminary Use Permit application was submitted on February 14, 2024, and the pre-application was deemed complete on April 4, 2024 (#ZP2024-0114). Any subsequent changes to zoning or other local regulations, including discretionary decisions such as a local landmark designation, are not applicable to the housing development project.

RATIONALE FOR RECOMMENDATION

The main issue raised in the appellant's letter (Attachment 2) and staff's response are detailed below. For the sake of brevity, all the appeal issues are not re-stated in their entirety.

Summary of Main Issue: The appellant claims that the designation of the property as a historic site is prohibited by SB 330 and the HAA due to rights vested by the complete housing development project application, and that it places an undue burden, putting the project at risk.

Response: Under State law, once a preliminary application for a housing development project is submitted and deemed complete, it is protected from the application of new policies or standards, including historic designations. Government Code Section 65913.10(a) (SB 330) requires that a city determine whether a project site is a historic site at the time the application is deemed complete, and that determination remains valid for the duration of the project review. Similarly, Government Code Section 65589.5(o)(1) (HAA) provides that housing projects are subject only to the ordinances, policies, and standards that were in effect at the time a preliminary application was submitted.

In this case, the preliminary application was deemed completed on April 4, 2024 and the full application was deemed complete on September 5, 2024. The Landmarks Preservation Commission designated the site as a historic landmark on February 6, 2025, which occurred after the vested rights had been established. Accordingly, Staff recommends reversing the designation because it cannot be applied to the proposed project under State law. As a result, the designation would have no practical effect in this instance.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 3.24.300(E), the Council may (1) continue the public hearing, (2) affirm, or modify the LPC's decision, or (3) remand the matter to the LPC.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The reversal of 2138 Kittredge Street as a City Landmark designation, LMIN2024-0006, would not have a significant effect on the environment, and therefore is not subject to CEQA (CEQA Guidelines Section 15061(b)(3), Common Sense Exemption).

CONTACT PERSON

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Anne Hersch, Land Use Planning Manager, (510) 981-7411
Robert Rivera, Senior Planner, (510) 981-7480

Attachments:

- 1: Draft Resolution
- 2: LPC Decision Appeal Letter, received March 24, 2025
- 3: LPC Packet (Staff Report and attachments), dated February 6, 2025
- 4: Public Hearing Notice
- 5: Index to Administrative Record
- 6: Administrative Record

RESOLUTION NO. ##,###-N.S.

UPHOLD THE APPEAL AND REVERSE THE LANDMARK PRESERVATION COMMISSION DECISION TO DESIGNATE THE SUBJECT PROPERTY AT 2138 KITTREDGE STREET, THE FITZPATRICK HOUSE AND PEPPER TREE ROOM, AS A CITY LANDMARK

WHEREAS, on February 14, 2024, the City received a Preliminary Use Permit (PLN2024-0011) application pursuant to SB330; and

WHEREAS, On April 4, 2024, the Preliminary Use Permit (PLN2024-0011) was deemed complete; and

WHEREAS, on October 30, 2024, residents of the City of Berkeley (“applicant”) submitted a Landmark or Structure of Merit application (LMIN2024-0006) to designate the property at 2138 Kittredge Street as a City Landmark; and

WHEREAS, on January 27, 2025, the City mailed public hearing notices to all adjacent property owners and occupants within 300 feet of the subject property, and to interested neighborhood organizations; and

WHEREAS, on February 6, 2025, the Landmark Preservation Commission (LPC) conducted a public hearing for the Landmark or Structure of Merit application (LMIN2024-0006). After considering the staff report, the administrative record, and hearing comments from staff, the applicant, and the members of the public, the LPC approved the project by a vote of 8-0-0-0; and

WHEREAS, on March 24, 2025, representatives of StudioOne QOZB (“appellants”) submitted an appeal of the LPC decision to the City Clerk; and

WHEREAS, on or before July 9, 2025, staff posted the public hearing notice at the site and three nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. The Council must conduct a public hearing to resolve the appeal; and

WHEREAS, on July 23, 2025, the Council held a public hearing to consider the LPC’s decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant upholding the appeal.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley hereby reverses the decision made by LPC to approve a Landmark or Structure of Merit application #LMIN2024-0006.

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March 24, 2025

VIA EMAIL AND HAND DELIVERY¹

Mark Numainville
City Clerk (clerk@berkeleyca.gov)
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

**Re: Appeal of Landmarks Preservation Commission Landmark
Designation Approval #LMIN2024-0006
Re: 2138 Kittredge Street, APN 057-2029-015-00**

Dear City Clerk:

On behalf of our client StudiOne QOZB LLC, we appeal the action taken by the City of Berkeley Landmarks Preservation Commission on February 6, 2025, and described in the Notice of Decision issued by the City on March 10, 2025. Per the Decision letter, the deadline to appeal the approval is March 25, 2025.

Background

StudiOne QOZB LLC is the applicant for a use permit to construct a 66-unit housing development project at the above-referenced property as to which a preliminary application was filed pursuant to SB 330 (the Housing Crisis Act of 2019) on March 18, 2024.² A full application was submitted on August 6, 2024, and was deemed complete by the City on September 5, 2024. The project, which includes deed-restricted affordable units and a density bonus, complies with all applicable, objective general plan and zoning standards.

On October 30, 2024, an application to designate 2138 Kittredge Street as a City of Berkeley landmark was submitted to the City by members of the Berkeley Architectural Heritage Association. It expressly indicated that it was being filed to protect the site from development. Despite the fact that a preliminary application and full application for a housing development project was already in process, the City scheduled a public hearing to consider the Landmark

¹ Payment of the appeal is being submitted with the copy of this appeal being hand-delivered to the City.

² The applicant submitted a preliminary application on February 14, 2024, and provided a quick update on March 18, 2024. Via letter dated April 4, 2024, the City of Berkeley acknowledged a preliminary application was received effective March 18, 2024.

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Application before the Landmarks Preservation Commission (LPC) on February 6, 2025. (StudiOne submitted a letter opposing the landmark application in advance of the hearing.)

The LPC voted unanimously to designate the building at 2138 Kittredge as a City of Berkeley Landmark, purporting that the structure met three independent grounds for landmark designation (summarized as architectural merit, association with its original and subsequent owners, and the buildings "association with a pattern of residential to residential-commercial development" in the City).

Grounds for Appeal

1. Violation of SB 330. The site is currently vested under state housing law (SB 330), which prohibited the LPC from making or applying a Landmark or Structure of Merit determination while the SB 330 application remains in effect.

A. The HAA and SB 330 Curtail Belated Attempts to Determine Historic Significance; Landmarking Places an Undue Burden and Puts the Project at Risk.

The scope of the LPC's discretion in reviewing the Landmark Application is limited to (1) determining the site is not a Landmark or Structure of Merit; or (2) referring the site to the City's list for future consideration if the SB 330 application lapses.

On July 8, 2020, the Berkeley Office of the City Attorney issued an SB 330 Memorandum, which included the legal directive that "Government Code section 65913.10(a) prohibits the City from imposing additional historic or cultural resources protections..." on a site subject to an SB 330 preliminary application under the Housing Accountability Act ("HAA") (Gov. Code § 65589).³ The City Attorney concluded that, as a result, the "LPC and the City are prohibited by state law from denying or imposing conditions on a housing development project based on any cultural or historic resources protections" on a site subject to an SB 330 preliminary application, and that any historic resources information required as part of the preliminary application must be limited to the identification of resources "known to exist" at the time of the application.

Since then, the City has improperly eroded the vesting protections of SB 330 by alleging that a Landmark or Structure of Merit determination may still be made on sites that are subject to an SB 330 application. The City's alleged basis for this (as stated in staff reports on other projects facing the same situation) is that the legal effect of that determination will only be imposed if the SB 330 application ultimately does not move forward and thereby lapses. The City's stated position – that the LPC can designate an SB 330 site a Landmark or Structure of Merit, but then conditionally defer the effect of that determination – violates the vesting

³ See July 8, 2020, Memorandum from Farimah Brown, City Attorney to Jordan Klein, Planning Director, contained in City files.

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protections in the HAA, runs contrary to due process protections required in adjudicative hearings, and constitutes an abuse of discretion subject to reversal by a court.

Moreover, the City's justification fails to appreciate that a landmark designation provides a significant burden on the title of the property and impacts the applicant's ability to finance the project. The Berkeley Municipal Code (BMC) requires that an approval of a designation requires such designation to be recorded (BMC § 3.24.180.A.) If an unforeseen circumstance results in the application losing its vesting, the site would be immediately devalued given that any designation would immediately apply (and potentially limit and possibly prohibit development) and a lender would not want to take the risk of loaning money on a project that could have such a dramatic change in future value. As such, any "prospective" designation places an undue burden on property owner with lenders and title company/insurance, and would put the project at risk and would discourage the development of much-needed housing⁴.

The LPC's landmarking process is a "quasi-adjudicative hearing," meaning that evidence may be presented, specific findings must be made, and any findings to support a Landmark or Structure of Merit determination must be supported by substantial evidence in the record. (See Cal. Code Civ. Proc., § 1094.5.) Courts will invalidate a quasi-adjudicative ruling if it constitutes an "abuse of discretion." An abuse of discretion occurs if the LPC fails to proceed in the manner required by law, fails to adopt sufficient findings, or makes findings that are not supported by substantial evidence. (Cal. Code Civ. Proc., § 1094.5(b).)

The LPC hearing and its consideration of the site is, as a practical matter, a waste of time and City resources. The designation is both speculative and ineffective if the pending development application is ultimately approved. However, both City staff and applicant now must spend time and resources (including hiring legal and historical consultants) on a potentially superfluous proceeding (not to mention an illegal one).

Given the housing crisis, Legislative direction from Sacramento, as well as guidance from the Department of Housing and Community Development, the City should be removing, not imposing, barriers to the production of housing.

B. The plain language of the HAA prohibits the LPC from making a landmark determination while a development application is vested under SB 330.

The LPC's determination that the site is a Landmark is an abuse of discretion in violation of the HAA. Historic resource determinations are legally vested when a housing development application is deemed complete:

⁴ The BMC requires that a decision on whether to designate a property occur within 180 days of the public hearing where the application is considered. (BMC § 3.24.150.) Thus, it does not appear that the BMC allows for the indefinite postponement of a designation as would occur if the LPC (and ultimately City Council) were to decide to designate the site.

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For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, **the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made.** (Cal. Gov. Code § 65913.10(a) [emphasis added].)

Chapter 3.24 of the BMC authorizes the LPC to determine whether the property is a historic site. (BMC § 3.24.120 – 3.24.160.) The timing of that determination is strictly limited by SB 330, which requires the LPC to make "that determination" at the time that the SB 330 application is submitted or deemed complete.⁵ As such, the legal effect is that the LPC only had authority to designate this property as a Landmark *prior* to the filing of the SB 330 application.

C. None of the HAA's exceptions to automatic vesting apply in this case.

SB 330 prohibits cities from making landmark determinations for the entire time that an SB 330 application remains vested. The only enumerated exception to the automatic vesting provision for historical resources arises if "any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities." (Gov. Code § 65913.10(a).) These exceptions do not apply in this instance.

No other exceptions to the vesting protections under the HAA apply here. While the HAA provides exceptions that allow City-wide policies to be imposed after an SB 330 application lapses, those exceptions do not apply to site-specific determinations, such as the Landmark Application proposed to go to the LPC. Adjudicative hearings—like those for Landmarks — are legally distinct from legislative approvals, such as a rezoning or general plan amendment. Legislative approvals apply city-wide, and are subject to an entirely different, more deferential "arbitrary and capricious" standard.

Adjudicative decisions focus on specific properties and projects, and the law provides stronger requirements and standards. Those standards are tied to basic constitutional due process protections that apply to everyone, including landowners and real estate developers.

The vesting protections in the HAA and SB 330 are in alignment with this fundamental distinction. A "housing development project shall be subject **only** to the ordinances, policies, and standards adopted and in effect when a preliminary application... was submitted." (Gov Code §

⁵ Gov. Code § 65913.10(a); The City Attorney has noted, an application is "deemed complete" for purposes of vesting under the HAA when an SB 330 preliminary application or a complete application is submitted (i.e., whichever occurs first), as set forth in Government Code § 65589.5(h)(5). (Attachment 2, p. 2.).

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65589.5(o).) The HAA's vesting protections for legislative policies include a set of enumerated exceptions where certain policies, such as the imposition of new impact fees, are expressly deemed to apply to a project site if the SB 330 application lapses or does not move forward:

[SB 330] shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application ... was submitted... in the following circumstances... [including when a] housing development project has not commenced construction within two and one-half years... following the date that the project received final approval. (Gov Code § 65589.5(o)(2)(A-E).)

SB 330's vesting provisions for historic resources, however, were codified in a separate statute that prohibits cities from making site-specific landmark determinations once a development application has been determined to be complete. (Gov Code § 65589.5 (h)(5); Gov. Code § 65913.10(a).) Fundamental principles of statutory interpretation require that the HAA be construed in harmony with this clear distinction between legislative and adjudicative approvals. (See, e.g., *Jones v. Hendrix* (2023) 599 U.S. 465, 478.)

This distinction is consequential. The exceptions contained in the HAA allowing policies and ordinances to be imposed after an application lapses are consistent with the legal underpinnings for legislative approvals. The vesting provisions for historical resources, however, are clearly stated to prevent local bodies from making a site-specific, adjudicative determination that could reduce the development potential of a site that is vested under SB 330, with only one limited exception (not applicable here) related to artifacts discovered during construction.

Therefore, the LPC's determination in favor of the Landmark Application violates SB 330. There are no applicable exceptions to state housing law that allow the LPC to render a site-specific landmarking decision but then defer its imposition if the SB 330 application lapses. Furthermore, there is not any provision in the BMC that allow for such open-ended deferrals. (See e.g., BMC § 3.24.180.A (requiring that a designation be recorded); BMC § 3.24.150 (requiring a decision re designation within 180 days of the close of the public hearing on the application).⁶)

The HAA and SB 330 prohibit the City from approving the proposed Landmark Application at this time. A determination that there is no Landmark or Structure of Merit on this site occurred by operation of law when the SB 330 project application was submitted and deemed complete, and that determination remains in effect for so long as the SB 330 vesting remains in place. (Gov. Code § 65913.10(a) [determination re historic designation "**shall be made**" at the time of the preliminary application, and "**shall remain valid during the pendency of the housing development project**"].) The City is making a determination *after* submittal of

⁶ This process also divests the LPC and public from considering whether designation is appropriate at a future date if and when the SB 330 vesting protection lapses, and the site actually becomes subject to LPC's jurisdiction.

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the preliminary application and during the pendency of the housing development project in violation of the law.

D. The City's interpretation of SB 330 conflicts with the “finality rule” – a core legal principle governing adjudicative hearings and increases the risk of litigation and impedes achievement of City and state housing goals.

There is no legal authority for the City's position that the LPC can render a final decision on a Landmark designation, but then condition the effect of that determination on the occurrence of a future event, such as the lapse of an SB 330 application.⁷ The City's position runs contrary to the “finality rule,” a bedrock principle in administrative law. Under the finality rule, the City must render a final, site-specific decision after all appeals regarding the landmarking designation decision have been exhausted.

The LPC Landmark determination for this site carries with it an abbreviated statute of limitations to challenge that finding would run from the date that any appeal to challenge the Landmark decision is resolved. Presented with this situation, the project owner would have to initiate litigation within 90 days (given the short statute of limitation to bring such challenges) to prevent an unlawful designation from affecting future property values and development feasibility for the site, even if the Landmark determination was purportedly not yet “imposed” on the site.

The City's interpretation would lead to perverse effects and unnecessarily increases the risk of litigation, given that a Landmark determination would need to be immediately challenged in court even if the City's stated position is that the Landmark determination would not be imposed on this particular project. The failure to challenge a Landmark determination could result in a significant risk that a future challenge, if the SB 330 application were to lapse, would be waived due to the expedited statutes of limitations for challenging final decisions by local agencies.

A key purpose of the HAA, and SB 330, is to incentivize housing production and make the process more predictable, while creating incentives such as statutory penalties that are ultimately intended to reduce the likelihood of unnecessary litigation that impedes the production of housing. (See Gov. Code § 65589.5(a)(2)(A-L).) By contrast, the City's interpretation of SB 330 impedes the achievement of the city's and the state's housing goals in violation of the HAA.

2. Findings and Basis for Landmark Designation are not supported by substantial evidence. The Landmark Application is factually inaccurate and does not represent substantial evidence to merit designation of the site as a landmark. The Application concedes that it was filed in response to the development application. (Landmark Application at p. 11.) The building was built over 120 years ago, but in all this time, the LPC has never considered giving it landmark

⁷ Continuing Education of the Bar, Administrative Law § 8.62.2.

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status until now. The timing is telling. The 2024 Historic Resources Evaluation, prepared by a qualified architectural historian, which is the most thorough and detailed survey on record for this site, concluded that the site is not eligible for landmark designation.⁸

The Landmark Application lacks credibility and fails to meet the substantial evidence test. The LPC's determination to designate the property a City Landmark constitutes an abuse of discretion under Code of Civil Procedure § 1094.5.

In connection with the development application for the site, the landowner engaged an architectural historian to inspect the site and provide a professional evaluation of the historical legacy of the building in its current physical condition. As is typical, those findings have been memorialized in a Historic Resources Evaluation ("HRE") prepared in January 2024. It does not appear that any site-specific survey of the property has been made previously.

The HRE concludes that the site does not meet the criteria for designation as a Landmark or for inclusion in the California Register.⁹ This finding is based on an assessment that the building was (1) heavily altered, including most notably that the primary facade was subsumed by a Georgian Revival style addition in 1935, and has lost historic integrity; (2) the property does not appear to have any significant associations with historically important events or noteworthy historical figures; and (3) the property does not exhibit high architectural merit nor readily conveyed associations with important architects or builders.

As to the Landmark criteria, the HRE determined that 2138 Kittredge did not meet any of the criteria to be designated a City Landmark. As to architectural merit, the HRE concluded as follows:

The property is an altered early-twentieth century residential building, later converted to commercial and multi-family residential uses, that does not hold the status of first, last, only, or most significant of its type or style in the region either in its original guise, nor its altered state. Its presumed original style and its wood-frame construction was very common to the early-twentieth century, while its altered character is equally unremarkable for the mid-1930s; therefore, it is not a prototype or outstanding example of its period, style, or any architectural movement or construction type. Even considered as an example of an early-twentieth century residence with a storefront addition, it does not qualify as a first, last, only, prototype, or outstanding example, as two others exist on the same block of Kittredge Street, with both of the others being of earlier construction dates and

⁸ A copy of this analysis, Historic Resources Evaluation for 2138 Kittredge Street, January 2024, is attached as Attachment 1.

⁹ See Attachment 1 at p. 11.

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earlier alteration dates, and are still extant. The architect, William H. Wharff, was a prominent and prolific Berkeley architect but not particularly groundbreaking in his designs. He designed a number of other noteworthy buildings, some of which bear landmark designations, and are better examples of his work than 2138 Kittredge Street, which has been altered in such a way that the majority of Wharff's original design is not even evident.

As to cultural value, the HRE concludes as follows:

The building at 2138 Kittredge Street was built as a single-family residence for a middle-class, non-immigrant family without any association to religious, cultural, governmental, social, or economic events or developments in Berkeley. It was built adjacent to its original owner's livery stable business, but only served to house his family and played no role in the neighboring commercial use, which itself was not strongly associated with any local economic developments. The house was later converted into a restaurant in the mid-1920s, but this also was not related to any significant economic evolution in Berkeley. It was one of countless restaurants in the city during its period of operation. Later still, it was converted into a multi-family apartment building during the years of World War II, but no evidence was found that this subdivision was directly related to or influenced by the wartime population boom, and subsequent cultural, social, and economic shifts, that happened in the Bay Area at that time.

As to historic value re patterns of development, the HRE concluded that the criteria was not met:

The building at 2138 Kittredge Street was built as a single-family residence for a middle-class, non-immigrant family without any significant influence from or on social, cultural, economic, political, religious, or military history. It was built adjacent to its original owner's livery stable business, but only served to house his family and played no role in the neighboring commercial use, which itself was not strongly associated with any local economic trends. The house was later converted into a restaurant in the mid-1920s, but this also was not related to any significant economic trends in Berkeley. It was one of countless restaurants in the city during its period of operation. Later still, the building was converted into a multi-family apartment building during the years of World War II, but no evidence was found that this subdivision

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was directly related to or influenced by the wartime population boom, and subsequent cultural, social, and economic shifts, that happened in Berkeley and the Bay Area at that time.

The HRE's findings were based on an intensive and thorough site visit, in-depth review of all available documentation,¹⁰ and detailed review of previous surveys of the site. The HRE constitutes substantial evidence and therefor takes precedence over the Landmark Application, which is based on artistic drawings by non-historians, selected quotes and passages from previous, incomplete and outdated information, including factual inaccuracies, and numerous unsubstantiated assertions about the overall integrity of the building. In short, the application and the record does not support the findings for Landmark designation.

3. Violation of the No Net Loss rule. By declaring the property a Landmark, the City has essentially reduced (at least prospectively) the amount of housing that can be development. It is a de facto downzone, essentially freezing the parcel at its current density – far below what the zoning allows. Such downzonings violate the so-called no Net Loss Rule by reducing the density for housing while not simultaneously upzoning to make up for the loss.

The provisions of No Net Loss Law are separate and complementary to those of the Housing Crisis Act of 2019 (Gov. Code, § 66300), which states that “an affected county or an affected city shall not enact a development policy, standard, or condition that would [have the effect of] changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use... below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018.” (Gov. Code § 66300, subd. (b)(1)(B)). A jurisdiction may only change a parcel’s land use designation or zoning if there is a concurrent upzoning to ensure no net loss of overall residential capacity.

Here, designation of the site effectively limits the ability to redevelopment the site with a project that could take advantage of the density permitted in the zoning code, in other words, the designation would result in a de facto condition that would have the effect of putting the site into a less intensive use than currently allowed and in effect on January 1, 2018.

4. Bad Policy. The City of Berkeley has taken great strides in promoting the development of housing. That said, there remains a vocal anti-development contingent who is weaponizing the landmark designation process, and taking advantage of the City’s vague and overbroad grounds for designation, to try to stop development by landmarking properties of dubious historical importance. The end result is that more sites that should be able to be developed are effectively

¹⁰ *Id.*

Fatema Crane
March 24, 2025
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FENNEMORE.
WENDEL

prohibited from doing so which will hamper the City's ability to plan and provide for additional housing.

Over a month before the LPC meeting, we provided evidence regarding the lack of historic significance of 2138 Kittredge. This analysis, prepared by a qualified architectural historian, provided ample evidence as to why the building did not meet any criteria for landmark designation. Despite this effort, and other communications with staff, the City proceeded with the designation proceedings. As noted above, this a totally unnecessary delay of the project, an unnecessary expenditure of staff resources, and a total waste of the Council's and of the public's time.

5. Regulatory Taking. The designation of this site was done to prevent it from development. The property has not been maintained well and cannot be redeveloped without a complete reconstruction, make preservation impractical. The LPC's action results in depriving the property of any economic value, given the barriers that would ensue for trying to get a demolition permit, should the preliminary application protection expire.

In summary, the LPC's decision to approve the Landmark Application constitutes a reversible abuse of discretion in violation of California law. Furthermore, such a decision is entirely unnecessary. Designating the site a landmark or structure of merit is not supported. While the building is old (originally built in 1904 and extensively altered in 1935), it does not otherwise meet the criteria for project at the national, state or local level.

Conclusion

Prior staff reports for projects facing belated attempts at historic designation, have mistakenly claimed that an LPC hearing regarding designation would not count toward the five-hearing limit under SB 330. The decision to hold a public hearing on the Landmark Application while the SB 330 application is pending necessarily makes this a "public hearing in connection with the approval of that housing development project." (Gov. Code § 65905.5.) SB 330 defines "hearing" broadly to include "any public hearing, workshop, or similar meeting, including any appeal, conducted by the city... with respect to the housing development project." (*Id.*) The only hearings excepted from this section are for legislative approvals, such as a general plan amendment, specific plan amendment, or rezoning. (*Id.*)

Given SB 330's broad intent to expedite housing development projects and provide great certainty in processing, and the fact that none of the limited exceptions apply here, the five-hearing rule applies to the Landmark Application hearing. As a result, the February 6, 2025, LPC meeting, as well as an appeal hearing, will count toward the five-hearing limit.

The Landmark Application was filed for the stated purpose of thwarting this development application and is in conflict with the HAA and SB 330. The unsupported and unauthorized LPC action is complicit with the anti-development goals of those who sought Landmark designation.

Fatema Crane
March 24, 2025
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FENNEMORE.
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For the reasons stated herein, we strongly and respectfully request that the City Council grant the appeal and overturn the LPC's Landmark Designation, and that no further attempt to declare the property a City Landmark be accepted unless and until the preliminary application expires. Upholding the designation would be both illegal and ineffectual and would result in building barriers to the project that will make development of this project more difficult, costly and would jeopardize its feasibility.

Sincerely,

FENNEMORE WENDEL



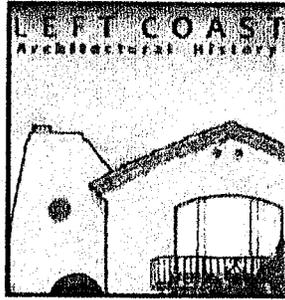
Todd A. Williams

/taw

Cc: William Schrader
Jordan Klein, Planning Director (jklein@berkeleyca.gov)
Berkeley City Council (council@berkeleyca.gov)
Farimah Brown, City Attorney (fbrown@berkeleyca.gov)
Fatema Crane, Secretary, Landmarks Preservation Commission (fcrane@berkeleyca.gov)
Paul Buddenhagen, City Manager (pbuddenhagen@berkeleyca.gov)
Jessica Evans, HCD Senior Housing Policy Specialist (jessica.evans@hcd.ca.gov)
Shannan West, HCD Housing Accountability Chief (shannan.west@hcd.ca.gov)
David Zisser, HCD Assistant Deputy Director (david.zisser@hcd.ca.gov)

ATTACHMENT 1

ATTACHMENT 1



P.O. Box 70415, Richmond, CA. 94807 • (415) 745-1906 • caitlin@leftcoastarchitecturalhistory.com

30 January 2024

To Whom It May Concern:

Left Coast Architectural History has completed a Historic Resource Evaluation of the property at 2138 Kittredge Street, Berkeley. The attached California Department of Parks & Recreation (DPR) 523 series forms present a physical description of the property, a record of its history, and evaluation according to California Register of Historical Resources significance and integrity criteria, and City of Berkeley Landmark and Structure of Merit criteria.

The study finds that the building dates to 1904 and was designed by architect William H. Wharff for local livery stable/auto garage owner J.C. Fitzpatrick. It was originally a Free Classical Queen Anne style single-family residence, but was later converted to a restaurant and multi-family apartment building, with the primary facade subsumed by a Georgian Revival style addition in 1935. The property has been occupied by residential tenants and at least one business, but does not appear to have any significant associations with historically important events or noteworthy historical figures. The property does not exhibit high architectural merit nor readily conveyed associations with important architects or builders. It has been identified as part of a small grouping of residences on Kittredge Street that were converted to commercial uses via storefront additions, which may equate to significance at the local level. These points are elaborated upon in detail on the attached forms.

Left Coast Architectural History is happy to answer questions or provide additional assistance, as needed.

Sincerely,

A handwritten signature in cursive script that reads "Caitlin Paige Hibma". The signature is written in black ink and is positioned above the typed name and title.

Caitlin Hibma
Principal/Architectural Historian
Left Coast Architectural History

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION PRIMARY RECORD		Primary # HRI # Trinomial NRHP Status Code
Other Listings Review Code	Reviewer	Date

Page 1 of 21

*Resource Name or #: 2138 Kittredge Street, Berkeley, CA

P1. Other Identifier: n/a

*P2. Location: Not for Publication Unrestricted

*a. County: Alameda

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Oakland West, Calif.

Date: 2015 T ; R ; ¼ of ¼ of Sec ; M.D. B.M.

c. Address: 2138 Kittredge Street

City: Berkeley

Zip: 94704

d. UTM: Zone: 10 ; mE/ mN (G.P.S.)

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) Elevation:

APN: 57-2029-15

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

Site

The property at 2138 Kittredge Street consists of a rectangular lot on the south side of Kittredge Street, between Shattuck Avenue and Fulton Street. Topography in the area is flat and the parcel is bordered by a public sidewalk on the north and neighboring properties to the east, west, and south. A two-story building sits at the front of the lot with no setback from the sidewalk. It sits at the western lot line while a driveway runs along the east side of the lot to a paved yard at the rear (south) of the lot and a one-story L-shaped carport sits at the southwest corner of the lot.

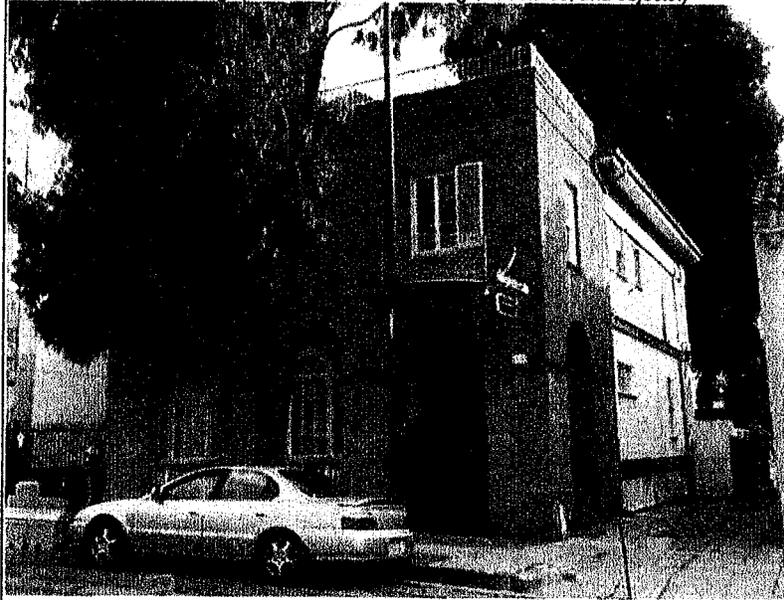
Building

The building is two stories and has a generally rectangular plan. It is primarily of wood frame construction with a front addition constructed of brick masonry. It is capped by a complex hip roof with a flat roof over the front addition. The exterior walls of the front addition are brick (common bond), while the rear/original portion of the building is clad with wood lap siding. (Continued)

*P3b. Resource Attributes: (List attributes and codes) HP2. Single family property, HP3. Multiple family property, HP6. 1-3 story commercial building

*P4. Resources Present: Building Structure Object Site District Element of District Other (isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)



P5b. Description of Photo: (View, date, accession #)
North and west facades, looking southeast, January 2024

*P6. Date Constructed/Age and Sources: Historic Prehistoric Both
1904; Berkeley Daily Gazette construction notice

*P7. Owner and Address:

*P8. Recorded by: (Name, affiliation, and address)
Left Coast Architectural History
PO Box 70415
Richmond, CA. 94807

*P9. Date Recorded: Jan. 2024

P10. Survey Type: Intensive

*P11. Report Citation: None

*Attachments: NONE Location Map Sketch Map Continuation Sheet Building, Structure, and Object Record
 Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record
 Artifact Record Photograph Record Other (List):

DPR 523A (1/95)

*Required Information

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION BUILDING, STRUCTURE, AND OBJECT RECORD	Primary # HRI#
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*NRHP Status Code 6Z

*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

- B1. Historic Name: None
- B2. Common Name: None
- B3. Original Use: Single-family residence
- B4. Present Use: Commercial/Multi-family residence
- *B5. Architectural Style: Free Classical Queen Ann, altered to/mixed with Georgian Revival
- *B6. Construction History: (Construction date, alterations, and date of alterations)
 Constructed 1904. Primary facade addition, 1935. (See Continuation Sheets for additional construction history.)
- *B7. Moved? No Yes Unknown Date: n/a Original Location: n/a
- *B8. Related Features: Carport at rear of lot.
- B9a. Architect: William H. Wharff
- B9b. Builder: Pearson & Olsen
- *B10. Significance: Theme: None Area: Downtown Berkeley
 Period of Significance: None Property Type: Residential/Commercial Applicable Criteria: None
 (Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

Neighborhood Context

The building at 2138 Kittredge Street is located in Downtown Berkeley, just off the Shattuck Avenue commercial corridor, study of which was undertaken by the "Shattuck Avenue Commercial Corridor Historic Context and Survey" (Archives & Architecture, 15 Sept. 2015). The historic context is applicable to this property, as follows.

Downtown Berkeley is characterized by a variety of uses but is heavily commercial, as is typical of an urban downtown. Along Shattuck Avenue, these commercial uses – restaurants, boarding houses, groceries, laundries – were present as early as the 1870s, encouraged by the establishment of the nearby University of California campus; construction of a rail line along Shattuck Avenue; and ultimately, incorporation of the community as the Town of Berkeley. The University spurred surrounding residential growth as well and the presence of a train station at Shattuck and University avenues made that the locus of the city's de facto downtown.

In the 1880s, residential growth boomed and the area's character transitioned from rural to urban. In the 1890s, the previously vacant east side of Shattuck Avenue was graded, allowing for additional development and more businesses to be established along the corridor. Such development extended as far south as Allston Way, while a smaller secondary commercial cluster existed at Shattuck Avenue and Dwight Way.

The turn of the 20th century brought electric rail lines and further commercial growth to Shattuck Avenue, but the 1906 earthquake did the most to spur massive residential and commercial growth, as displaced residents from San Francisco came across the Bay to settle in Berkeley and demand for goods and services subsequently increased. Many older properties along Shattuck Avenue were redeveloped to meet the needs and fashions of the new century. (Continued)

B11. Additional Resource Attributes: (List attributes and codes)
 HP2. Single family property, HP3. Multiple family property, HP6. 1-3 story commercial building

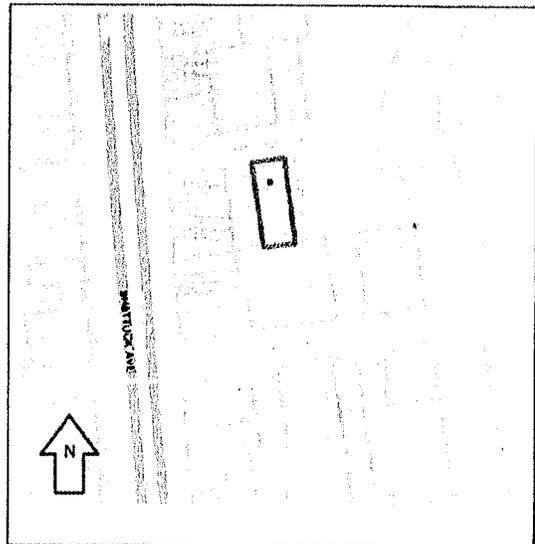
*B12. References:
 (See parenthetical citations within text and on last Continuation Sheet)

B13. Remarks:

*B14. Evaluator: Caitlin Hibma/Left Coast Architectural History

*Date of Evaluation: January 2024

(This space reserved for official comments.)



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*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

*Recorded by: Caitlin Hibma/Left Coast Architectural History

*Date: Jan. 2024

 Continuation Update**P3a. Description: (continued)**

Multi-lite wood sash windows in double-hung and casement configurations are the most prevalent type of fenestration. Original double-hung iterations feature lambs-tongue sash stops, while newer wood iterations have no stops. Some vinyl sashes are also present.

The primary/north facade is two stories, clad with brick, and faces Kittredge Street without setback from the sidewalk. Two rows of soldier coursed bricks are found at the base of the wall. Above, the first story features a series of three regularly spaced round arches. A course of shiner coursed bricks set at an angle and topped by a row of stretcher coursed bricks create a decorative beltcourse at the height of the arches' springing points, while the tops of the arches are trimmed with voussoir bricks and slightly elongated bricks that form keystones at the top. The two arches at left and center have molded wood dado panels at the bottom and multi-lite wood sash windows above. The windows consist of a large, fixed, 12-lite, center sash, flanked by narrow four-lite casement sashes, and topped by fanlights with distinctive spiderweb muntins. The primary entrance is located within the rightmost arch which opens to a recessed vestibule. The entry door is elevated and approached by brick steps and a stoop. The solid wood door is adorned with a carved reeded motif and topped by a leaded glass transom lite. It is surrounded by wide reeded trim with a plain keystone at the top.

The second story of the primary facade features two window openings at either side and a decorative roundel at the center. The roundel is filled with a decoratively laid pattern of brickwork, voussoir trim, and keystones of elongated bricks at top, bottom, and each side. The windows have rectangular openings flanked by faux wood shutters and topped by lintels of soldier coursed bricks. Decorative metal half-round balconettes are located below each window. The windows have wood double-casement sashes with three lites in each leaf. A band of stretcher coursed bricks defines a low parapet wall at the top of the facade, which has brick coping and a low metal railing along the top edge.

The brick front wraps the building corner and extends briefly along the west facade, where there is a recessed blind arch with a wood flower box at the first story and a non-original six-over-one wood sash window with brick sill and soldier coursed lintel at the second story. To the right, the original portion of the building is clad with wood lap siding. Utility hatches and lattice vents are located at the base of the wall with a wide wood watertable above. The first story features a horizontally-oriented art glass window on the left, a standard one-over-one, double-hung, wood sash window on the right, and a partially-glazed wood pedestrian door at the far right. The first and second stories are divided by a wide wood beltcourse. The second story features four irregularly placed windows in a variety of sizes with molded wood trim. Three are one-over-one double-hung sashes, while one is a fixed art glass window. The facade terminates in a wide plain wood frieze overhung by the boxed eaves of the roof. One eave bracket with a foliate scroll motif is found near the juncture of the brick addition with the original portion of the building.

On the east facade, too, the brick front wraps the building corner and extends briefly along the facade. At the first story there is an arched window like those described on the primary facade, while the second story features two six-over-one wood sash windows with brick sills and soldier coursed lintels. To the left, the original portion of the building is clad with wood lap siding. A projecting bay is located near the center of the facade. It is angled at the first story and overhung by a square bay at the second story with decorative scrolls brackets adorning the overhanging corners. As on the west facade, there is a wide wood watertable, wide wood beltcourse between stories, and wide plain wood frieze overhung by the boxed eaves of the roof. Windows are generally standard one-over-one, double-hung sashes with molded wood trim; some wood and some vinyl. A hip-roofed dormer projects from the east plane of the roof over the projecting bay.

The rear/south facade is clad with wood lap siding and has a wide wood watertable, wide wood beltcourse between stories, and wide plain wood frieze overhung by the boxed eaves of the roof. There is a secondary entrance and window at the right side of the first story. The second story is setback at the left side, accommodating a deck with a decorative wood railing. The right side features a pair of standard windows. A non-original addition projects from the rear plane of the roof.

Carport

An L-plan carport sits at the southwest corner of the lot. It is one-story high with a flat roof and opens onto the property's paved rear yard. The carport has concrete block rear walls, heavy wood roof beams, and metal support poles. Stucco clads the low parapet wall at the front of the roof.

B10. Significance: (continued)

Downtown was spared destruction by the 1923 Berkeley Fire, but Shattuck Avenue was nevertheless changed by the growing popularity of the private automobile in the 1920s. Although modes of transit conflicted at times, private cars increased travel to and from the commercial corridor. A number of large department stores came to the area at the time and, along with other businesses, flourished until the Great Depression. Even the serious economic downturn of the 1930s had gentler effects in Berkeley, though, because the University's student population kept business flowing.

By the mid-1940s, the entire Bay Area had experienced a war-time population boom and prosperity was high. Although the evolution of transportation away from public mass transit and toward the private automobile dispersed many businesses into

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*Recorded by: Caitlin Hibma/Left Coast Architectural History

*Date: Jan. 2024

 Continuation Update**B10. Significance: (continued)**

new outlying areas, Shattuck Avenue remained a strong commercial corridor, and as was a recurring theme, the proximity of the University of California campus continued to bolster Downtown commerce.

As happened in many cities, Downtown declined in the 1950s and 60s due to the migration of commercial uses to outlying malls and shopping centers. Population also diminished as urban residents moved to the suburbs, which were accessible by car and did not require the presence of convenient nearby businesses. In Berkeley, the deterioration of residential hotels and apartments that were commonly located above the street-level commercial establishments along Shattuck Avenue compounded the loss of Downtown vitality. Additional challenge was presented by the construction of BART in the 1970s, although this ultimately connected Berkeley's Downtown to the wider Bay Area region once it was completed.

Property History

A notice in the 27 October 1902 issue of the *Berkeley Daily Gazette* (BDG) reported that lots 16 and 17 of the Blake Tract (which had been subdivided in 1881) were sold by W.H. Leimert to John C. Fitzpatrick. A map of the Blake Tract indicates that the property now addressed 2138 Kittredge Street was Blake Tract lot 17 (lot 16 sat to its east). (Berkeley Property Map No. 3 of the Blake Tract, 1881; Berkeley Public Library via Calisphere.) The following year, the 1903 Sanborn Fire Insurance map illustrates that lot 17 was vacant, while lot 16 was had a large, two-story, corrugated iron stable sitting at its rear.

On 4 January 1904, the *Berkeley Daily Gazette* reported plans "To Erect Large Building" at Shattuck Avenue and Kittredge Street. The article reported that the building was to be a two-story and basement frame dwelling, built for John C. Fitzpatrick by contractors Pearson & Olsen, designed by architect William H. Wharff. (See "Architect & Builders" section below.) The house would cost \$4,090 and was to be completed around mid-April of 1904.

John C. Fitzpatrick was born in Benicia in 1866 and came to Berkeley in 1890. Soon thereafter, he began working on the Claremont, University & Ferries horsecar line (known as the C.U. & F., established 1891), serving variously as secretary, manager, superintendent, and motorman. The horsecar line was discontinued in 1901 and Fitzpatrick went into business running a "railroad station horse and hack taxi service." This livery stable business was initially headquartered on Allston Way, but was soon moved to the property adjacent to Fitzpatrick's new house at 2138 Kittredge Street. Banking on transportation trends moving away from horses and toward automobiles, Fitzpatrick eventually purchased three gas-powered automobiles which he hired out and also used for deliveries, taxi service, and driving for funerals and other events. Fitzpatrick's stable eventually became one of Berkeley's first public auto garages. ("So We're Told by Hal Johnson: Horsecar Man," *BDG*, 28 February 1940.)

The 1910 census lists the John C. Fitzpatrick family as the residents of 2112 Kittredge Street. John C. Fitzpatrick was 45 years old, born in California to Irish parents, and was listed as the proprietor of a livery stable; the one located on the lot next door, and which by 1910, was probably more automobile than horse-oriented. Also residing at the house were Fitzpatrick's wife, Carrie, and their five children. The children's ages ranged from 16 to 22 and only the oldest, Albert Reginald, was employed as an electric company clerk.

The house at 2138 Kittredge Street first appears on the 1911 Sanborn Fire Insurance map, addressed 2112 Kittredge Avenue. It is illustrated as a 2-story, rectangular-plan dwelling with an inset porch at the front northwest corner, a square bay window on the east facade, and a rear porch. An L-shaped outbuilding was present at the rear of the lot and was addressed 2112 ½ Kittredge Street. On the lot to the east, which was also owned by Fitzpatrick (Blake Tract lot 16, mentioned above), the corrugated iron stable shown on the 1903 Sanborn Fire Insurance map had been enlarged to fill the front of the lot. It was still clad in iron, had a concrete block street-facing facade, and was labeled as a livery stable.

A decade later, the 1920 census continues to list John C. Fitzpatrick at 2112 Kittredge Street. By then Fitzpatrick was a 54 year old widow and had no listed occupation. Living with him were his son Albert Reginald; 37 years old with no listed occupation; and his daughter and son-in-law, Gladys C. and George H. Brown, both in their 30s. George Brown was employed as a salesman for a wholesale coffee company.

The property was renumbered from 2112 to 2138 Kittredge Street on 5 October 1926. (City of Berkeley Planning Department records) The Sanborn Fire Insurance map of 1929 shows that by the end of the 1920s, the property been converted into a restaurant. John C. Fitzpatrick's adjacent livery stable had officially become an automobile garage, housing 20 cars with a repair department at the rear. The 1930 census confirms that John C. Fitzpatrick had moved away from the subject property, purchasing and living in a house on Delaware Street. He may have retained ownership of the house and adjacent auto garage until either 1924 or 1942. (*BDG*, 28 February 1940.) John C. Fitzpatrick died in 1945. (Vital records, ancestry.com.)

The timing of Fitzpatrick's sale of the property is unclear. It was next purchased by William H. and Alma T. Taylor. Logically, he would have sold the property when he moved away, possibly in 1924 as one source states. (Anthony Bruce, "The Fitzpatrick House & Pepper Tree Tea Room, 2138 Kittredge Street," 2022, BAHA files) Donogh real estate records show a sales transaction between Fitzpatrick and the Taylors in 1942, however. Its possible that numbers were transposed, but a newspapers article

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*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

*Recorded by: Caitlin Hibma/Left Coast Architectural History

*Date: Jan. 2024

 Continuation Update**B10. Significance: (continued)**

profiling Fitzpatrick notes that he still owned the livery stable property as late as 1940, which could suggest he owned the house into the 1940s as well. In any case, William and Alma Taylor were the next owners of 2138 Kittredge Street and were present, either as renters or owners, as early as 1925.

The restaurant shown on the 1929 Sanborn Fire Insurance map was operating at least as early as 1925, when it was referred to as the Pepper Tree Inn in a newspaper article. (BDG, 12 June 1925) It was also known at various times as the Pepper Tree Tea Room or the Pepper Tree Restaurant. Its proprietress was Alma T. Taylor, wife of William H. Taylor, who was a real estate agent. The Taylors' residential address was 2138 Kittredge Street, indicating that they lived upstairs, while Alma Taylor ran the restaurant, presumably on the lower floor of the house. Alma's father and adult niece lived with them; her niece helping wait tables in the tea room. (Anthony Bruce, 2022; BAHA files.)

In 1928, the newspaper ran both a recommendation for the Pepper Tree, and a rental advertisement for an apartment at 2138 Kittredge Street, indicating that in addition to the tea room, the Taylors had subdivided the residential portions of the house into apartments. They continued to live at the address. (BDG, 4 Jan. 1928 and 30 March 1928) In both 1926 and 1929, chimney sparks ignited the roof of the house, but no substantial damage was done. (BDG, 9 July 1926 and 13 Feb. 1929)

In 1935, the Taylors took out a building permit for "alterations and addition to tea room and dwelling" involving the remodeling of the kitchen and dining quarters and extension of the front of the building by 8 ft. 6 in. (BAHA, permit 39423) This was when the brick Georgian Revival style front was constructed on the house's primary facade.

The Pepper Tree Tea Room continued to operate until 1942, when newspapers announced that the restaurant premises was up for lease and its equipment and furniture was for sale. (BDG, 11 May and 24 June 1942.) Alma Taylor thus retired from 21 years in the restaurant business, but she and William H. Taylor continued to own and live at 2138 Kittredge Street. Later in 1942, they applied for a permit to convert the building to apartments, hiring architect Paul Hammarberg to design the project. (Permit 53030) The Taylors continued as resident-landlords of the apartment house and ran a public "honor" parking lot nearby, while another parking lot operated at the rear of the subject lot (although newspapers assign it a different proprietor). (BDG, 22 March 1948)

In 1955, the property made the news when the skeletal remains of a Native American burial were uncovered in the course of construction at the rear of the lot. It was noted that an old shed related to the adjacent J.C. Fitzpatrick livery stable had been torn down and the footings of a new carport were being poured when the discovery was made by a workman. The remains were assessed by a U.C. Berkeley archaeologist and determined to be over a century old and belong to an Ohlone woman, who had probably lived in one of the villages that once proliferated in Strawberry Canyon.

In October 1960, Alma T. Taylor passed away at age 70. Her obituary highlighted her 39 years of residency in Berkeley and her 21-year ownership of the former Pepper Tree Tea Room. She was survived by her husband, who remarried in 1963 to Helen Ingham. (BDG, ca. 21 Nov. 1974) In 1964, Taylor was listed as the owner of the property when applying to build an additional dwelling unit on top of the property's rear carport. It was specified that the addition would be a large apartment to be occupied by the property owners, while the existing five-unit apartment building continued to be used as such. Based on the fact that the carport remains one-story with no second story unit, the project does not appear to have ever been undertaken. (Use Permit #5245) William Taylor appears to have retained ownership of the property until his death in 1974. Helen Ingham Taylor passed away in 1979 and may have continued living at the property until then.

According to building permit records, Wayne Ronneburg owned the property around 1981, when the roof was replaced. In May 1985 a lot line adjustment was made between 2138 Kittredge Street and the neighboring property to the east (the former site of J.C. Fitzpatrick's livery stable) to "eliminate minor encroachment of a commercial building at 2150 Kittredge Street." Per City of Berkeley land use history records, the lot line adjustment application was later withdrawn, but the owner at the time was stated to be Berkeley Commercial Property Developments/Reorganized Church of Jesus Christ of the Later Day Saints. (Application for Parcel Map #4511/4571)

By 1992, Steve and Francisca Schneider were the property owners and retained ownership until at least 2001. During this time, the building appears to have remained a five-unit apartment building, although not rented to full occupancy. In 1997, architectural plans were filed and an application for Design Review was submitted to "convert the existing multi-unit residential building into restaurant." (UP# 97-10000082) An Application for Change of Use Statement (17 July 1997) reported that the building consisted of five residential units; two on the bottom floor that were vacant, two on the second floor being used as a single dwelling by the Schneiders, and one at the attic level that was also vacant. Steve Schneider was a real estate consultant and, based on a sign that remains on the building, he maintained an office in the building. The 1997 restaurant conversion project was undertaken with the intent that the Schneiders would sell the building to Ching Hwa Yu to become the Great China Restaurant if the commercial conversion was possible and a use permit was granted. It appears that it was not and the project was not undertaken.

Architect

The building at 2138 Kittredge Street, in its original residential guise, was designed by William Hatch Wharff. Wharff was born

DPR 523L (1/95)

*Required information

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B10. Significance: (continued)

in Maine in 1836. He attended Foxcroft Academy, an arts-oriented preparatory high school, and learned the carpentry trade from his uncle, eventually becoming a master carpenter and joining his uncle in business. The source of Wharff's architectural training is unclear and its possible that he had no formal training, although he did claim at one time to have studied architecture in Maine and Massachusetts and eventually became a member of the American Institute of Architects.

Wharff served in the Union Army during the Civil War and in 1875 moved his family west to California, settling first in San Francisco. Wharff declared himself an architect to the 1880 census, but was listed in city directories as a draftsman and, later, contractor/builder with offices on Pine Street. By some accounts he designed or built over sixty buildings in San Francisco between 1882 and 1899.

In 1899, Wharff relocated to Berkeley. Despite being of retirement age, he renewed his practice in his new city and was active until 1915, when he retired from architecture but went into the insurance business instead. He died in 1936.

Buildings designed by Wharff in Berkeley, and which are also designated Landmarks, include:

- Carlson's Block (1903) at 3228 Adeline Street in Lorin Station
- Masonic Temple (1905-06) at 2105 Bancroft Way and Shattuck Avenue
- J.J. Pfister Co. Knitting Mill (1906) at 8th and Parker Streets;
- F.D. Chase Building (1909) at 2107 Shattuck

(Daniella Thompson, "Whilliam Wharff: Architect, Civil War Vet, and Freemason," ca. 22 Feb. 2008; http://berkeleyheritage.com/eastbay_then-now/wharff.html)

Architectural Type & Style

The building at 2138 Kittredge Street was originally a residential building that was probably designed in the Free Classical sub-type of the Queen Anne style. Although the original appearance of the primary facade is unknown, this determination is based on the building's age and remnant features on the rear portion of the building, including horizontal wood siding, double-hung windows with lambs-tongue sash stops, beltcourses and friezes, moldings, and remnant scroll brackets. The Free Classical sub-type of the Queen Anne style was popular in the later phase of the Queen Ann period, about 1890 to 1910. It used Classical columns, moldings, Palladian windows, and other related ornament rather than the spindlework and gingerbread more commonly associated with the Queen Anne aesthetic. (McAlester, Virginia & Lee, *A Field Guide to American Houses*, (New York: Alfred A. Knopf, 2003))

In 1935, the primary facade was subsumed by a front addition designed in the Georgian Revival style. As was popular in the 1920s and 30s, this was a revival of the older Georgian style that was used in the American colonies and eastern United States from around 1700 to as late as 1830. Like other revival styles, it sought to evoke a sense of nostalgia for times past, specifically that associated with early America, colonial history, the ideals of the early American republic, and the basic orderly principals of earlier architectural styles that had been considered elite, formal, and highly fashionable. It, too, referenced the Classical in its detailing, which can be seen in the facade's strict symmetry, the round arches forming an arcade and adorned with keystones, the roundel ornament on the upper facade, and parapet defined by brickwork. Features like decorative brickwork, complex window composition with spiderweb fanlights, and faux shutters put a Georgian emphasis on the Classical. Meanwhile, reeded detailing on and around the primary entrance appears to have been a departure toward the Art Deco trends of the 1930s, when the addition was made. (Ibid., Lester Walker, *American Shelter* (Overlook Press, 1998))

Alterations

Building permits and other records on file with the City of Berkeley Department of Planning & Development and Berkeley Architectural Heritage Association provide documentation of the property's development over time. In addition, sources such as Sanborn Fire Insurance maps, aerial photographs, and historical images provide information on alterations made to the building during certain periods of time.

Date	Permit #	Description of Work
20 Aug. 1915	4815	Unspecified addition to dwelling. Owner: J.C. Fitzpatrick [Rear addition, per California Dept. of Parks & Recreation Historic Resources Inventory form, 1978 (BAHA)]
4 Aug. 1926	25631	Unspecified demolition. Owner: Alma T. Taylor

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13 June 1935	39423	Alterations and addition to tea room and dwelling – kitchen and dining quarters to be remodeled and front to be extended 8 ft. 6 in. Owner: Mr. & Mrs. Taylor
5 Nov. 1936	41648	Reroof shed. Owner: Taylor.
11 May 1940	48712	Termite repair to dwelling and restaurant. Owner: Taylor
14 Aug. 1940	49347	Termite repairs to dwelling. Owner: Taylor.
10 Aug. 1942	53030	Convert building to apartments. Architect: Paul Hammarberg. Owner: W.H. Taylor
11 Jan. 1949	64622	Unspecified alterations to apartments. Owner: Taylor
20 Jan. 1949	64667	Installation of a fire escape ladder.
3 Nov. 1953	74231	Take out a wall and a half-closet wall in two adjoining bedrooms, frame in a closet, making the bedroom approx. 3 feet wider. Owner: W.H. and Alma T. Taylor
21 Sept. 1955	78298	Demolish existing carport at rear of lot, Owner: W.H. Taylor
7 Sept. 1955	78300	Construct concrete block carport, 8" blocks, tar and gravel roof, asphalt floor and drive. Owner: W.H. Taylor
21 Aug. 1964	5245	NOT COMPLETED: Building dwelling unit above carport. Owner: W.H. Taylor
13 Jan. 1981	112814533	Re-roofing. Owner: Wayne Ronneburg.
17 May 1985	PM 4511/4571	NOT COMPLETED: Lot line adjustment. Owner: Berkeley Commercial Property Developments/Reorganized Church of Jesus Christ of the Later Day Saints
1992	CoB records	Owner requested and denied building's removal from URM list. Owner: Steve and Francisca Schneider
5 Sept. 1997	UP 97-10000082	NOT COMPLETED: Convert existing multi-unit residential building into restaurant. Owner: Steve and Francisca Schneider
3 July 2000	00-00001042	NOT COMPLETED: Remove existing second floor deck and replace with dining room. Owner: Steve and Francisca Schneider
15 Feb. 2001	01-00000252	Add Garden room on existing deck [at rear, second story] (in lieu of room addition, permit #1042). Contractor: Century Patio Village. Owner: Steve Schneider

Alterations noted by visual observation, but not otherwise documented, include:

- Window replacement: Some double-hung, wood-sash windows without lambs-tongue sash stops are present and indicate replacement of originals which did have sash stops. Meanwhile some vinyl ash windows are also present.

California Register Evaluation

The California Register of Historical Resources (California Register) is an inventory of significant architectural, archaeological, and historical resources in the State of California. In order for a property to be eligible for listing in the California Register, it must be found significant under one or more criteria relating to historically significant events, people, architects or architectural merit, or information potential. The following provides an evaluation of the historic significance of 2138 Kittredge Street:

Criterion 1 (Event): Resources that are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.

No specific events of historical importance are known to have occurred at the property. The building was constructed as a single-family residence located just off the commercial corridor of Shattuck Avenue in 1904. It pre-dated the 1906 earthquake and did not play any role in the aftermath of that event or the substantial effects that it had on the Bay Area and beyond. The house was partially-converted to a restaurant in the mid-1920s and a front addition was added to facilitate that use in 1935. Such changes to the physical character and use of residential buildings are fairly common in urban settings where a residential neighborhood has become heavily commercial over time and were done for reasons of very general practicality. The restaurant conversion pre-dated and was not influenced by or otherwise related to the events of the Great Depression that started in 1929 and dominated much of the 1930s. The building became a multi-family apartment building in 1942, which may have been very generally influenced by the massive population boom experienced in the Bay Area during the years of World War II as war workers and military families relocated to the region in large numbers and required housing. However, the subdivision of residential space to accommodate the wartime population boom (and make a profit) is a trend that occurred at countless properties in cities throughout the Bay Area

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and elsewhere in California. No evidence was found that 2138 Kittredge Street housed war workers or military families and it is just one example of a very common wartime trend throughout the State.

The property does not appear to be eligible for listing in the California Register under Criterion 1.

Criterion 2 (Persons): Resources associated with the lives of persons important in our past.

The property was first associated with John C. Fitzpatrick, who had the house built in 1904 and occupied it with his family until the early 1920s. Fitzpatrick worked on a horsecar line before establishing his own livery stable (next door to the house), which eventually transitioned from horses to automobiles, but operated under the same for-hire model. He was an early adopter of automobiles and his stable-turned-garage is claimed to have been one of Berkeley's first public auto garages, although this claim is unsubstantiated ("So We're Told by Hal Johnson: Horsecar Man," *BDG*, 28 February 1940) and could be complicated by the exact definition of "public auto garage" (ie: a garage for parking, for mechanical service, for rental of vehicles, etc.) In any case, although Fitzpatrick was an early purveyor of transportation, his business did not have significant implications for the broader history or development of Berkeley or California, and the house at 2138 Kittredge Street did not have an integral association with Fitzgerald's business or represent it in any way.

Beginning around 1925, the house was occupied by William H. and Alma Taylor. William Taylor was a real estate agent, while Alma Taylor ran a tea room in the front of the house. William Taylor's work in real estate earned little attention in historical documents, while Alma's tea room was advertised in newspapers (as would be expected for a restaurant) and appears to have been a successful establishment, operating for 21 years. Nevertheless, the tea room was one of countless restaurants in Berkeley during its years of operation and Alma Taylor had no great historical influence as its proprietress.

In 1942, the Taylors converted the house to a five-unit apartment building. Residents of the apartments are generally unknown and the few names that appear in association with the address in newspapers do not yield much biographical information and do appear to have been influential. Helen Ingham Taylor, William Taylor's second wife and widow, owned the property until 1979. Later owner/occupants were associated with the property outside of the historical period and none appear to claim any significant achievements that would qualify them as important historical figures.

The property does not appear to be eligible for listing in the California Register under Criterion 2.

Criterion 3 (Architecture): Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.

The building at 2138 Kittredge Street was designed as a single-family dwelling, likely in the Free Classical sub-type of the Queen Anne style. Aside from age-appropriate materials and a few remnant features found on the side and rear facades, the house no longer conveys its original appearance, nor is it capable of indicating its true age or style. In 1935, a Georgian Revival style front facade was added to the building, which had come to incorporate commercial and, eventually, multi-family residential uses. The front exhibits some characteristic features of the Georgian Revival style, but by nature of it being an addition to an existing building of an entirely different style, is not a pure or good example of the style and has some anomalies. Its intended function as a storefront is also not readily apparent, as it has few of the characteristics of commercial use, such as a street-level entrance, multiple entrances, large plate glass display windows, etc. Consequently, the architecture of 2138 Kittredge Street has little architectural merit and does not embody distinctive characteristics of either its original design and use, or the style and use imposed upon it in later years.

The architect of the house was William H. Wharff, who was a prominent and prolific Berkeley architect from 1899 to 1915. It is acknowledged, however, that he was not a great architectural trailblazer, being "neither a classicist nor an innovator, [but] a practical builder who incorporated the prevailing idiom of the day into his designs." (Daniella Thompson, "William Wharff: Architect, Civil War Vet, and Freemason," ca. 22 Feb. 2008; http://berkeleyheritage.com/eastbay_then-now/wharff.html) The fact that the house at 2138 Kittredge Street has been substantially altered with an addition to the primary facade that essentially obscures Wharff's original design means that it cannot stand as a valid representation of his work. Additionally, the fact that at least four other works by Wharff are designated local landmarks, retain integrity, and represent Wharff's work much better, means that the house at 2138 Kittredge Street is not a valuable representation of his work.

The property does not appear to be eligible for listing in the California Register under Criterion 3.

Criterion 4 (Information Potential): Resources that have yielded, or may be likely to yield, information important in prehistory or history

Criterion 4 is typically concerned with archaeological investigation. Where buildings or architectural elements are concerned, Criterion 4 typically relates to rare construction types, of which 2138 Kittredge Street is not an example.

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The property does not appear to be eligible for individual listing in the California Register under Criterion 4.

Berkeley Landmark Evaluation

Berkeley Landmarks are designated historical resources within the City of Berkeley. Resources may be designated as Landmarks if they meet one or more of five criteria similar to those used for the California Register, but which elaborate on areas of significance. The following provides an evaluation of the historic significance of 2138 Kittredge Street according to local significance criteria:

1. Architectural Merit:

a-c. Property that is the first, last, only or most significant architectural property of its type in the region; Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder; Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.

The property is an altered early-twentieth century residential building, later converted to commercial and multi-family residential uses, that does not hold the status of first, last, only, or most significant of its type or style in the region either in its original guise, nor its altered state. Its presumed original style and its wood-frame construction was very common to the early-twentieth century, while its altered character is equally unremarkable for the mid-1930s; therefore, it is not a prototype or outstanding example of its period, style, or any architectural movement or construction type. Even considered as an example of an early-twentieth century residence with a storefront addition, it does not qualify as a first, last, only, prototype, or outstanding example, as two others exist on the same block of Kittredge Street, with both of the others being of earlier construction dates and earlier alteration dates, and are still extant. The architect, William H. Wharff, was a prominent and prolific Berkeley architect but not particularly groundbreaking in his designs. He designed a number of other noteworthy buildings, some of which bear landmark designations, and are better examples of his work than 2138 Kittredge Street, which has been altered in such a way that the majority of Wharff's original design is not even evident.

2. Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City

The building at 2138 Kittredge Street was built as a single-family residence for a middle-class, non-immigrant family without any association to religious, cultural, governmental, social, or economic events or developments in Berkeley. It was built adjacent to its original owner's livery stable business, but only served to house his family and played no role in the neighboring commercial use, which itself was not strongly associated with any local economic developments. The house was later converted into a restaurant in the mid-1920s, but this also was not related to any significant economic evolution in Berkeley. It was one of countless restaurants in the city during its period of operation. Later still, it was converted into a multi-family apartment building during the years of World War II, but no evidence was found that this subdivision was directly related to or influenced by the wartime population boom, and subsequent cultural, social, and economic shifts, that happened in the Bay Area at that time.

3. Educational value: Structures worth preserving for their usefulness as an educational force

The property at 2138 Kittredge Street does not appear to have any use as an educational tool. The building is a modest structure that has an altered appearance and has had changing uses throughout its history. Both its altered physical character and dichotomy of uses confuse any interpretation of its historical role as either a house or commercial building, neither of which is particularly significant to local history.

4. Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States. History may be social, cultural, economic, political, religious or military.

The building at 2138 Kittredge Street was built as a single-family residence for a middle-class, non-immigrant family without any significant influence from or on social, cultural, economic, political, religious, or military history. It was built adjacent to its original owner's livery stable business, but only served to house his family and played no role in the neighboring commercial use, which itself was not strongly associated with any local economic trends. The house was later converted into a restaurant in the mid-1920s, but this also was not related to any significant economic trends in Berkeley. It was one of countless restaurants in the city during its period of operation. Later still, the building was converted into a multi-family apartment building during the years of World War II, but no evidence was found that this subdivision was directly related to or influenced by the wartime population boom, and subsequent cultural, social, and economic shifts, that happened in Berkeley and the Bay Area at that time.

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5. Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.

The property at 2138 Kittredge Street is not listed in the National Register of Historic Places and therefore does not qualify as a Berkeley Landmark under this criterion.

Berkeley Structure of Merit Evaluation

Berkeley Structures of Merit are designated historical resources within the City of Berkeley. Resources may be designated as Structures of Merit if they meet general and/or specific criteria. An evaluation follows:

1. *General criteria shall be architectural merit and/or cultural, educational, or historic interest or value. If upon assessment of a structure, the commission finds that the structure does not currently meet the criteria as set out for a landmark, but it is worthy of preservation as part of a neighborhood, a block or a street frontage, or as part of a group of buildings which includes landmarks, that structure may be designated a structure of merit.*

As assessed under Berkeley Landmark criteria, the property at 2138 Kittredge Street does not possess high architectural merit or cultural, educational, or historic value. Visual observation of buildings around the property reveals a wide range of age, scale, style, and use, including a number of very large modern infill buildings that have been constructed in close proximity in recent years (or are under construction currently). Three late-nineteenth and early-twentieth century houses with added storefronts, similar to the subject property, are located on the same block of Kittredge. The "Shattuck Avenue Commercial Corridor Historic Context & Survey" addresses this grouping of properties as follows:

While a majority of residences located on Berkeley's downtown streets were demolished during the ensuing decades, to make room for larger, more commercially focused structures, a small handful of ca. 1890s houses, specifically the grouping located at 2117-2119 Kittredge St., 2124-2126 Kittredge St., and 2138 Kittredge St. were adapted into commercial storefronts, while remaining residential in the rear. These original rear wings are representative of residential uses that were adapted for commercial purposes as the twentieth century progressed, and as the commercial aspects of Shattuck Avenue began to extend beyond the main thoroughfare. The expansion of transportation options in the early twentieth century, as well as a burgeoning commercial downtown, led to an increasing amount of commercialization of the side streets directly off of Shattuck Avenue as the nineteenth century gave way to the twentieth century.

It is corrected, herein, that the property at 2138 Kittredge Street dates to 1904, not ca. 1890s, and was the last of the three properties to be built and the last to be altered with a commercial storefront. Nevertheless, the three properties have been identified as representing a small grouping of residential-to-commercial conversions, associated with the commercial growth of nearby Shattuck Avenue.

Specific Criteria

a. *The age of the structure is contemporary with (1) a designated landmark within its neighborhood, block, street frontage, or group of buildings, or (2) an historic period or event of significance to the City, or to the structure's neighborhood, block, street frontage, or group of buildings.*

Downtown Berkeley is characterized by an extremely dense concentration of designated landmarks. In order to distill the analysis down to manageable numbers, the subject block on which 2138 Kittredge Street is located, and the block face opposite (the north side of Kittredge Street) are used herein as the study area. Within those constraints there are seven designated landmarks, including: the Tupper & Reed building, Hezlett's Silk Store, the Odd Fellows Temple, the Masonic Temple, Brooks Apartment Building, the A.H. Broad House/Storefronts, and the California Theater. All are Landmarks, except the A.H. Broad House/Storefronts, which is a Structure of Merit. Construction dates range from 1894 to 1913, with two bearing significant alterations dating to the mid-1920s and 1929-30. The Masonic Temple and Brooks Apartment Building are roughly contemporaneous with 2138 Kittredge Street, having been built within the same decade, in 1905 and 1906, respectively.

The property's age does not correspond to any period or event of significance to the City, having been built at a time of general growth and before the 1906 earthquake.

b. *The structure is compatible in size, scale, style, materials or design with a designated landmark structure within its neighborhood, block, street frontage, or group of buildings.*

Among the designated landmarks located in the study area defined above (see Specific Criteria (a)), 2138 Kittredge Street is compatible with the A.H. Broad House/Storefronts (Structure of Merit) in size, scale, style, materials, and design. Both are two-story, single-family, residential structures of Victorian-era styling, of wood frame construction, with later storefront additions dating

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to the mid-1920s and mid-1930s, that are of different materials and styling than the house to which they are attached. The other nearby Landmarks are mostly much larger, of distinctly different styles, and of different use-based design.

c. The structure is a good example of architectural design.

As a single-family dwelling, likely designed in the Free Classical sub-type of the Queen Anne style, the house no longer conveys its original appearance, nor is capable of indicating its true age or style. The later Georgian Revival front addition exhibits some characteristic features of the style, but by nature of it being an addition to an existing building of an entirely different style, is not a pure or good example and has some anomalies. Consequently, the architecture of 2138 Kittredge Street has little architectural merit and does not embody distinctive characteristics of either its original design and use, or the style and use imposed upon it in later years.

d. The structure has historical significance to the City and/or to the structure's neighborhood, block, street frontage, or group of buildings.

The property at 2138 Kittredge Street has been identified as part of a grouping of three properties exhibiting residential to commercial conversion via storefront addition. The group is "representative of residential uses that were adapted for commercial purposes as the twentieth century progressed, and as the commercial aspects of Shattuck Avenue began to extend beyond the main thoroughfare." (Archives & Architecture, 2015)

Integrity

In order to qualify for listing in the California Register, a property must possess significance under one of the aforementioned California Register criteria *and* have historic integrity according to seven aspects. Most, if not all, aspects of integrity must be met in order for the property to retain integrity. Integrity is not considered in the evaluation for Berkeley Landmark or Structure of Merit eligibility.

The property at 2138 Kittredge Street does not appear to possess the historic significance necessary to qualify for designation to the California Register; therefore, an analysis of its integrity is not required or included here.

Conclusion

Based on the above analysis, the property at 2138 Kittredge Street does not appear to be eligible for listing the California Register of Historical Resources or as a City of Berkeley Landmark. Because it has been identified as one of a grouping of three similar buildings with a somewhat unique use history, illustrated through physical alteration (SoM general criterion 1 and specific criterion D), and because it is contemporary in age and compatible in physical character with nearby Landmarks (SoM specific criteria A and B), multiple Structure of Merit criteria regarding its associations to similar nearby properties are met. Based on these conclusions, the property appears to qualify as a historical resource for the purposes of CEQA.

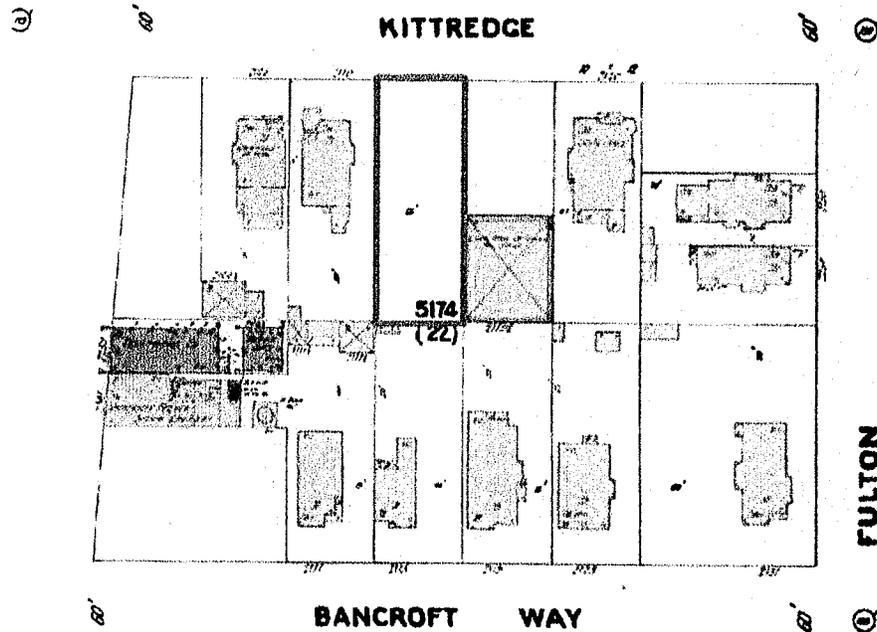
Sources

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Historical Images:



Sanborn Fire Insurance map, 1903. Subject property outlined in red; vacant. (Historical Information Gatherers)

To Erect Large Building

The contract to erect a two-story and basement frame dwelling on Shattuck avenue and Kittredge street, for John C. Fitzpatrick, has been awarded to Contractors Pearson & Olsen. William H. Wharf is the architect. This contract calls for all concrete, mason, carpenter, plumbing and painting work, at a total cost of \$4090. Payments are to be made as follows: Frame up, \$1022.50; plastered, \$1022.50; completed and acceptor, \$1022.50; thirty-five days after, \$1022.50. The contract was let December 30 and the building is to be completed in seventy-five working days, with a forfeit of \$5 a day. W. G. Black and Nils Person are sureties in bonds of \$1022.50.

Construction notice, Berkeley Daily Gazette, 4 January 1904.

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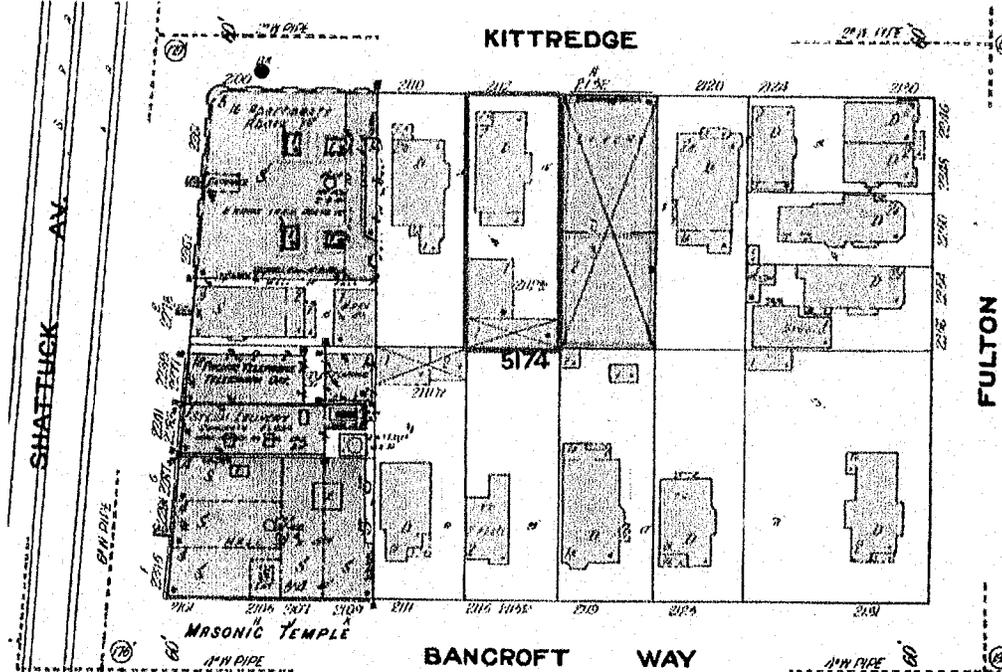
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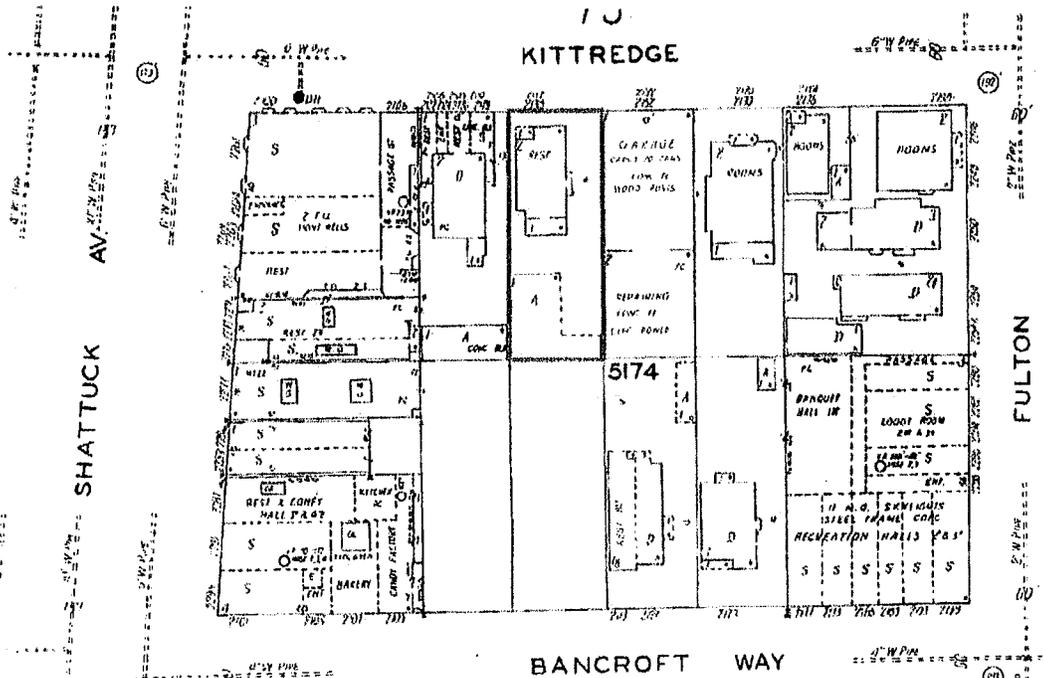
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Historical Images:



Sanborn Fire Insurance map, 1911. Subject property outlined in red. (Historical Information Gatherers)



Sanborn Fire Insurance map, 1929. Subject property outlined in red. (ProQuest)

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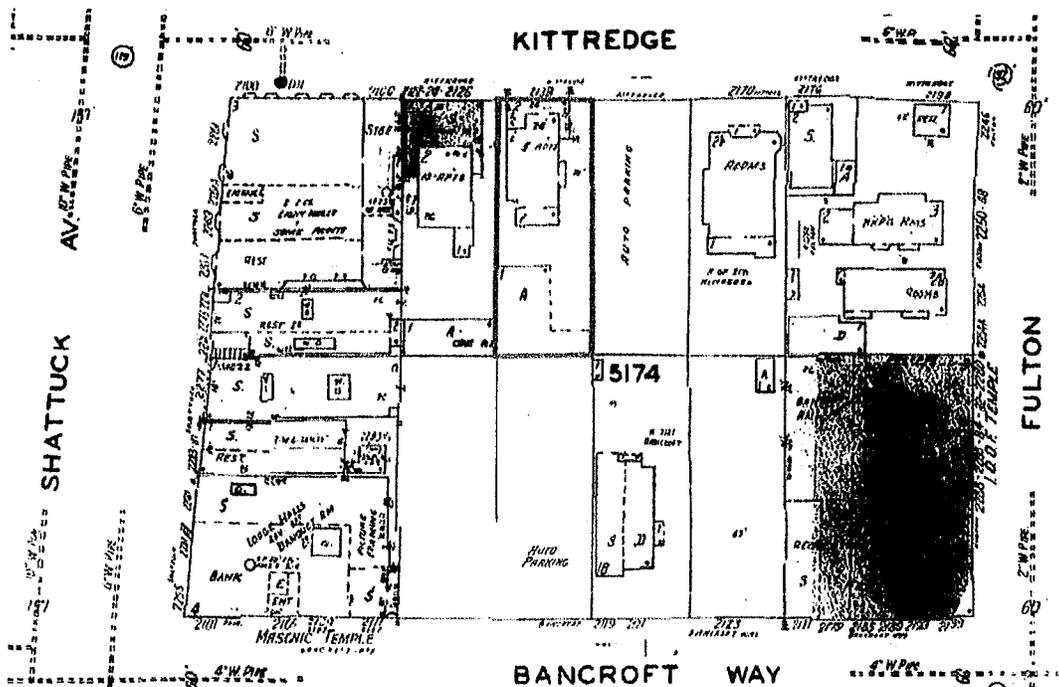
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Historical Images:



2138 Kittredge Street, 1930s. (BAHA, Donogh Collection)



Sanborn Fire Insurance map, 1950. Subject property outlined in red. (ProQuest)

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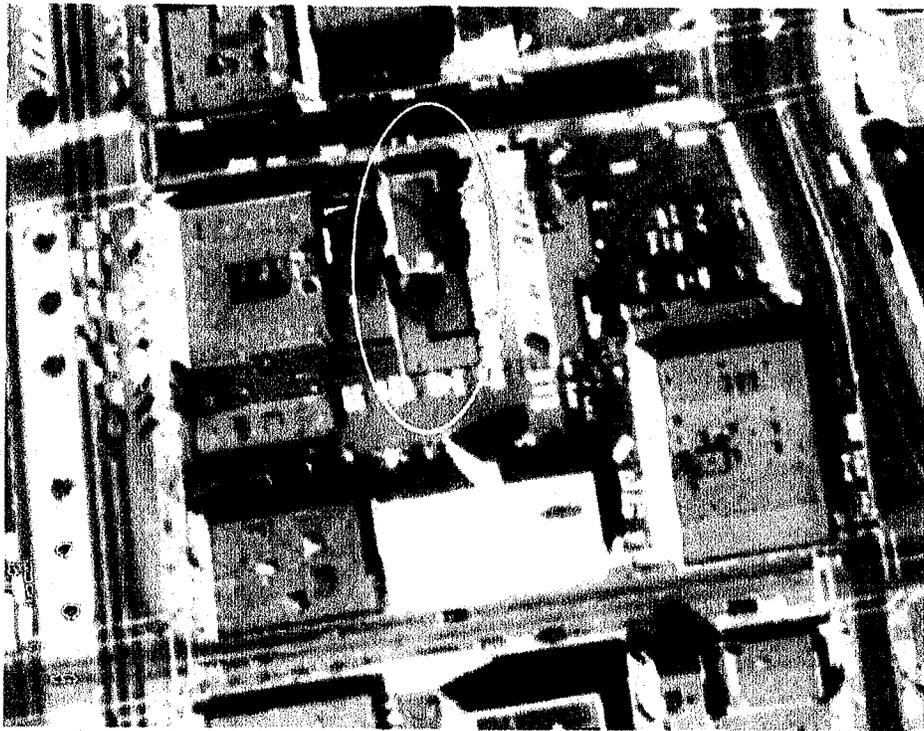
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Update

Historical Images:



Aerial photograph, 1958. 2138 Kittredge Street circled. (U.C. Santa Barbara Library)



Aerial photograph, 1965. 2138 Kittredge Street circled. (U.C. Santa Barbara Library)

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*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

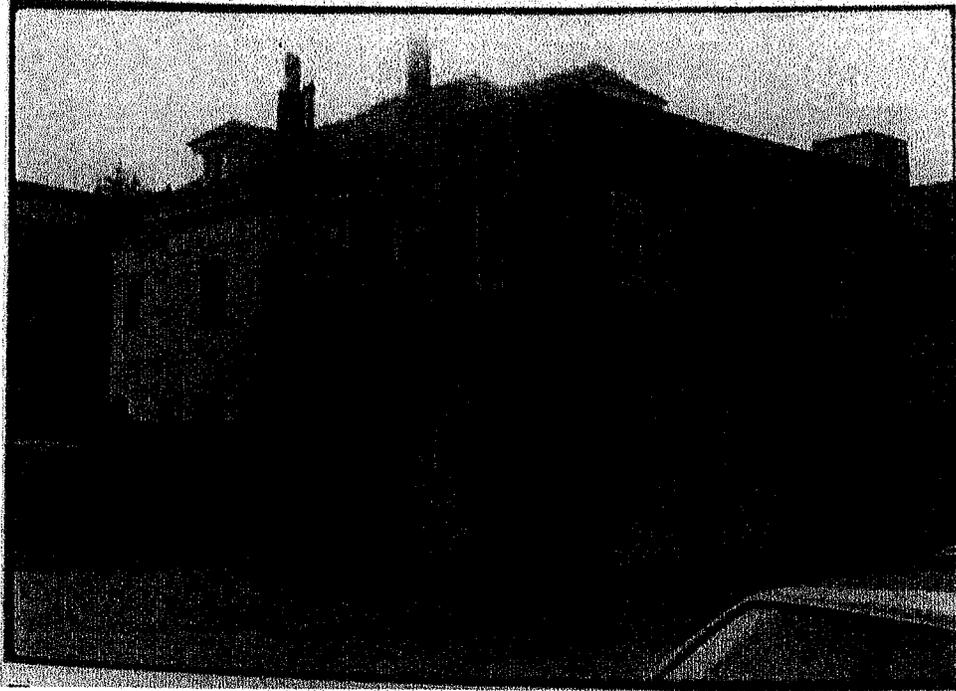
*Recorded by: Caitlin Hibma/Left Coast Architectural History

*Date: Jan. 2024

Continuation

Update

Historical Images:



2138 Kittredge Street, looking southwest; 1978. (BAHA)



2138 Kittredge Street, looking northwest; 1978. (BAHA)

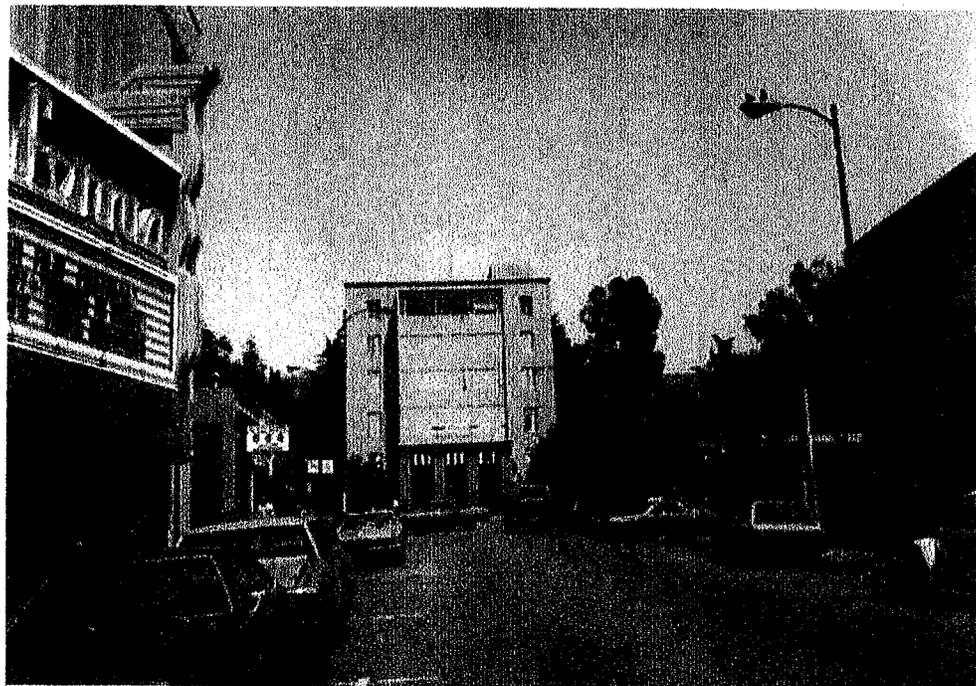
State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET	HRI# Trinomial	Primary #
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Page 17 of 21 *Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA
*Recorded by: Caitlin Hibma/Left Coast Architectural History *Date: Jan. 2024 Continuation Update

Historical Images:



2138 Kittredge Street, looking southeast; 1982. (BAHA)



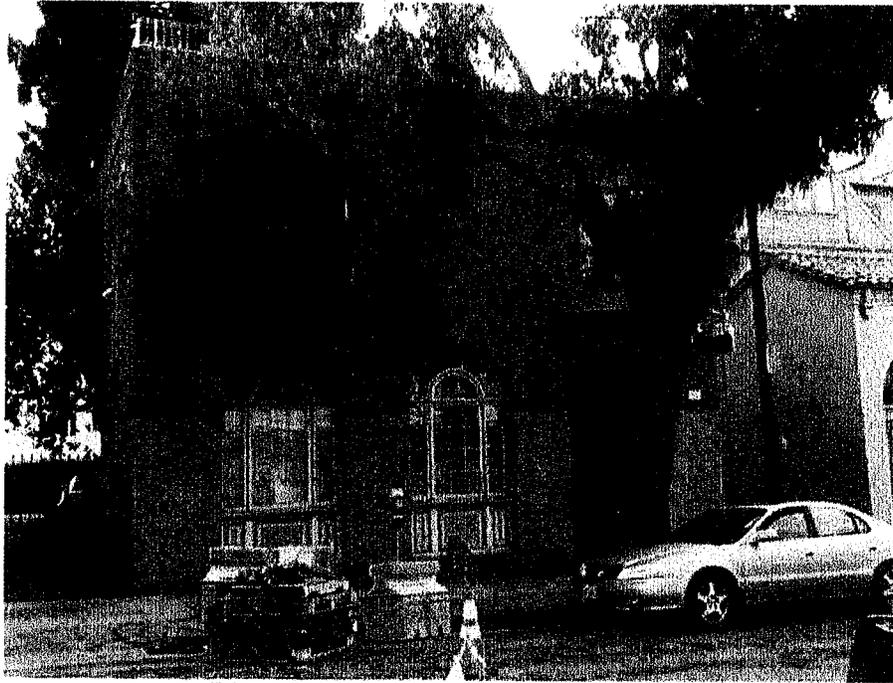
Kittredge Street, looking east. 2138 Kittredge Street at far right; 1982. (BAHA)

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

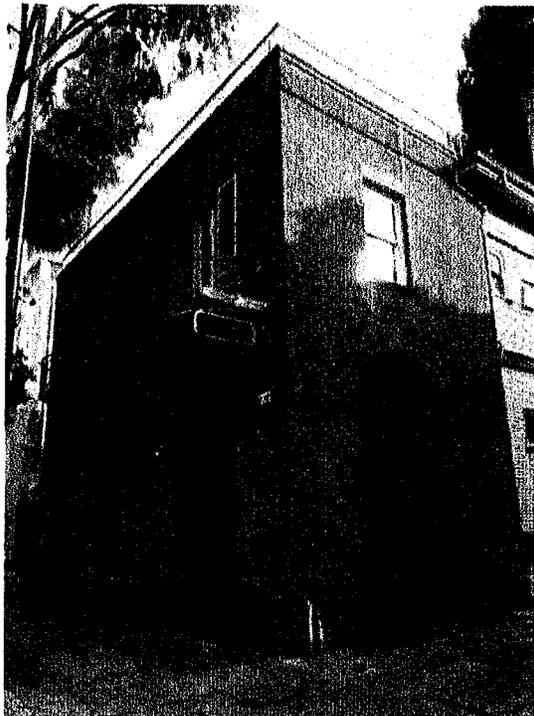
Primary #
HRI#
Trinomial

Page 18 of 21 *Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA
*Recorded by: Caitlin Hibma/Left Coast Architectural History *Date: Jan. 2024 Continuation Update

Current Images:



Primary facade, looking south from Kittredge Street.



Left: Primary facade, looking southeast. Right: Detail of primary entrance.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary #
HRI#
Trinomial

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*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

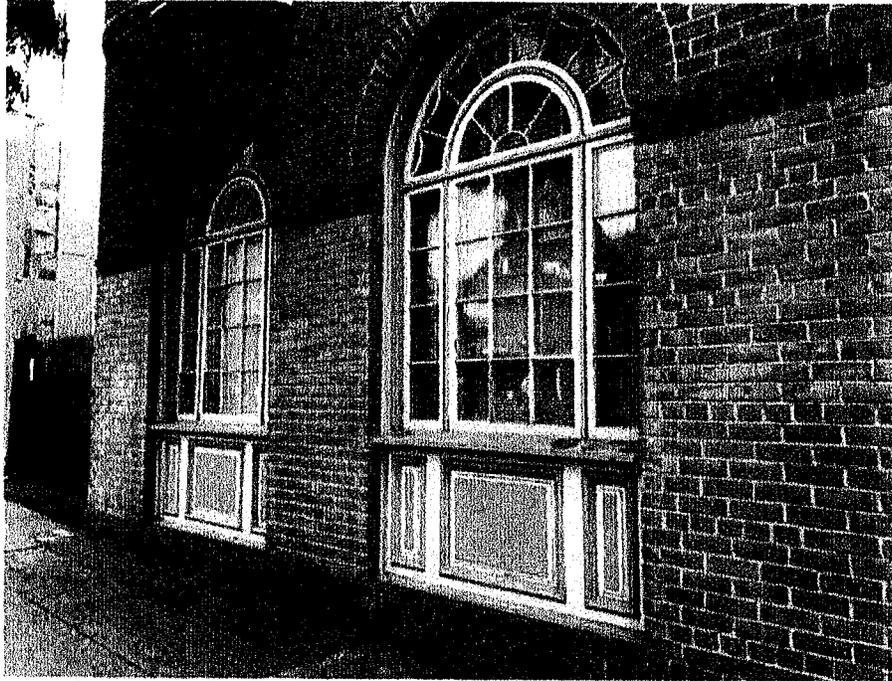
*Recorded by: Caitlin Hibma/Left Coast Architectural History

*Date: Jan. 2024

Continuation

Update

Current Images:



First story of primary facade, left of primary entrance.



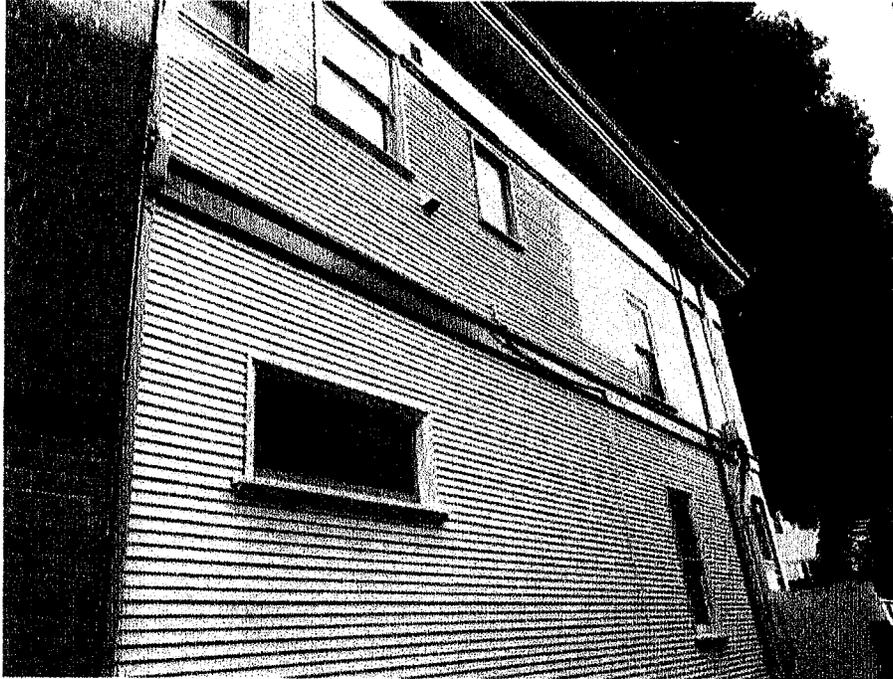
Second story of primary facade.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

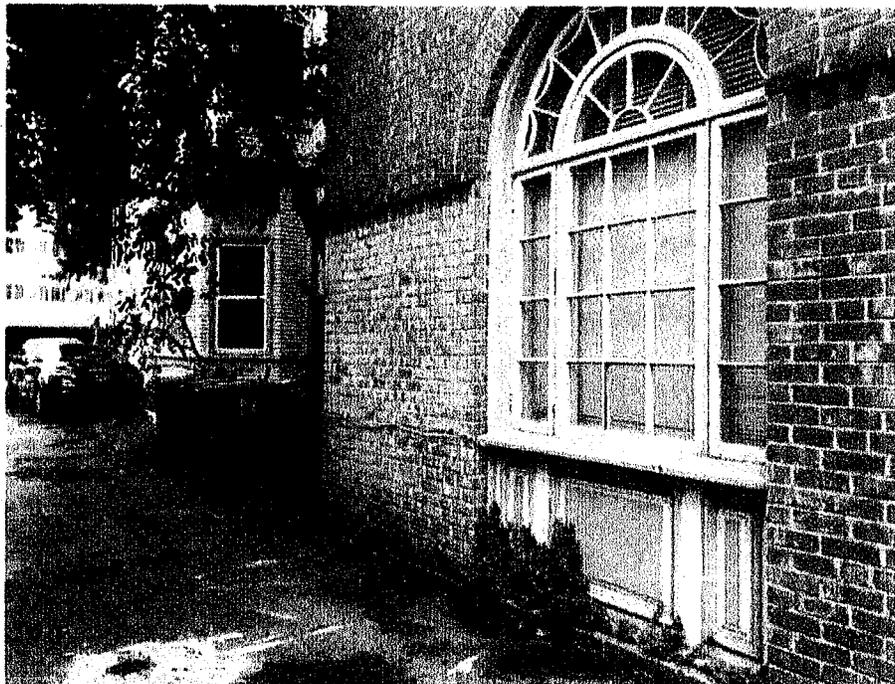
Primary #
HRI#
Trinomial

Page 20 of 21 *Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA
*Recorded by: Caitlin Hibma/Left Coast Architectural History *Date: Jan. 2024 Continuation Update

Current Images:



West facade, looking southeast.



Lower east facade, looking southwest.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary #
HRI#
Trinomial

Page 21 of 21

*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

*Recorded by: Cailin Hibma/Left Coast Architectural History

*Date: Jan. 2024

Continuation

Update

Current Images:



Upper east facade, looking southwest.



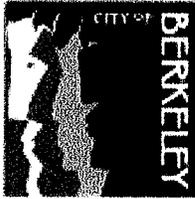
View to rear of lot, showing carport, looking south.

ATTACHMENT 2

ATTACHMENT 2

ATTACHMENT 2

ATTACHMENT 2



Office of the City Attorney

MEMORANDUM

July 8, 2020

To: Jordan Klein, Interim Planning Director

From: Farimah Brown, City Attorney
Chris Jensen, Assistant City Attorney

Re: **Impact of SB 330 on Landmarks Preservation Commission Review of Housing Development Projects**

The Land Use Planning Division has requested an opinion as to whether SB 330 (2019) limits the authority of Landmarks Preservation Commission ("LPC") to conduct historic resource evaluations of applications for housing projects.

SB 330 applies to any "housing development project," which is defined as any residential development, mixed-use development with at least two-thirds of the square footage designated for residential use, or transitional housing or supportive housing development. (Gov. Code § 65589.5(h)(2).)

Where the requirements of SB 330 apply, determinations as to whether the site of the proposed project is historic site must be made "at the time the application for the housing development project is deemed complete." (Gov. Code § 65913.10(a).) That determination "shall remain valid during the pendency of the housing development project for which the application was made unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities." (*Ibid.*)

"Deemed complete" is defined in two different ways in SB 330. Government Code section 65905.5(b)(1) provides that "deemed complete" means "the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940¹ that was available at the time when the application was submitted." (Gov. Code § 65905.5(b)(1).) However, Government Code 65589.5(h)(5) states: "Notwithstanding any other law, until January 1, 2025, 'deemed complete' means that the applicant has

¹ Government Code section 65940 provides that "[e]ach public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project." (Gov. Code § 65940(a).)

Impact of SB 330 on Landmarks Preservation Commission Review of Housing Development Projects

July 8, 2020

Page 2

submitted a preliminary application pursuant to Section 65941.1." (Gov. Code § 65589.5(h)(5).) Until January 1, 2025, section 65589.5(h)(5) controls, "[n]otwithstanding any other law."

Government Code section 65941.1 defines the requirements for a "preliminary application," which include information about "[a]ny historic or cultural resources known to exist on the property." (Gov. Code § 65941.1(a)(9).) Upon providing this information about known historic or cultural resources, along with the other information listed in section 65941.1, the application must be "deemed complete," as set forth in Government Code section 65589.5(h)(5). Government Code section 65913.10(a) prohibits the City from imposing additional historic or cultural resources protections after this time.

Taken together, these provisions of SB 330 have the effect of divesting the LPC of jurisdiction to require applicants to comply with any cultural or historic resource preservation requirements after the time that a "preliminary application" for a housing development project is deemed complete. LPC and the City are prohibited by state law from denying or imposing conditions on a housing development project based on any cultural or historic resources protections imposed after the date on which the application was "deemed complete," and any historic resources information required as part of the preliminary application must be limited to the identification of resources that are "known to exist" at the time of the application. Demolition referrals for commercial buildings that are over 40 years old are still required under the Zoning Ordinance, but cannot lead to the imposition of conditions of approval on the project if the LPC acts after the application is deemed complete.

SB 330 does not impact the LPC's jurisdiction over purely commercial projects or any other project that does not meet the definition of a housing development project under Government Code section 65589.5(h)(2). In addition, SB 330 does not limit the City's obligation to assess the impact of a proposed project on cultural resources under CEQA and to impose measures to mitigate any adverse impact on cultural resources. (See Gov. Code § 65913.10(c).)



PLANNING AND DEVELOPMENT DEPARTMENT
LAND USE PLANNING DIVISION

LANDMARKS PRESERVATION COMMISSION MEETING AGENDA

Date: Thursday, February 6, 2025
Time: 6:30PM
Place: 1901 Hearst Avenue, North Berkeley Senior Center

The Landmarks Preservation Commission meeting packet is available for review on the City's website, and linked here:
<https://berkeleyca.gov/your-government/boards-commissions/landmarks-preservation-commission>

The Commission currently consists of seven members appointed by City Council:

Kathleen Crandall, District 3
Charles Enchill, District 1
Steve Finacom, District 4
Luke Leuschner, District 7
Denise Montgomery, Chairperson, District 8
Susan Orbuch, District 5
Alyssa Plese, District 2
Paul Schwartz, District 6
Mayor - vacant



ACCESSIBILITY INFORMATION / ADA DISCLAIMER

This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. To request alternative formats, please contact the Disability Services Specialist at: Email: ADA@berkeleyca.gov; Phone: 1-510-981-6418; TTY: 1-510-981-6347, and allow 7-10 days for production of the material in an alternative format.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at: Email: ADA@berkeleyca.gov; Phone: 1-510-981-6418; TTY: 1-510-981-6347, at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

For inclusion in the Commissioners' agenda packet, please submit written comments by Wednesday the week prior to the meeting. One set of "late communications" will be distributed to the Commissioners two days before the meeting. Please submit any material for distribution as "late communications" no later than 12:00 noon on the Tuesday prior to the meeting. Please be advised: Commissioners do not have an opportunity to read written materials handed out at the meeting.

** INDICATES THAT THE LANDMARKS PRESERVATION COMMISSION RECEIVED DOCUMENTS (NOTICES OF DECISION, STAFF REPORTS, APPLICATION MATERIALS OR CORRESPONDENCE) AS PART OF THE PACKET THAT WAS DELIVERED PRIOR TO THIS MEETING.

Correspondence and Notice of Decision Requests

- **To distribute correspondence for inclusion in the agenda packet** -- submit comments **by 12:00 noon, January 29, 2025**. Please provide 12 copies of any correspondence with more than ten (10) pages or if in color or photographic format. This method is strongly preferred.
- **Late Communications** must be submitted **by 12:00 noon, February 4, 2025**. Any correspondence received after this deadline will be given to Commission members on the meeting date just prior to the meeting. Correspondence received later, and after the meeting, will be posted to the website following the meeting.
- Staff will not deliver to Commission members any additional written (or e-mail) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 12 copies and submit to the Landmarks Preservation Commission Secretary. **Please be advised: You are strongly advised to submit written comments *prior* to the meeting date as Commission members do not have an opportunity to read written materials handed out at the meeting.**
- Written comments or request for a Notice of Decision should be directed to the Landmarks Preservation Commission Secretary.

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.**

Contact:

Fatema Crane, Landmarks Preservation Commission Secretary
(510) 981-7410 | LPC@berkeleyca.gov | 1947 Center Street, Berkeley CA 94704

Request for initiation of Landmark designation on a future agenda lies within the range of action to be considered on each structure or property appearing at any place on the agenda.

Consent Calendar: The Consent Calendar allows the Commission to take action, without discussion, on Agenda items for which there are no persons present who wish to speak, and no members who wish to discuss. The Consent Calendar may include the following: (1) Approval of previous meeting minutes; (2) Items being continued to another meeting (action will be postponed to another meeting) or withdrawn by the applicant; and (3) Items noticed for public hearing which the Commission decides to move to the Consent Calendar. The Chairperson will announce any additional items proposed for the Consent Calendar at the beginning of the meeting. Anyone present who wishes to speak against one of these items should advise the Chairperson if they request the item be pulled from the Consent Calendar.

** Indicates that the Landmarks Preservation Commission received documents (notices of decision, staff reports, application materials or correspondence) as part of the packet that was delivered prior to this meeting.

1. **ROLL CALL:** Please put all cellular phones and ringers on silent during the meeting.
2. **EX-PARTE COMMUNICATIONS:** In the context of adjudicative matters that come before the LPC, ex-parte communications are those which occur outside of the formal hearing process. LPC members should avoid ex-parte contacts on matters pending before the LPC as much as possible, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a decision on a matter before the Commission. If such contacts do occur, they must be placed in the record and disclosed to all interested parties sufficiently in advance of the decision to allow rebuttal.
3. **LAND ACKNOWLEDGEMENT STATEMENT:** The Commission recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.
4. **PUBLIC COMMENT on Non-Agenda and Information Items** (Three minutes per person; five minutes per organization, or at the discretion of the Chairperson)
5. **AGENDA CHANGES**
 - A. **Consent Calendar** – Commission may consider including items 8, 9 and 13
 - B. **Other Changes**

ACTION AND DISCUSSION ITEMS

6. [2201-2205 Blake Street and 2517 Fulton Street – Structural Alteration Permit \(#LMSAP2024-0004\) for the Bartlett Houses**](#)
Resume the public hearing and consider final action for a request to relocate the historic stable structure and convert it to residential use, and to construct a new residential building at the rear of a City Landmark property; in accordance with BMC Section 3.24.220.
7. [2138 Kittredge Street – Landmark or Structure of Merit Designation \(#LMIN2024-0006\) for the Fitzpatrick House and Pepper Tree Tea Room**](#)
Conduct a public hearing and consider the request to grant Landmark or Structure of Merit status to a property located in the Downtown, in accordance with BMC Section 3.24.130.
8. [3332 Adeline Street – Structural Alteration Permit \(LMSAP2025-0001\) for the Lorin Theater/ Phillips Temple Building**](#)
Hold a public hearing and consider action on a request to install an emergency generator at a City Landmark property, in accordance with BMC Section 3.24.220.

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- 9. [2655 Shattuck Avenue – Demolition Referral \(Use Permit # ZP2024-0057\)](#)**
Consider the proposal to demolish a commercial building that are more than 40 years old, in accordance with BMC Section 23.326.070(C).
- 10. [Certified Local Government \(CLG\) Annual report for the State Office of Historic Preservation](#)**
Review and comment on the draft CLG Annual Report for the period of October 2023 through September 2024, as part of the City’s CLG reporting requirements.
- 11. [1095 University Avenue/1976 San Pablo Avenue – Discussion](#)**
Receive a Commissioner correspondence about a currently vacant West Berkeley bank building originally completed in 1906, and discuss the historical information provided therein.
- 12. **AD HOC Subcommittees and Liaison Comments**
Receive opportunity reports on status of projects for which the LPC has established a subcommittee or liaison. (Note: Sites will come off the list annually or upon approval of a Certificate of Occupancy.) Review Chapter II.F of the Commissioners’ Manual and then consider establishing or re-establishing new and/or previously expired Ad Hoc Subcommittees accordingly.

	Members	Established	Annual Expiration
ZAB Design Review Committee	DM	-	-
Berkeley Rose Garden	KC, PS	Mar 2024	Feb 2025
City Projects for Landmarks and Structure of Merit Sites	CE, SF	Mar 2024	Feb 2025
Potential Initiations	SF, SO	Mar 2024	Feb 2025
University of California	PS, SF	Mar 2024	Feb 2025
Landmarks Policies & Procedures/ HRE Scoping Recommendations	CE, SF, LL, DM	August 2024	July 2025
Structures Completed After 1945	SF, LL, DM	Sept 2024	Aug 2025
Final Design Review for 2065 Kittredge Street	CE, DM	Nov 2024	Oct 2025

- 13. **ACTION:** [Approval of Action Minutes](#)**
Draft Action Minutes for January 6, 2025.
- 14. **INFORMATION REPORTS** Commissioners may ask for discussion to be scheduled on a future agenda (per Brown Act, no deliberation or final action may be taken).
- 15. **CORRESPONDENCE**
- 16. **COMMISSIONER ANNOUNCEMENTS**
- 17. **STAFF ANNOUNCEMENTS**
 - A. **Staffing Updates**

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Landmarks Preservation Commission

February 6, 2025

18. FUTURE COUNCIL CALENDAR ITEMS

- A. 2500-2512 San Pablo Avenue/1094-1098 Dwight Way** – Information Agenda Item re: Approval of Landmark Initiation (#LMIN2024-0004), February 11, 2025
- B. 1310 University Avenue** – Information Agenda Item re: Approval of Structural Alteration Permit (LMSA2024-0001), February 11, 2025

19. POTENTIAL INITIATIONS

The Commission may establish and maintain an ongoing list of structures, sites and areas having a special historical, architectural or aesthetic interest or value. After public hearings, the Commission may initiate landmark and historic district designations from the list.

- A.** 2362 Bancroft Way-Trinity United Methodist Church (3/1/99)
- B.** Berkeley High School, Building C, 1920; W. C. Hayes (LE 9/13/99)
- C.** John Galen Howard Power Station, UC Campus (CO 4/3/00)
- D.** H.C. Macaulay Foundry, 811 Carleton Street (4/3/00)
- E.** UC Storage Station, James Plachek, Architect (4/3/00)
- F.** "Kittredge Street Historic District" - 2124 Kittredge Street (Elder House and storefront)
- G.** 2138 Kittredge Street (Fitzpatrick House and storefront), and 2117 Kittredge Street (A.H. Broad House and storefront) (JK 11/5/2001)
- H.** 1842-1878 Euclid Avenue (CO 9-14-07)
- I.** Berkeley High School Campus Historic District (SW 1/3/08)
- J.** 2746 Garber Street (SW 3/5/09)
- K.** 1901 Bonita Avenue (CO 11/16/10)
- L.** 1920 Bonita Avenue (CO 11/16/10)
- M.** 1940 Channing Way (CO 11/16/10)
- N.** 1920 Haste Street (CO 11/16/10)
- O.** 2414 Shattuck Avenue (CO 11/16/10)
- P.** Terminal Place (alley) (CO 11/16/10)
- Q.** 2041 University Avenue (CO 11/16/10)
- R.** 2482-2498 Telegraph Avenue And 2445-2449 Dwight Way (CO 12/7/11)
- S.** 2301-2315 Telegraph Avenue / 2510-2516 Bancroft Way (CO 12/7/11)
- T.** 2328-2346 Telegraph Avenue / 2441-2447 Durant Avenue (CO 12/7/11)
- U.** 2400-2402 Telegraph Avenue / 2486-2498 Channing Way (CO 12/7/11)
- V.** 2410-2422 Telegraph Avenue (CO 12/7/11)
- W.** 3049 Adeline Street (CO 3/12/12)
- X.** "Manoa Historic District"- 2530 [sic] Way, 2524 Dwight Way, 2503 Regent Street, 2509 Regent Street, 2511 Regent Street, 2515 Regent Street, 2517 Regent Street, 2506 Dwight Way, 2502 Dwight Way/2501 Telegraph Avenue, 2512–2516 Regent Street/2525 Telegraph Avenue (CO 3/12/12)
- Y.** 1400 Sixth Street (CO 6/7/13)
- Z.** 1409 Scenic Avenue (CO 9/3/15)
- AA.** 1301 Shattuck Avenue, Live Oak Park (CO 2/2/17)
- BB.** 2750-2770 Marin Avenue, Pacific Lutheran Theological Seminary (LPC 5/4/17)
- CC.** 2100 Shattuck Avenue-2100 Kala Bagai Way (SF 6/1/17)
- DD.** 741 Cedar Street (CO 7/6/17)
- EE.** 745 Cedar Street (CO 7/6/17)
- FF.** 749 Cedar Street (CO 7/6/17)
- GG.** 2212 Fifth Street (CO 7/6/17; initiation failed 6/6/21)
- HH.** 837 Folger Avenue (CO 7/6/17)

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Landmarks Preservation Commission

February 6, 2025

- II. 1517 Fourth Street (CO 7/6/17)
- JJ. 808 Gilman Street (CO 7/6/17)
- KK. 830 Gilman Street (CO 7/6/17)
- LL. 832 Gilman Street (CO 7/6/17)
- MM. 836 Gilman Street (CO 7/6/17)
- NN. 1018 Pardee Street (CO 7/6/17)
- OO. 1336 Sixth Street (CO 7/6/17)
- PP. 1345 Sixth Street (CO 7/6/17)
- QQ. 601 Ashby Avenue (PA 2/1/18)
- RR. 1013 Pardee (BO 9/6/18)
- SS. 1940 Haste Street (LPC 10/04/18; upon relocation of historic building)
- TT. 2222 Fifth Street (LPC 12/6/18)
- UU. 1631-33 Walnut Street (LPC 7/2/19)
- VV. 1601 California Street (PA 11/7/19)
- WW. 2235 Channing Way, 2240 and 2300 Durant Avenue, 2372 Ellsworth Street (LPC 11/5/20)
- XX. 2501, 2510, 2514, 2530 and 2551 San Pablo Avenue (LPC 4/1/21)
- YY. 2132-2154 Center Street (LPC 5/4/23)
- ZZ. 2414 Shattuck Avenue (LPC 9/7/23)
- AAA. 1306 Third Street (LPC 11/7/2024)

20. CURRENT LAND USE PROJECTS – BMC Section 23.404.030(C)

Below are the addresses of projects that seek to demolish buildings (residential or commercial) over 40 years old. Permit applications for properties where full removal is not sought are not individually listed, but may be found online:

<https://berkeleyca.gov/construction-development/land-use-development/zoning-projects>

Projects proposing demolition of buildings greater than forty years old**A. Non-Residential Structures (BMC Section 23C.08.050)**

2030-2036	Bancroft Way	ZP2024-0079
2530-2538	Bancroft Way	ZP2023-0126
811	Carleton Street	ZP2021-0003
2942	College Avenue	ZP2022-0136
2298	Durant Avenue	ZP2024-0126
2138	Kittredge Street	ZP2024-0114
2100	Milvia Street	ZP2023-0163
1827 and 1899	Oxford Street	ZP2024-0075
2720	San Pablo Avenue	ZP2024-0076
2733-2737	San Pablo Avenue	ZP2023-0090
1650	Shattuck Avenue	ZP2020-0022
1663-1687	Shattuck Avenue	ZP2024-0066
1950-1998	Shattuck Avenue	ZP2023-0040
2274	Shattuck Avenue	ZP2023-0079
2300	Shattuck Avenue	ZP2024-0079
2420	Shattuck Avenue	ZP2022-0149
2847	Shattuck Avenue	ZP2024-0077
2920	Shattuck Avenue	ZP2022-0116
2925-2973	Shattuck Avenue	ZP2024-0071

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Landmarks Preservation Commission

February 6, 2025

3000	Shattuck Avenue	ZP2022-0046
2800	Telegraph Avenue	ZP2022-0107
2821	Tenth Street	ZP2022-0038
1581 and 1589	University Avenue	ZP2024-0074
1708 and 1710	University Avenue	ZP2021-0127
1776-1796	University Avenue	ZP2023-0070
2071-2079	University Avenue	ZP2023-0040
2109	Virginia Street	ZP2024-0066
2700	Ninth Street	ZP2024-0161
2138	Kittredge Street	ZP2024-0114

B. Residential Structures

3035	Colby Street	ZP2024-0112
2360	Ellsworth Street	ZP2024-0126
2442	Haste Street	ZP2024-0070
1627	Jaynes Street	ZP2024-0129
1048	Keith Avenue	ZP2024-0014
1136	Keith Avenue	ZP2024-0052
2708	Prince Street	ZP2024-0024
2427-2433	San Pablo Avenue	ZP2022-0115
1782	University Avenue	ZP2023-0070

21. ADJOURN**NOTICE CONCERNING LEGAL RIGHTS**

If you object to a decision by the Landmarks Preservation Commission to approve or deny a designation or permit for a project, the following requirements and restrictions apply:

1. You must appeal to the City Council within Fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing to receive a Notice of Decision when it is completed.
2. Pursuant to Code of Civil Procedure, Section 1094.6(b), no lawsuit challenging a City Council decision to deny a permit or variance may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure, Section 1094.6(b), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.
3. Pursuant to Government Code, Section 65009(c)(5), no lawsuit challenging a City Council decision to approve (with or without conditions) a permit or variance may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure, Section 1094.6(b), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:

** Indicates that the Landmarks Preservation Commission received documents (notices of decision, staff reports, application materials or correspondence) as part of the packet that was delivered prior to this meeting.

- 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.

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

FOR COMMISSION ACTION
FEBRUARY 6, 2025

2138 Kittredge Street – The Fitzpatrick House and Pepper Tree Tea Room

Landmark application #LMIN2024-0006 for the consideration of City Landmark or Structure of Merit designation status for a property originally constructed in 1904 and expanded in 1935 (APN 057-2029-015-00)

I. Application Basics

- A. Land Use Designations: Outer Core (C-DMU)
- B. CEQA Determination: Exempt from further environmental review pursuant to CEQA Guidelines Section 15061.(b)(3) for Review for Exemptions.
- C. Parties Involved:
 - Initiator: 64 Berkeley Resident Petitioners
 - Application Author: Anthony Bruce
Berkeley Architectural Heritage Association
P.O. Box 1137
Berkeley, CA
 - Property Owner: Susan Carlson
2138 Kittredge Street
Berkeley, CA
- D. Staff Recommendation: Hold a public hearing and consider favorable action on this request.

Figure 1: Vicinity Map – highlighting nearby City Landmarks and Structures of Merit

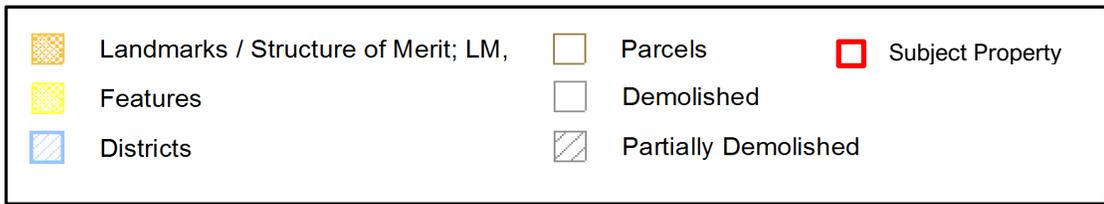
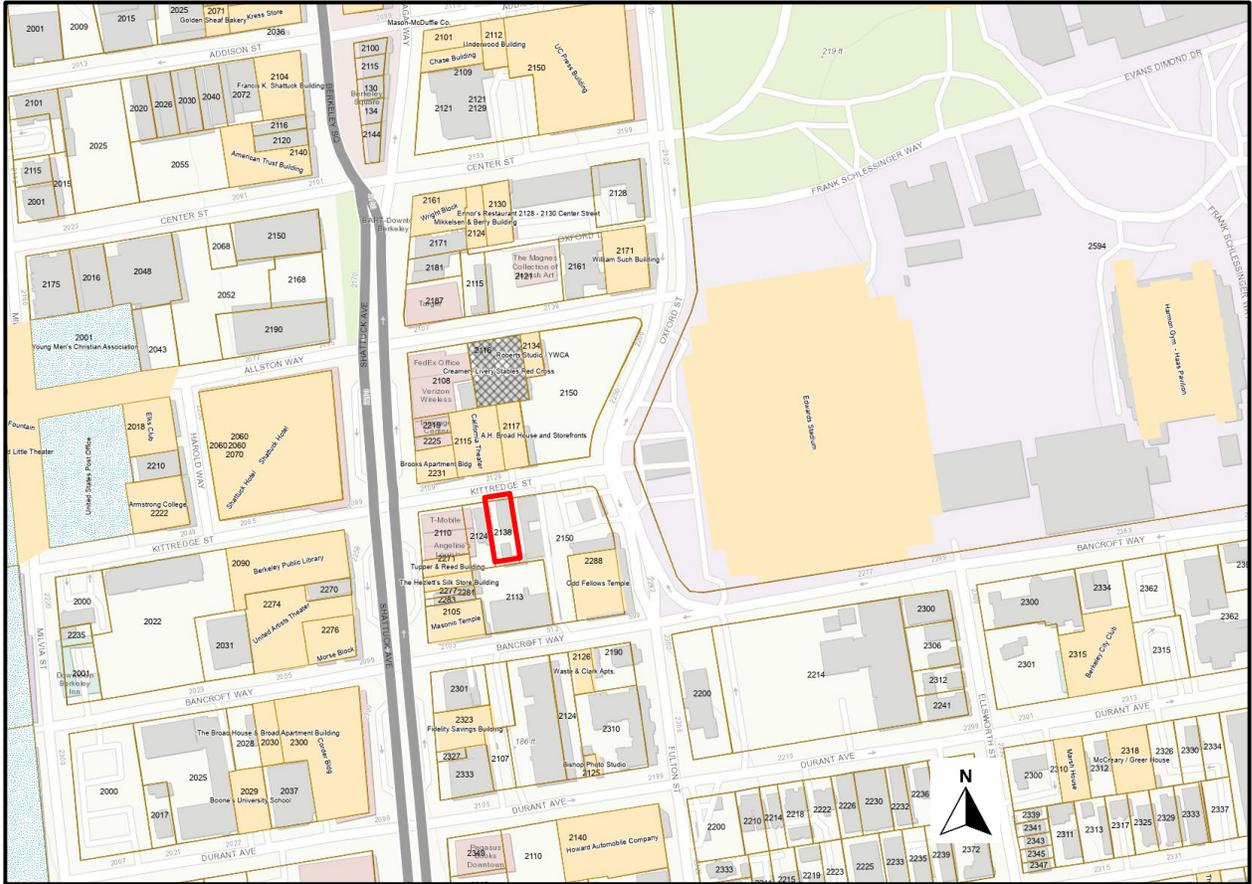


Figure 2 Subject property, current condition – façade (source: Landmark Application)

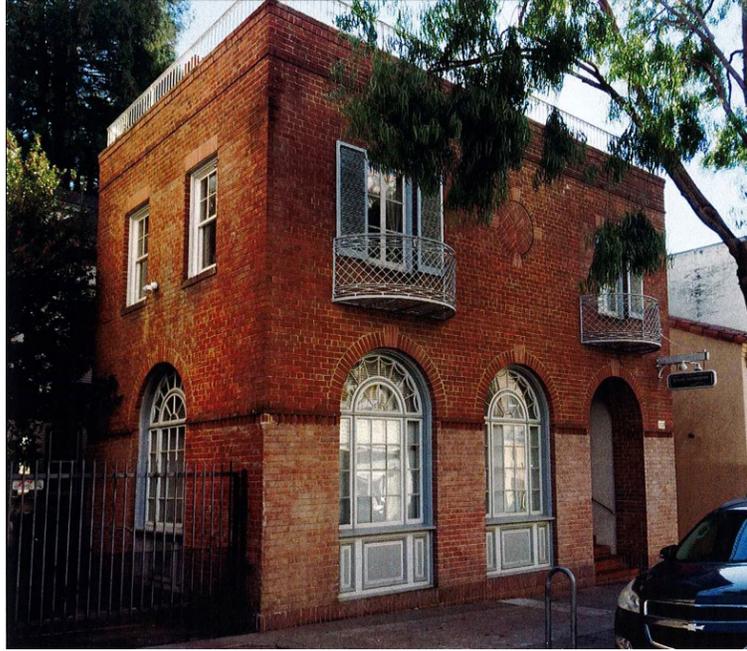


Figure 3 Subject property, entrance (source: Landmark application)

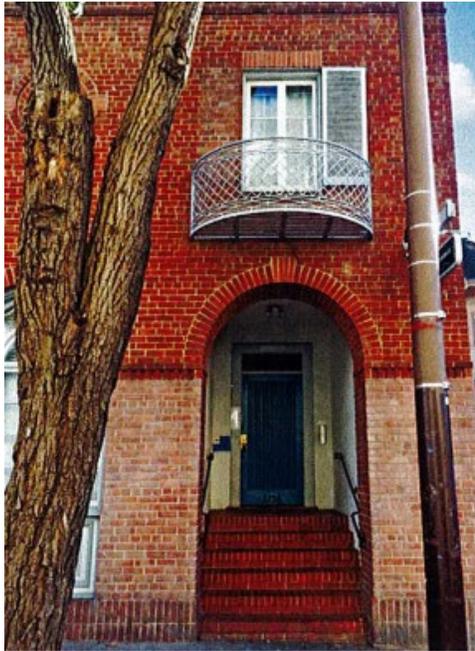
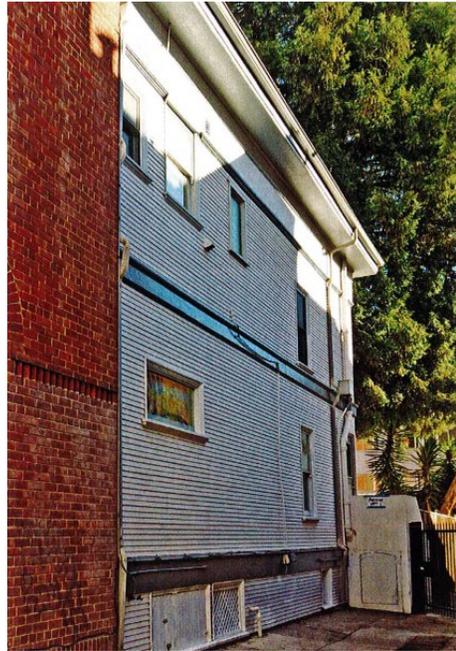


Figure 4 Subject property, current condition – west exterior (source: Landmark application)



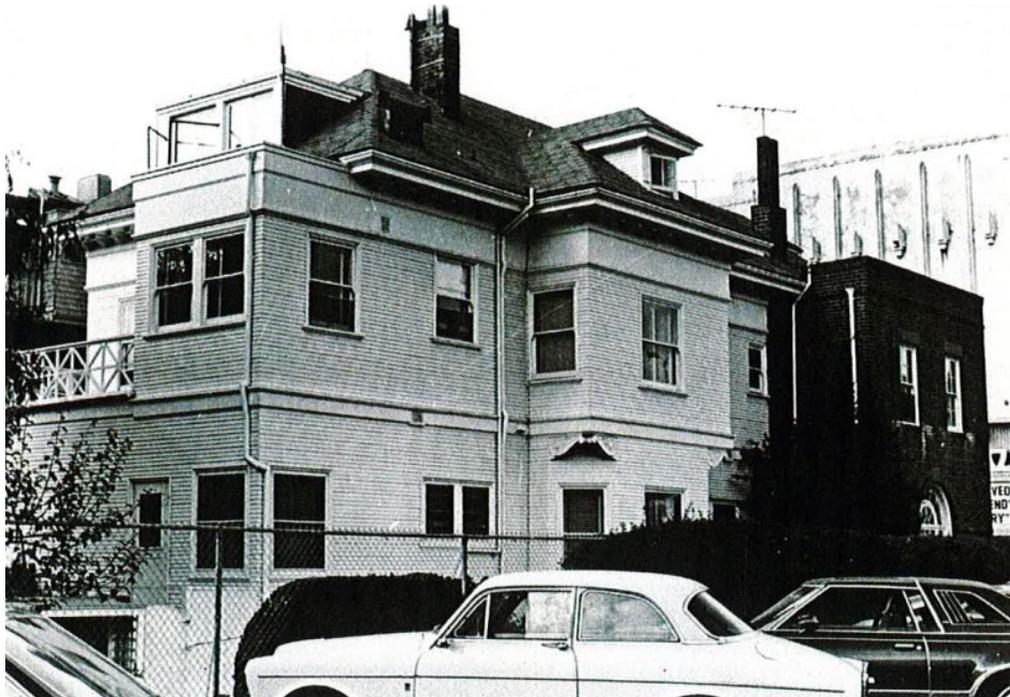
2138 KITTREDGE STREET
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LANDMARKS PRESERVATION COMMISSION
February 6, 2025

Figure 5 Subject property, 1978 (source: Landmark application, photograph by Betty Marvin)



Figure 6 Subject property 1978 (source: Landmark application, photograph by Betty Marvin)



II. Application Chronology

On October 30, 2024, the City received a Landmark or Structure of Merit application petition for the subject property, and is provided in Attachment 2 of this report. In accordance with Berkeley Municipal Code (BMC) Section 3.24.120, the application initiated consideration of the property for designation status.

In December 2024, staff prepared notices for an anticipated hearing on January 6, 2025, in accordance with requirements of BMC Section 3.24.140. However, the hearing was cancelled and then re-scheduled to February 6, 2025, due to the concerns of interested parties.

On January 27, 2025, staff mailed and posted advance notice of tonight's hearing in accordance with the requirements of BMC Section 3.24.140 for Public hearing notice requirements.

Pending SB330 Use Permit application for Demolition

Prior to the initiation of this property for Landmark or Structure of Merit consideration, the City received Use Permit application #ZP2024-0114 requesting permission to demolish the subject building and to construct a new mixed-use housing development at this site.

On April 4, 2024, the Use Permit application vested under the provisions of the Housing Accountability Act/Senate Bill (SB) 330 and this means that the City is divested of its ability under the BMC to impose preservation conditions on the Use Permit should the City approve the Use Permit and also designate this property at a City Landmark or Structure of Merit.

On December 30, 2024, legal counsel for the Use Permit applicant sent a letter to staff objecting to the City's consideration of this Landmark application; see Attachment 3. The letter asserts that a Landmark designation hearing would violate the provisions of SB330 and impact the pending housing development proposal. But staff disagrees and finds that, because the Use Permit application previously vested under SB330 and is subject to streamlined review, this Landmark consideration cannot change the historic status of the subject property (i.e.: project site) or result in preservation conditions on an approved entitlement.

A description of the limitations of SB330 and their applicability for this Landmark consideration appears in Section IV of this report.

III. Historic Resource Status

The subject property is not listed on the National Register of Historic Places (NR) or the California Register of Historical Resources (CR). In 1978, the property was recorded for the State Historic Resources Inventory and recommended eligible for the NR. The property is also on the Berkeley Urban Conservation Survey (form #21280). The City completed the Shattuck Avenue Commercial Corridor Historic Context and Survey in 2015. Through this survey, the potential Shattuck Avenue Commercial Corridor Historic

District was identified and the subject property was assigned a CHRSC of 3S, finding it locally significant as a contributor to the proposed District under criterion A/1 of the NR/CR, with a period of significance of 1904-1958. The district has not been established through an adjudicative action by the City, however it has been identified through a SHPO-compliant evaluation and survey. For these reasons, the potential District and the subject building are cultural resources pursuant to CEQA Guidelines Section 15064.5.(a).

There are several City of Berkeley Landmarks (LM) and Structures of Merit in the immediate vicinity of this property, including: the A.H. Broad House and Storefront (1886, 1915) at 2117 Kittredge Street, California Theater (1914) at 2115 Kittredge Street, Brooks Apartment Building (1906) at 2231 Shattuck Avenue, Tupper and Reed Building (1925) at 2271 Shattuck Avenue, The Hezlett's Silk Store Building (1925) at 2277 Shattuck Avenue, Odd Fellows Temple (1926) at 2288 Fulton Street, Masonic Temple (1905) at 2105 Bancroft Way, and Edwards Stadium (1932) at 2594 Hearst Avenue.

See Figure 1, above.

IV. Property Description

The following description of 2138 Kittredge Street is based on the research presented in the Landmark Application for this consideration, as well as City permit records and the 2015 Shattuck Avenue Commercial Corridor Historic Context and Survey.

The subject property is an approximately 6,750-sq. ft. lot on the north side of the 2000-block of Kittredge Street, between Shattuck Avenue (west) and Oxford Street (east). It is a rectangular parcel, oriented north-to-south, with street frontage facing Kittredge Street to the north. The lot contains two buildings: a two-story residence and a carport. The main residence, identified as the Fitzpatrick House and Pepper Tree Tea Room, is situated toward the northwest corner of the property, with its north facing façade built along the north property line. A one-story detached carport is situated to the rear of the residence, and occupies the southwest corner of the parcel, spanning across the entire rear property line. At its northwest corner, the property has a gated driveway that extends eastward into the site between the residence and the east property line and serves the carport at the rear of the site; see Figure 2.

The Fitzpatrick House and Pepper Tree Tea Room is a two-story, wood-frame residential building, originally constructed in 1904 as a single-family residence. The Fitzpatrick House became a mixed-use property in 1924 with the establishment of the Pepper Tree Tea Room. In 1935, the building received a front addition to expand the Pepper Tree Tea Room; the addition replaced the original 1904 primary façade. Designed with elements of Georgian Revival architectural, the addition also exhibits elements of boxy, Moderne styling, common to commercial buildings constructed in the 1930s and 1940s. Nonetheless, its reddish-brown brick cladding, arched and

rectangular openings, and balanced composition draw from the Georgian Revival style. At the first story, the east side and two easternmost (left and center) bays of the primary façade feature wood tripartite windows with 12 lites at center, four lites in each outer sash, and a fanlight transom with an inner and outer arch above. The westernmost (right) bay of the primary façade contains a recessed entrance with a Moderne style door and leaded-glass transom. The west facing arch contains a niche. Arches are unified by an angled brick beltcourse that wraps around the addition's first story emphasizing the horizontal datum that runs along the base of the arches.

The second story of the addition features two six-over-one vinyl-sash windows (replacements) on the east side. Two wood casement windows with six lites are set toward the outer walls of the primary façade. These windows are set above curved metal balconettes that are mounted to the façade. Each of these windows originally had two shutters, however, one shutter is missing from the window at the right. An additional vinyl-sash six-over-one window is centered in the second story of the west side of the addition. Other features include a circular detail centered in the second story of the primary façade and a beltcourse of brick wraps around the parapet line of the roof, with additional brick coping detailing and a wrought iron railing crowning the roof of the addition.

The original portion of the building to the rear of the addition is clad with shiplap siding at each story. Fenestration includes one-over-one, double-hung wood-sash windows, as well as several smaller wood casement windows and a stained-glass window. A molded wood water table wraps around the base of the first story. The east façade features a two-story projecting bay at center. This bay's first story has chamfered corners with molded wood corner detailing above.

The rear façade has been subject to several alterations, including an early 1915 attic dormer addition that projects from the rear hip of the roof, expansion at the first story ca. 1953, and the addition of a flat-roofed second story wing at the east end. Still, the rear façade features similar exterior cladding and detailing. The west façade is largely intact with several wood windows, including a stained-glass window to the immediate south of the front addition. The hip roof capping the Fitzpatrick House features a moderate overhang, modern asphalt singles, two brick chimneys, and a hipped dormer with a small window on the east side.

The residence at 2138 Kittredge Street exhibits characteristics of the Colonial Revival style and the Georgian Revival styles. 2138 Kittredge Street is a strong example of the blending of styles and forms that resulted from the adaption of residences to accommodate commercial uses in Berkeley during the early twentieth century. The property is in good condition.

Construction and Ownership History. John C. Fitzpatrick (1865-1945) purchased the subject property parcel in 1903. He and Caroline Isabel Preston were married in Benicia in 1887 and settled in Berkeley with their first two children in 1890.

Fitzpatrick was hired as superintendent of the Claremont, University & Ferries Street Railway (and served in other roles, such as secretary and motorman) until 1900. He then started a livery business that provided transport in Berkeley. In 1903, he contracted with architect William H. Wharff for the design of a residence on the south side of Kittredge Street. Fitzpatrick also purchased the adjoining lot to the east of present-day 2138 Kittredge Street, where he built a livery stable (non-extant) where he based his transportation business in subsequent years. He built a smaller stable (non-extant) to the rear of his residence to accommodate overflow. Fitzpatrick's business evolved to operate with automobiles by 1916, and he also delivered telegrams and telephone messages. His main stable was eventually converted to a public garage before his retirement around 1920. Fitzpatrick moved to a residence at 1936 Delaware Street in 1924, where he resided until his death in 1945.

The subject property was occupied by Alma and William Taylor after Fitzpatrick and his family members relocated in 1924. Alma Taylor established the Pepper Tree Tea Room immediately after the Taylors became tenants of the subject property. Alma served as manager for the next 17 years; her niece, Helga, waited tables. In 1935, the front addition to the former Fitzpatrick House was completed and provided redecorated and enlarged dining rooms for the Pepper Tree Tea Room. The adaption of the former Fitzpatrick House occurred after two nearby residential structures experienced similar commercial transformations, including the A.H. Broad House at 2119 Kittredge Street (Landmark-Structure of Merit #242) and the Elder House at 2124 Kittredge Street (still extant).

The Taylors purchased the property from Fitzpatrick in 1942, and the Pepper Tree Tea Room closed in the same year. Despite the closure of the tearoom, the Taylors retained ownership of the property and embarked on alterations to add a dwelling unit to the building, under contract with local architect Paul Hammarberg, who was a frequent designer of wartime housing. In 1943, the Taylors purchased the adjacent property to the east, which had been the location of Fitzpatrick's main stable/garage. The Taylors improved the apartments within the subject building in 1953. The adjoining property was redeveloped with Herb's Hamburgers in 1955; thus, the former Fitzpatrick stable was nonextant as of 1955. The smaller stable Fitzpatrick located to the rear of the subject building was demolished in the same year to accommodate construction of a carport, which remains at the rear of 2138 Kittredge Street.

Alma Taylor died in 1960 and William remarried to Helen Ingham in 1963; they remained residents of 2138 Kittredge Street until William's death in 1974.

Alterations.

An attic dormer was added to the rear hip of the original roof in 1915. The front addition was constructed in 1935 to expand the Pepper Tree Tea Room. Alterations that appear have been limited to the interior were contracted to architect Paul Hammarberg in 1932. In 1953, apartments within the residence were remodeled; this alteration work potentially included alterations to the rear façade, where a second story east extension was

constructed, and likely modification of the first story of the rear façade. In 1955, a one-story detached carport was added to the property and replaced a preexisting stable that was built around 1903. Original windows within narrower east and west sides the front addition have been replaced with vinyl-sash windows.

A complete property history is provided in the Landmark application, see Attachment 1.

V. Analysis and Evaluation

The analysis section of this report will refer to the research and information provided in the Landmark application (Attachment 2). This section analyzes the extent to which the property appears to meet significance criteria set forth in the Landmarks Preservation Ordinance (LPO), Berkeley Municipal Code (BMC) Chapter 3.

Historic Context.¹ The property at 2138 Kittredge Street is associated with a pattern of residential development during the early twentieth century, when single-family residential properties were more prevalent in what has since become a primarily commercial area along the Shattuck Avenue corridor in the downtown. The subject property's evolution between the 1920s and 1930s from solely residential use to a property combining residential and commercial uses, is associated with a subsequent trend of commercial development in the downtown, which included the modification of preexisting residences, including several along Kittredge Street and in the immediate vicinity to accommodate the spread of commerce. The subject building also surveyed the devastating Berkeley Fire of 1923, which destroyed many wood frame buildings. The Fitzpatrick House and Pepper Tree Tea Room's period of significance begins in 1904, its year of original construction, and extends to 1958, recognizing its contribution to the historical development of the Shattuck Avenue Commercial Corridor Historic District.

Landmarks Preservation Ordinance Significance Criteria. When it designates a property as a Landmark, Historic District, or Structure of Merit, the Commission must find that the property meets one or more of the required criteria codified in LPO, BMC Section 3.24.110. These criteria are relatively specific and appear to align with California Register and National Register criteria. The significance criteria for a Structure of Merit are broader than those for Landmarks status, and include properties that qualify individually as good examples of architectural design, or that qualify as contributors to the context of a larger streetscape or area.

Staff completed a review of information provided in the Landmark application, as well as available City records and previous surveys, and compared the evidence against the criteria for designation consideration. The property and extant structures appear to meet multiple designation criteria. A summary of findings is provided below.

Landmark criterion – *Architectural Merit*. Based on the research and evidence presented in the Landmark application, the property at 2138 Kittredge Street appears to meet the

¹ National Register Bulletin #15, Item V: *How to Evaluate a Property within its Historic Context* (2002); National Register Bulletin #16A, Section III: *How to Complete the National Register Registration – Period of Significance* (1997).

LPO Landmark designation criterion for *architectural merit*. The building's design incorporates elements of its original design as a Colonial Revival residence representing the work of locally prominent architect, William H. Wharff, combined with an individually distinctive example of the application of Moderne-influenced Georgian Revival styling to form its front addition. Together, the building's original and added masses provide a strong example of a hybridized building typology that is representative of the mixed-use architecture that developed in Berkeley's downtown during the early twentieth century. This finding aligns with the designation criterion of BMC Section 3.24.110.A.b.

The subject property retains many of the character-defining features of its historical expression of the Colonial Revival and Georgian Revival styles. Its Colonial Revival characteristics include shiplap siding, molded wood water table and beltcourses, projecting bay with chamfered corners and molded overhang details, hip roof with moderate overhangs and a hip dormer, as well as its retention of several wood-sash windows, and a stained-glass window. Its Georgian Revival style is expressed through its front addition, which incorporates unpainted, reddish brown brick cladding and brick detailing, arched openings with keystone details, arched windows with tripartite casements, fanlights, paneled-wood bulkheads, and a balanced composition overall.

The building's essential form and exterior continue to exhibit the necessary aspects of integrity to convey its architectural significance as a historical mixed-use property type with elements of Colonial Revival and Georgian Revival architecture, inclusive of *design*, *materials*, and *workmanship*.

Landmark criterion – Cultural Value. BMC Section 3.24.110.A.2 allows for the designation of properties that are associated with the *movement or evolution of culture*. The Landmark application documents the property's association with the property's original owner and namesake, John Fitzgerald, as well as Pepper Tree Tea Room proprietors William and Alma Taylor. Additionally, the application documents the property's contribution to the city's economic development, including development of expanded commercial uses in what was a largely residential area to a commercial district along the Shattuck Avenue corridor. This pattern of twentieth century development in downtown Berkeley included the modification of single-family residences to accommodate commercial uses, such as occurred at with the subject building's 1935 addition. The property continues to exhibit characteristics that lend it a strong association to this aspect of Berkeley's cultural history. For these reasons, the property appears to be associated with the movement and evolution of *economic developments* of the City, and could warrant designation for this association. 2138 Kittredge Street appears to meet the LPO Landmark designation criterion for *cultural value*.

Landmark criterion – Historic Value. The development of 2138 Kittredge Street is associated with a pattern of development that emerged in Berkeley during the early twentieth century, as settlement in the core downtown area increased and commercial uses became more prevalent. Located in the block immediately east of Shattuck Avenue, the property transitioned from a single-family residential use to a combined

residential and commercial use in 1924, when the Pepper Tree Tea Room was established by the Taylors in the former Fitzpatrick House. The Taylors eventually acquired the property in 1942, by which time the Fitzpatrick House was modified to support expansion of the tearoom. Along with nearby properties that underwent similar residential-to-residential-commercial adaptations, 2138 Kittredge Street developed into a hybrid building type and remains an excellent example of this historical trend in downtown Berkeley. For these reasons, the property appears to *embody and express* the development history of Berkeley. 2138 Kittredge Street appears to meet the LPO Landmark designation criterion for *historic value*.

The Commission has received sufficient evidence to take favorable action to designate the subject property as a City Landmark. Draft Findings for Approval are provided for the Commission's consideration in Attachment 1. This draft includes a list of character-defining physical features of this historical resource that should be preserved as required under BMC Section 3.24.100.A for Procedures Required – Controls and Standards.

LPO Structure of Merit criteria. As discussed above, staff believe that the subject property could meet the criteria for designation as a City Landmark. However, if the Commission concludes that it does not (in whole or in part), then the Commission may consider the extent to which it meets the criteria for designation as a Structure of Merit, in accordance with BMC Section 3.24.110.B.2.

The subject property is an excellent example of the combination of Colonial Revival residential architecture and Georgian Revival commercial architecture that embody the mixed-use architecture that contributed to the development of commerce in downtown Berkeley during the early twentieth century. The property also exhibits integrity of design, materials, and workmanship. It is also part of a three-building group within the 2000-block of Kittredge Street, including the A.H. Broad House and Storefront (1894, designated Berkeley Landmark) at 2117 Kittredge Street and the Elder House at 2124 Kittredge Street, that provides a concentrated representation of the historical adaptation of residences to commercial uses.

Given these facts, the property at 2138 Kittredge Street would meet the following Structure of Merit criteria:

Section 3.24.110 B.2.a – *The age of the structure is contemporary with (1) a designated landmark within its neighborhood, block, street frontage, or group of buildings, or (2) an historic period or event of significance to the City, or to the structure's neighborhood, block, street frontage, or group of buildings.*

Section 3.24.110.B.2.b – *The structure is compatible in size, scale, style, materials or design with a designated landmark structure within its neighborhood, block, street frontage, or group of buildings.*

Section 3.24.110.B.2.c – *The structure is a good example of architectural design.*

Section 3.24.110.B.2.d – *The structure has historical significance to the City and/or to the structure’s neighborhood, block, street frontage, or group of buildings.*

No draft findings for approval as a Structure of Merit are provided with this report, however the Commission can direct staff to prepare such findings if needed to support action under these provisions.

VI. Limitations of Local Register Designation & Pending Use Permit for Demolition

In addition to the information and analysis presented in the staff report for the Commission’s hearing on the subject Landmark application, staff would like to provide an explanation of the regulatory context for the City’s concurrent review of the pending Use Permit application for this same property: #ZP2024-0114.

Should the Commission vote favorably on the subject Landmark application to designate the Fitzpatrick House and Pepper Tree Tea Room as either a City Landmark or Structure of Merit, the property would become a locally listed historic resource. However, certain limitations would apply given the pending Use Permit request to demolish the building.

The Housing Accountability Act of 2019, also referred to as Senate Bill (SB) 330, requires the City to make the “historic site” determination at the time the application for the housing development project is deemed complete. Furthermore, a “determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made [(Gov. Code § 65913.10(a)).” No City Landmark or Structure of Merit designation status was in place last year at the time of application completeness and, therefore, a local designation at this time would not retroactively apply to the pending Use Permit request.

Further, SB330 limits the City’s ability to impose any preservation-related conditions of approval on the Use Permit. While SB330 also imposes limits on the number of hearings to five, that limit applies to the housing project (i. e.: Use Permit proposal) and not this Landmark Initiation application. SB 330 does not limit the City’s obligation to assess the impact of a proposed project on cultural resources under CEQA and to impose measures to mitigate any adverse impacts on cultural resources; see Gov. Code § 65913.10(c).

Should the LPC vote on application #LMIN2024-0006 to designate the subject property as a City Landmark or Structure of Merit, the designation would symbolically recognize

the local significance and architectural/cultural/historic merit of the Fitzpatrick House and Pepper Tree Tea Room. Additionally, if the vested rights under Use Permit application #ZP2024-0114 were not to be exercised and a new or modified application were to be filed in its place subsequent to City Landmark or Structure of Merit designation of the property, then a protective status could apply to the historic site for any future development application.

VII. Recommendation

Staff recommends that the Commission consider the extent to which this property meets the criteria for City Landmark or Structure of Merit designation pursuant to BMC Section 3.24.110.A.1, and then take favorable action.

Attachments:

1. **Draft Findings for Designation Approval**
2. **Landmark Application.** 2138 Kittredge Street, prepared by Anthony Bruce for Berkeley Architectural Heritage Association, received October 30, 2024
3. **Correspondence**

Prepared by: Josh Bevan, Architectural Historian, Rincon Consultants, Inc.

Reviewed by: Fatema Crane, Principal Planner; fcrane@cityofberkeley.info (510) 981-7410

ATTACHMENT 1

DRAFT FINDINGS FOR DESIGNATION

FEBRUARY 6, 2025

2138 Kittredge Street – The Fitzpatrick House and Pepper Tree Tea Room**Landmark application #LMIN2024-0006 for the consideration of City Landmark or Structure of Merit designation status for a residential property constructed circa 1904 (APN: 057-2029-015-00)**

PROJECT DESCRIPTION

City Landmark designation of the property at 2138 Kittredge Street

CEQA FINDINGS

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

LANDMARK PRESERVATION ORDINANCE FINDINGS

1. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A.1.(b) of the Landmarks Preservation Ordinance (LPO), the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the property at 2138 Kittredge Street meets the architectural merit criterion for City Landmark designation as an example of a Colonial Revival residence representing the work of locally prominent architect, William H. Wharff, combined with an individually distinctive example of the application of Moderne-influenced Georgian Revival styling to form its front addition. Together, the building's original and added masses provide a strong example of a hybridized building typology that is representative of the mixed-use architecture that developed in Berkeley's downtown during the early twentieth century. Its Colonial Revival characteristics include shiplap siding, molded wood water table and beltcourses, projecting bay with chamfered corners and molded overhang details, hipped roof with moderate overhangs and a hip dormer, as well as its retention of several wood-sash windows, and a stained-glass window. Its Georgian Revival style is expressed through its front addition, which incorporates unpainted, reddish brown brick cladding and brick detailing, arched openings with keystone details, arched windows with tripartite casements, fanlights, paneled-wood bulkheads, and a balanced composition overall. Through the retention of its essential form and historic materials, it conveys design, materials, and workmanship aspects of integrity.
2. Pursuant to BMC Section 3.24.110.A.2, the Commission further finds that the subject property warrants designation for its association with original owner, John Fitzgerald as well as Pepper Tree Tea Room proprietors, William and Alma Taylor. The property

contributed to the City's economic development, including development of expanded commercial uses in what was a largely residential area to a commercial district along the Shattuck Avenue corridor. This pattern of twentieth century development in downtown Berkeley included the modification of low-density residences to accommodate commercial uses, such as occurred with the subject building's 1935 addition. The property continues to exhibit characteristics that lend it a strong association to this aspect of Berkeley's cultural history.

3. Pursuant to BMC Section 3.24.110.A4, the Commission finds that the property meets the criterion for historical value for its association with a pattern of residential to residential-commercial development that emerged in Berkeley in the early twentieth century. Its residential to residential-commercial development is conveyed through its blended styles and forms that resulted from its adaptation including its distinctive 1935 Georgian Revival with Moderne styling front addition and Colonial Revival residence portion. Its residential-commercial use is conveyed through its two-part massing with reddish-brown brick cladding, arched and rectangular openings, and balanced Georgian Revival composition at the primary elevation and its shiplap exterior, dormers, and one-over-one, double-hung wood-sash windows at the building's residential rear.

2138 Kittredge Street
February 6, 2025

FINDINGS for DESIGNATION
Page 3 of 3

FEATURES TO BE PRESERVED

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

Property

- Location at the south side of Kittredge Street
- Setting in the Shattuck Avenue Commercial Corridor Historic District.

Main Building

- Two-part massing comprised of Colonial Revival residential rear and Georgian Revival commercial addition at primary, street-facing facade
- Colonial Revival characteristics, including:
 - Shiplap siding
 - Molded-wood water table at the first floor
 - Projecting bay with chamfered corners and molded overhang details at the first floor
 - Hipped roof with moderate overhang and dormer window on east eave
 - One-over-one, double-hung wood-sash windows
- Georgian Revival characteristics, including:
 - Unpainted reddish-brown brick cladding and brick detailing
 - Arched openings with keystone details
 - Arched windows with tripartite casements
 - Fanlights above tripartite casements
 - Paneled-wood bulkheads
 - Angled brick beltcourse that continues around the addition's first floor
- Stained-glass window at west elevation of Colonial Revival portion of building
- Circular with four keystones detail at second story of primary façade

Received
OCT 30 2024
Land Use Planning

CITY OF BERKELEY
Ordinance #4694 N.S.
LANDMARK APPLICATION

Fitzpatrick House & Pepper Tree Tea Room
2138 Kittredge Street
Berkeley, California

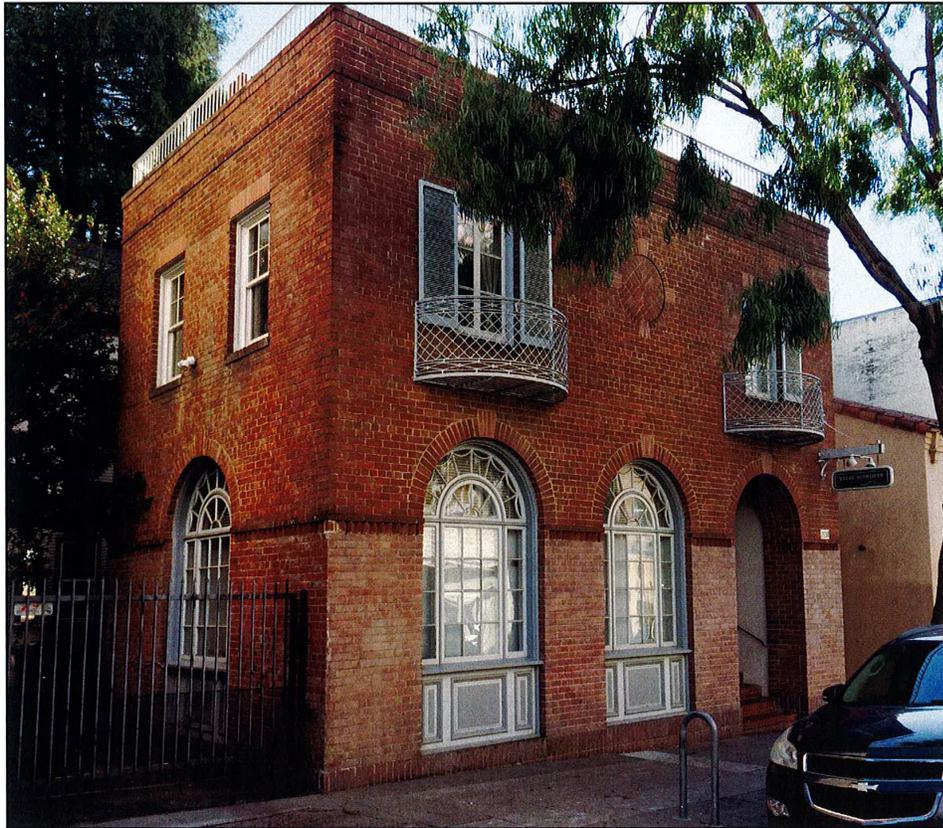


Figure 1. The Pepper Tree Tea Room addition to the front of the Fitzpatrick House. Anthony Bruce, 2021

1. **Street Address:** 2138 Kittredge Street (formerly 2112 Kittredge Street)
County: Alameda **City:** Berkeley **ZIP:** 94704
2. **Assessor's Parcel Number:** 057-2029-01500 (Blake Tract No. 3, Lot 17)
Dimensions: 50 feet x 135 feet
Cross Streets: Shattuck Avenue and Fulton Street
3. **Is property on the State Historic Resource Inventory?** Yes, 1979
Is property on the Berkeley Urban Conservation Survey? Yes
Form #: 21280
4. **Application for Landmark Includes:**
 - a. **Building(s):** Yes **Garden:** No **Other Feature(s):** No
 - b. **Landscape or Open Space:** No
 - c. **Historic Site:** No
 - d. **District:** No
 - e. **Other:** Entire property
5. **Historic Names:** Fitzpatrick House; Pepper Tree Tea Room
Commonly Known Name: not known
6. **Date of Construction:** 1904; 1935 **Factual:** Yes
Source of Information: *Berkeley Gazette*, January 4, 1904; City of Berkeley Building Permit Application #39423, June 13, 1935
7. **Architect:** William H. Wharff (1904); unknown (1935)
8. **Builder:** Ben Pearson and Nels Olsen (1904); Victor Carlson (1935)
9. **Style:** Late Colonial Revival (the house); Georgian Revival (storefront)
10. **Original Owners:** John C. Fitzpatrick (from 1903 to 1942)
Original Use: family residence; restaurant
11. **Present Owner:** Carlson Susan Trust
Present Occupant: unknown
12. **Present Use:** Residential
Current Zoning: C-DMU Outer Core **Adjacent Property Zoning:** C-DMU Outer Core
13. **Present Condition of Property:**
Exterior: Excellent (except for recent graffiti) **Interior:** unknown **Grounds:** fine
Has the property's exterior been altered? Minimally

14. Description

The structure at 2138 Kittredge Street consists of a 1904 house with a major 1935 brick commercial addition (now residential) at the front. The earlier structure is a two-story, clapboard Colonial Revival house topped by a hip roof with dormers. Originally the front façade consisted of a front porch at the right topped by a Classical balustrade, and a two-story gable-roofed bay to the left, which set it apart from most of the other Colonial Revival houses of the time. The front façade was obliterated when the brick addition was built.



Fig. 2 The Fitzpatrick House, showing the rear and the east elevation. Betty Marvin, 1978.

There is a two-story square bay on the east side (*Fig. 2*). The bay is slanted on the first floor with the corners of the second floor supported by elaborate consoles. The eaves are supported by smaller consoles. An extension of the main roof of the house covers the bay.

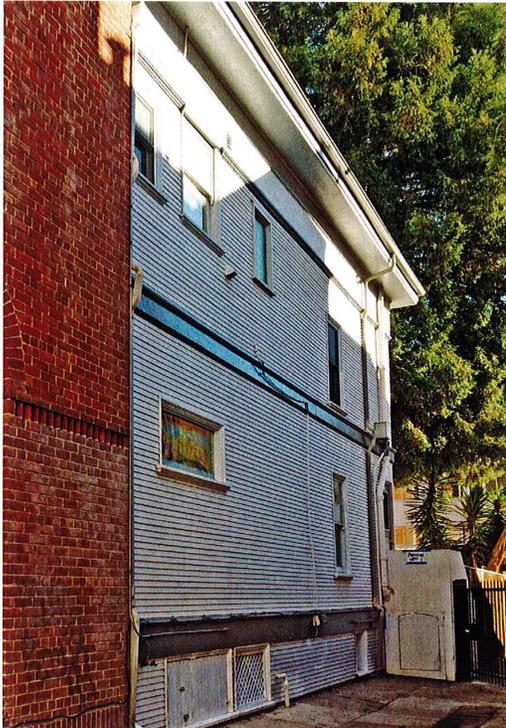


Fig. 3 The west elevation of the Fitzpatrick House with stained glass window. Anthony Bruce, 2021

There have been several alterations to the rear of the house. A large dormer was added at the rear in 1915 to serve as an attic-level sleeping porch. An original one-story section that extended across the rear was altered at an unknown date after 1950 (probably 1953) with the addition of a flat-roofed second story at the east end.

The west façade (*Fig. 3*) is fairly intact, except for the possible addition of one or two windows on the second floor. An important feature of the original structure is on the west side: a stained glass window depicting an ornate flour-de-lis in amethyst glass. It lights the entrance hall. There are two brick chimneys.

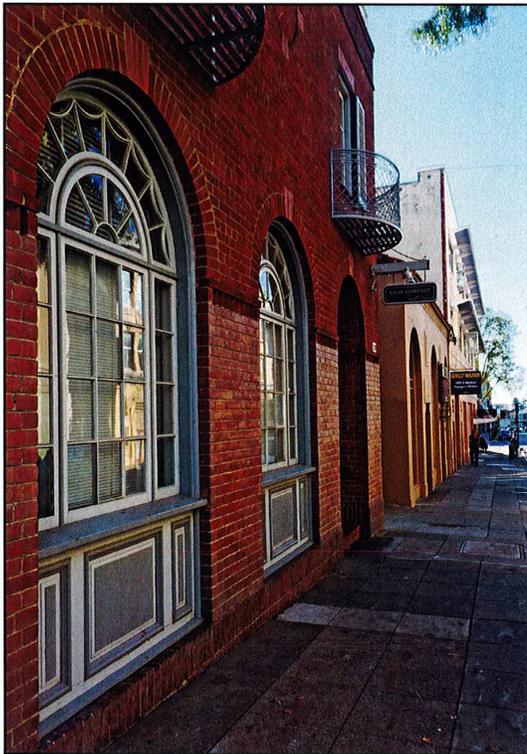
The brick addition (*Fig. 1*) from 1935 wraps around the front of the original house and is U-shaped. It extends to the sidewalk with no setback. It was built to add eight feet of space to the tea room that already existed in the house at that time, and to give the commercial establishment a more sophisticated appearance. This crisply geometric Moderne version of brick Georgian begs for the name of a designer or architect. Unfortunately, the alteration permit application forms of



Fig. 4 Pepper Tree Tea Room street façade. Anthony Bruce, 2021.

1935 did not include a line for the name of the architect.

The first floor consists of five arched openings (Figs. 4, 5). The one on the west is a niche with a planter box. The one on the east and the



two easternmost on the front façade are filled in with paneling topped by small-paned casement windows. Within the curved arched tops are fan windows with intricately worked muntins. The fifth arch, at the western end of the front façade is open and serves as the entrance. Brick steps lead to a porch at the level of the first floor of the original house. A Moderne door is topped by a horizontal leaded-glass window. Vertical bricks and a keystone outline each arch and may or may not give physical support. At the point where the curve of the arches becomes vertical there is a beltcourse made up of a row of jagged brick edges. (Figs. 6, 7, 8)

The two second-floor windows on the front are vertical casements with shutters (one of the four shutters is missing). The two windows open onto wrought iron or galvanized simulated balconies of intricate pattern. A row of vertically laid bricks tops the two windows. A brick design in the center of the second floor suggests a circular opening with four keystones. Second-floor windows on the east and west ends are double-hung sash with the upper sash consisting of six lights.

Fig. 5 The three arched openings on the street façade. Anthony Bruce, 2021.



Fig. 6 East side of the tea room addition. Anthony Bruce, 2021.



Fig. 7 Entrance of the tea room addition. Anthony Bruce, 2021.

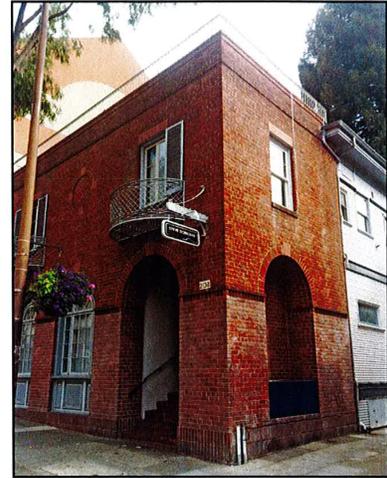


Fig. 8 Niche on west side of the tea room addition. Anthony Bruce, 2021.

There is a subtle cornice formed by rows of slightly projecting bricks. This is topped by a delicate balustrade seemingly crafted from the same type of metal as the balconies. The original projecting sign holder is still on the front wall attached to the right of the righthand balcony. The sign itself, discreetly announcing the Pepper Tree Tea Room, has been replaced with the present smaller sign that reads, "Steve Schneider."

In 1942 architect Paul Hammarberg designed alterations, most likely to the interior of either the house or the tea room addition.

A carport was added in the rear in 1955. A large cedar (?) tree stands behind the house.

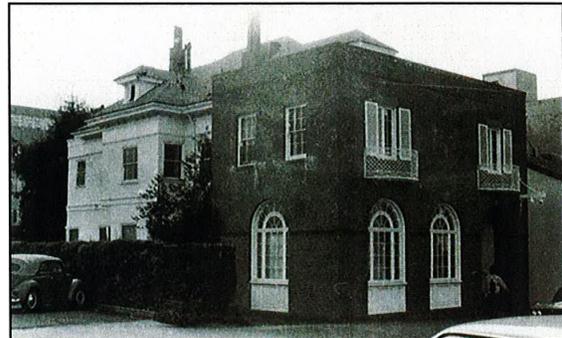


Fig. 9. The Fitzpatrick House and 1935 addition. Betty Marvin, 1978.

Features to Be Preserved

The Fitzpatrick House and Pepper Tree Tea Room addition have been maintained in fine condition over the last eighty-five years, and the building retains most of its original features, which are each essential to its whole. Therefore, most of the features of the Fitzpatrick House and Pepper Tree Tea Room are significant (except for the rear additions to the house), including, but not limited to:

- the original windows
- the window framing and sills
- the narrow-gauge clapboard siding
- the hip roof
- the dormers
- the two-story bay window
- the consoles at the bay and under the eaves
- the stained glass and leaded-glass windows
- the simulated balconies on the front façade
- the metal balustrade on the parapet wall of the addition
- the sign-holder on the front façade
- the patterned brickwork
- the brick niche

15. History



Fig. 10 The Pepper Tree Tea Room and Fitzpatrick House. To the right is the shopfront of the Elder House. Google Streetview photo, January 2015.

When Berkeley was still a town, downtown was as much a residential neighborhood as other areas. Before there was efficient public transportation, and before every family owned an automobile, it was convenient to live close to the center of the town's activities. For someone whose business was downtown, the location was ideal for a residence. John Fitzpatrick lived and worked in downtown Berkeley.

John Charles Fitzpatrick was born in Benicia in 1865. He began managing a ranch there and later had his own ranch, which he maintained for the rest of his life. In 1887, he and Caroline Isabel Preston were married in Benicia. And their first two children, Albert Reginald and Caroline Gladys, were born in Benicia. Mary Eldred, John Preston, and Marie Antoinette were born after the family's move to Berkeley in 1890. Soon after the move to Berkeley, Mr. Fitzpatrick was hired as superintendent of the Claremont, University & Ferris Street Railway (he also served as secretary, manager, and, at times, motorman). This was the first horsecar in downtown Berkeley and its route provided the only public transportation connecting West Berkeley and central Berkeley. The company had been incorporated in 1888 and new ownership had taken over in

1891. Mr. Fitzpatrick served until 1900 (the line ceased operation the following year) when, according to *Berkeley Gazette* columnist Hal Johnson, who interviewed Fitzpatrick in 1940 for an article, ". . . he had a hunch that horsecars were doomed, so he got out of the business and started the first railroad station horse and hack taxi service."

John Fitzpatrick's first location for his new livery business was in a brand-new brick stable constructed by John Hinkel on Allston Way behind the building that later housed Edy's Character Candies. Fitzpatrick advertised, "Coupes, hacks, and carriages at all hours; passengers transported to any part of Berkeley." During this time he moved the family from a house on Addison Street to a house on the north side of Kittredge Street. The block at that time was entirely residential and it may have seemed like a pleasant place to build a new home, as well as being centrally located for his business.

In late December 1903, John Fitzpatrick signed a contract to build a two-story and basement \$4,000 Colonial Revival style house on the south side of Kittredge. The house was designed by William H. Wharff (1836–1936), an architect who was helping to transform Downtown from a frontier "Main Street," with buildings that sport-



Fig. 11 The Thomas Block (William Wharff, 1904), Center Street between Shattuck and Oxford. Anthony Bruce Collection (all four on this page).



Fig. 12 The Wanger Block (William Wharff, 1903), southeast corner of Shattuck at Kittredge.

ed wooden awnings over boardwalks, into a modern city of substantial brick buildings with Classical ornamentation. Fitzpatrick would have been aware of Wharff and perhaps even knew him. The architect's three-story Wanger Block (Kittredge Apartments) was under construction in 1903 at the corner of Kittredge and Shattuck (still standing after three major remodelings). Architect Wharff also designed in downtown the Chase Building (1909), the Masonic Temple (1905), and the soon-to-be-demolished Thomas Block (1904) on Center Street (Figs. 11, 12, 13, 14).

John Fitzpatrick also purchased the adjoining lot to the east of his new house. There he built a split-level livery stable that covered the entire lot. He also built a smaller stable at the rear of his residential lot which was used for overflow. Although the business began in the horse-and-buggy days, by 1916 the livery stable had become an automobile garage, with space rented to Downtown automobile owners and with "limousines for hire at all hours." Hal Johnson, in his colorful prose, spoke of this in his 1940 article: "When 'horseless' carriages came in, Mr. Fitzpatrick figured station hacks

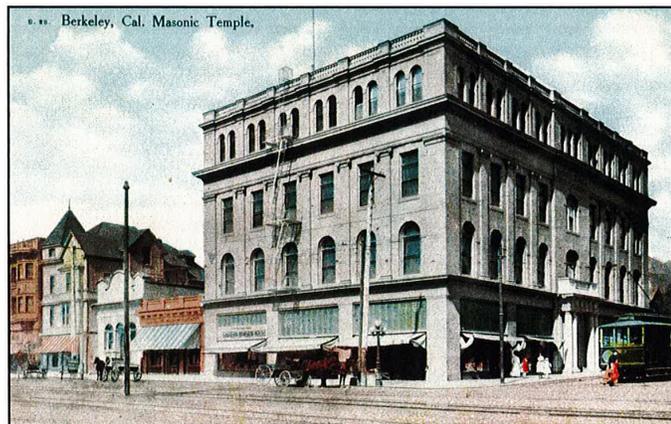


Fig. 13 The Masonic Temple (William Wharff, 1905), City of Berkeley Landmark #52, 2105 Bancroft Way (northeast corner of Shattuck and Bancroft).

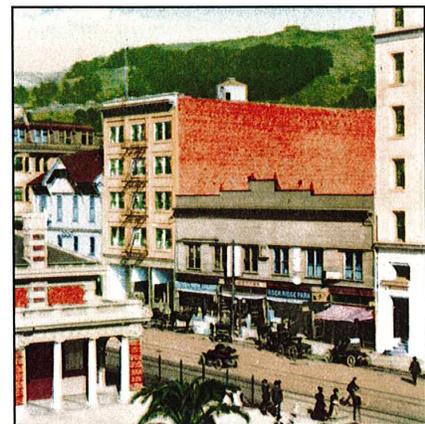


Fig. 14 The Chase Building (William Wharff, 1909), City of Berkeley Landmark-Structure of Merit #226, 2107 Shattuck Avenue. (building with red brick side wall)

would go the way of all horseflesh. He brought to Berkeley the first gas chariots for passenger hire: two Pope-Hartfords and a Knox. One of the old-time undertaking establishments had purchased a motorized hearse and, with Mr. Fitzpatrick's three cars, was able to provide an elite funeral procession. In those days he was in great demand delivering telegrams and telephone messages. He made his headquarters at his stable, opposite the Fox-California Theater. The stable he subsequently turned into one of the first local public garages. He still owns the property."

As was customary at the time, the Fitzpatrick children lived at home as adults. Newlyweds Caroline Gladys and her husband George Brown lived there too. Mrs. Fitzpatrick died in 1911 and John retired from the livery/garage business about 1920. In 1924 Mr. Fitzpatrick moved to a house at 1936 Delaware Street that happened to be a half-block away from the long-time home of William Wharff. John Fitzpatrick died in 1945 at age eighty. At the time, his widowed daughter Caroline Brown and her two children were making their home with him.

After the Fitzpatricks moved out, Alma and William Taylor, a couple of the same generation as the Fitzpatrick children, used the

Fitzpatrick House on Kittredge as their home. The Taylors may have intended to purchase the property from the start; perhaps they made monthly payments to Fitzpatrick. The sale was not completed until March 1942. William Harrison Taylor, a native of Tennessee, married Alma Thompson Prentice, who grew up in Oakland, in 1914. He was a self-employed real estate agent. Alma immediately opened the Pepper Tree Tea Room in the house, which she managed for the next seventeen years. For a time, Alma's elderly father lived with them, as did her college-graduate niece, Helga, who waited tables in the tea room.

In 1935, following the lead of the owners of the Elder House next door and the A.H. Broad House across the street (*Figs. 15, 16*), the Taylors added a commercial front to the house (*Figs. 1, 17*). The brick structure was a sophisticated addition to the block, and, with its "Colonial Dining Room," an elegant setting for the genteel Pepper Tree Tea Room. (Frances Swain, who later lived in the building, remembered a pepper tree next door as late as the 1940s.) Weekly display ads in the *Berkeley Gazette* whetted the public's appetite for the reopening on August 17, 1935. Ads throughout the fall mentioned the "new Colonial Dining Room" and stated that, "we are confident our

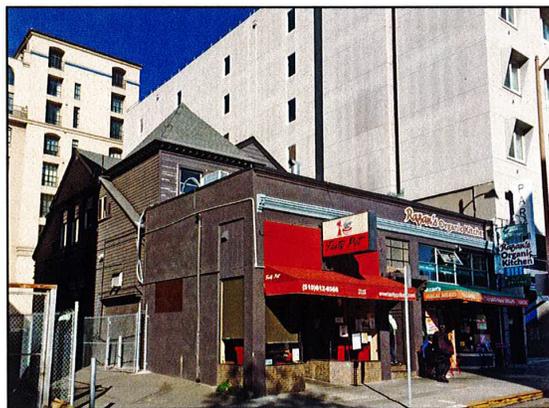


Fig. 15 A. H. Broad House (A. H. Broad, 1894), 2119 Kittredge Street. City of Berkeley Landmark-Structure of Merit #242, 2119 Kittredge Street. Anthony Bruce, 2021.

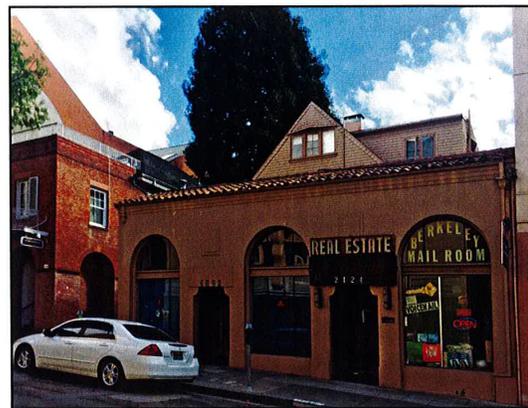


Fig. 16 Elder House (F. E. Armstrong, 1895), 2124 Kittredge Street. Shopfront built in 1926. Anthony Bruce, 2021.

redecorated and enlarged dining rooms will add much to your comfort and enjoyment.”

The Taylors had expressed confidence in the viability of Berkeley’s downtown during the Depression, and the restaurant prospered. It was World War II that brought an end to the establishment. In May 1942, two months after the Taylors had officially become the owners of the property, the *Berkeley Gazette* advertised a sale of all the furnishings of the Pepper Tree Tea Room, including the stove and dishwashing machine. Then, in August, the Taylors took out a permit for alterations to add a “unit.” The architect they commissioned was Paul Hammarberg, the architect of much of the wartime housing that was being built in Berkeley.

In 1943, the Taylors purchased the property next door from John Fitzpatrick: the site of the livery stable/garage. In 1953 the Taylors made alterations to the apartments while continuing to live there. Alma died at home in 1960 and rated an obituary in the newspaper as the long-time proprietress of a popular Berkeley restaurant. William remarried in 1963 (Helen Ingham), and was survived by her when he died at age ninety in 1974, still living at 2138 Kittredge. Helen and William had sold the property next door in 1964 to Herbert and Annabelle Craddock. Herb Craddock had already installed his hamburger stand, Herb’s Hamburgers, on the empty lot in 1955.

The same year, 1955, Helen and William Taylor demolished the last remaining piece of the livery stable that was behind the Fitzpatrick House. While foundations were being dug for the construction of a carport, a workman discovered a human skeleton. Francis A. Riddell, an assistant archaeologist with the University’s Archaeology Survey, determined that the skeleton was that of a forty-year-old Indian woman who had died more than 100 years before.

As downtown Berkeley grew, commercial buildings gradually replaced the many residences. Today, the Fitzpatrick House is part of a surviving cluster of three former single-fam-



Fig. 17 The front façade of the tea room addition in 1939. Donogh Real Estate File, Berkeley Architectural Heritage Association.

ily residences grouped together on Kittredge Street. The other two are the A.H. Broad House (1894) at 2119 Kittredge (City of Berkeley Landmark) and the Elder House (1895) at 2124 Kittredge (Figs. 15, 16). The three have survived apparently because of their shopfront additions, which allowed them to become part of the urban streetscape.

As was the 1900 block of Walnut Street, the 2100 block of Kittredge is a charming remnant of Downtown Berkeley’s residential neighborhood that pressed close to the main business streets of Shattuck and University avenues. After the recent loss of all that made Walnut Street so special, the group of houses on Kittredge Street have taken on even greater significance than when all three were included in the State Historic Resources Inventory in 1979.

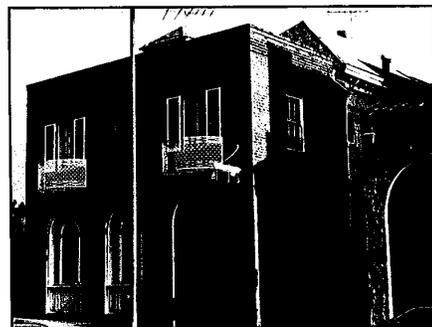


Fig. 18 The Pepper Tree Tea Room addition. Betty Marvin, 1979.

16. Significance

The Fitzpatrick House and the Tea Room addition each have their own significance for Downtown Berkeley. Together, the two have added significance for the development history of Berkeley's downtown.

The Fitzpatrick House embodies the history of downtown transportation trends through its owner John C. Fitzpatrick, who in his various capacities over a period of close to ten years made a success of Downtown's first local public conveyance, the Claremont, University & Ferries Street Railway. He went on to owning his own livery stable, where he served as chauffeur and expressman, and where he provided storage facilities as well as horse-and-buggy rentals. When automobiles became more than a fad, Fitzpatrick was quick to convert his facilities to automotive care, leasing, and storage. In keeping with other Downtown entrepreneurs who lived near their work, Fitzpatrick built his house a half-block from Shattuck avenue and built his new livery stable/garage next door. (According to historian Louis L. Stein, Jr., John Fitzpatrick had one of the horsecars from the then-defunct Claremont, University & Ferries Street Railway stored in his stable.)

The Colonial Revival-style Fitzpatrick House was appropriately designed by a downtown architect: William H. Wharff, who, at the time he designed the house, was instrumental in transforming Downtown from a wooden "frontier" Main Street into a thriving downtown with imposing brick buildings. His Wanger Block, Thomas Block, Masonic Temple, and Chase Building gave new stature to Downtown during the time that Berkeley went from being a town to a city. Wharff lived a few blocks from Downtown, but was nevertheless, through his club and lodge affiliations, a well-known member of the downtown community.

The Pepper Tree Tea Room's commercial addition is one of the small architectural gems in Downtown Berkeley. The designer's name may

never be known, but it was someone with the skill to create a stately, formal structure, that—through its pedestrian scale, use of warm-colored bricks, and whimsical touches such as the balconies—is welcoming and especially pleasing to the eye. Further, the design, with its arched windows, classical fanlights, belt course and cornice, reflects an expert knowledge of the neo-Georgian style, a style that is quite rare in Berkeley. The structure is unaltered and fully retains the architectural integrity of its period. Although the tea room belongs to a group of downtown studio-like buildings (e.g. the g. Paul Bishop Studio on Durant, the Mike Roberts Studio at 2138 Allston Way, the Morse-Brock Building at 2122 Shattuck), the Pepper Tree Tea Room's design is unique in Downtown. The Berkeley Architectural Heritage Association asserts that the property at 2138 Kittredge could be designated a City of Berkeley Landmark solely for the architectural distinction of the Pepper Tree Tea Room.

The Fitzpatrick House together with the tea room addition is significant in the way it clearly shows the changing character of Downtown Berkeley in the early 20th Century. As Downtown grew, it became less desirable to live in a single-family residence surrounded by commercial structures. A renovation that made sense was the addition of commercial space in what had been a front yard, and the conversion of the house—now tucked behind an urban façade—to apartments. In this way, such remnants of an earlier way of life in Downtown Berkeley were able to remain. The 2100 block of Kittredge Street is fortunate to have three of this type of conversion, and together, these three houses-with-storefronts form a *de facto* historic district. These are buildings that give interest and historical texture to an urban streetscape, and are very much worthy of preservation.



Fig. 19 The Fitzpatrick House after the neighboring Oxford Court had been demolished and a view from the east was temporarily re-established. Anthony Bruce, 2021

17. Historic Value— City: Yes Neighborhood: Yes

Architectural Value— City: Yes Neighborhood: Yes

18. Is the property endangered? Yes! There was a proposal to demolish the Fitzpatrick House & Pepper Tree Tea Room published in the August 14, 2024 edition of *SF YIMBY*.

19. Bibliography:

Berkeley assessment records. The Bancroft Library.
 Berkeley and Oakland directories. Berkeley Architectural Heritage Association, Ancestry.com.
Berkeley Gazette, “The Pepper Tree to Re-Open on Saturday,” August 16, 1935.
Berkeley Gazette, “Horsecar Man” by Hal Johnson, February 28, 1940.
Berkeley Gazette, “The Downtown as Residential Area” by Anthony Bruce, May 28, 1981.
 Block (plat) books. Berkeley Architectural Heritage Association.
 Block Files. Berkeley Architectural Heritage Association.
 City of Berkeley Building Permit Applications.
Edwards Transcript of Records for Alameda County, December 30, 1903, contract notice.
 Ormsby Donogh Real Estate File. Berkeley Architectural Heritage Association.
 Sanborn Fire Insurance Maps. Berkeley Architectural Heritage Association.
SF YIMBY, “Preliminary Permits For 2138 Kittredge Street, Downtown Berkeley” by Andrew Nelson, August 14, 2024.
 Tracts maps. Alameda County Assessor’s Office.
 U.S. Census and California Voter Registration records. Ancestry.com.

20. Recorder: Anthony Bruce for the the Berkeley Architectural Heritage Association,
P.O. Box 1137, Berkeley, California 94701 c: (510) 847 1379

21. Date: September 2024

BAHA@BerkeleyHeritage.com

22. Addenda:

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State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

HISTORIC RESOURCES INVENTORY

IDENTIFICATION

1. Common name: _____

2. Historic name, if known: Fitzpatrick, (John C.) House

3. Street or rural address 2138 Kittredge Street
 City: Berkeley ZIP: 94704 County: Alameda

4. Present owner, if known: _____ Address: _____
 City: _____ ZIP: _____ Ownership is: Public Private

5. Present Use: apartments Original Use: residence
 Other past uses: tea room

DESCRIPTION

6. Briefly describe the present physical appearance of the site or structure and describe any major alterations from its original condition: The original structure is a two-storey clapboard Colonial Revival house topped by a hip roof with dormers. There is a two-story bay on the east side; slanted on the first floor with corners of second floor supported by elaborate consoles. The eaves are supported by smaller consoles. Additions at the rear date from 1915. The structure is painted white. In 1935 a two-storey, crisply geometric addition in a Moderne version of brick Georgian was added to the front, leaving no set-back. The first floor consists of arched openings; one completely open and leading to steps to the entrance. The others are filled in with paneling and casements topped by fan lights. The 2nd floor window openings are square; the two at the front have shutters and wrought iron "balconies"; all have small-paned windows. A brick pattern between the front windows suggests a circular opening with four keystones. There is a row of vertically-laid bricks above all windows, and rows of slightly raised bricks to create a beltcourse and cornice. The trim is painted white. An important feature of the original structure is a stained glass window on the west side in an ornate fleur-de-lis pattern in amethyst glass.

7. Locational sketch map (draw and label site and surrounding streets, roads, and prominent landmarks):

8. Approximate property size:
 Lot size (in feet) Frontage 50
 Depth 135.54
 or approx. acreage _____

9. Condition: (check one)
 a. Excellent b. Good c. Fair
 d. Deteriorated e. No longer in existence

10. Is the feature a. Altered? b. Unaltered?

11. Surroundings: (Check more than one if necessary)
 a. Open land b. Scattered buildings
 c. Densely built-up d. Residential
 e. Commercial f. Industrial
 g. Other

12. Threats to site:
 a. None known b. Private development
 c. Zoning d. Public Works project
 e. Vandalism f. Other

13. Date(s) of enclosed photograph(s): 1978 (2)

DPR 523 (Rev. 7/75)

Fig. 19 State of California Historic Resources Inventory form, page 1.

NOTE: The following (Items 14-19) are for structures only.

- 14. Primary exterior building material: a. Stone b. Brick c. Stucco d. Adobe e. Wood
f. Other _____
- 15. Is the structure: a. On its original site? b. Moved? c. Unknown?
- 16. Year of initial construction 1904 This date is: a. Factual b. Estimated
- 17. Architect (if known): William H. Wharff
- 18. Builder (if known): Ben Pearson and Nels Olsen
- 19. Related features: a. Barn b. Carriage house c. Outhouse d. Shed(s) e. Formal garden(s)
f. Windmill g. Watertower/tankhouse h. Other _____ i. None

SIGNIFICANCE

20. Briefly state historical and/or architectural importance (include dates, events, and persons associated with the site when known):

In 1904 John C. Fitzpatrick built a handsome Colonial dwelling for his family in the heart of the Downtown, and appropriately enough commissioned William Wharff, one of the architects who was reshaping Downtown Berkeley to design it (the year before Wharff designed the Wanger Bldg. in the same block and subsequently designed 3 other major bldgs.). Fitzpatrick had been superintendent of the Claremont, University & Ferries Street Railway, which connected central and west Berkeley, from its inception in 1891 until 1900 when he opened his own livery stable: "hacks, coupes & carriages at all hours; passengers transported to any part of Berkeley". After several years on Allston he permanently established his stables on the lot adjoining his new house to the east. In the 1920's the house seems to have been sold to Alma and Wm. Taylor from Tennessee, who converted it to commercial use as the Pepper Tree Tea Room (perhaps there was a pepper tree on the property). In 1935 the building took on a more commercial character with a 2-story stately brick Georgian addition to house the tea room. In 1953 the whole structure went back to residential use, as apartments. When the last section of the Fitzpatrick stables, behind the house, was demolished in 1955 and excavations were begun, Indian remains were discovered on the site. Other Indian remains were found one block north during additional 1950's demolitions, indicating that the Downtown may have been an Indian burial center. The Fitzpatrick house is one of three remaining Downtown residences grouped together on Kittredge Street, all with storefront additions.

- 21. Main theme of the historic resource: (Check only one): a. Architecture b. Arts & Leisure
c. Economic/Industrial d. Exploration/Settlement e. Government f. Military
g. Religion h. Social/Education

22. Sources: List books, documents, surveys, personal interviews, and their dates:

Berkeley Gazette, Jan. 4, 1904, p. 6; Jan. 9, 1904, p. 3; Chronicle, Sept. 26, 1955 "Bkly. Digger City Directories 1893-1909. Shovels Up Some Indian Bones".
Taped Oral History with Louis L. Stein Jr., 1977 in B.A.H.A. Files and at Bancroft Library.
Tourist & Business Survey, 1924.

- 23. Date form prepared: 3/8/1979 By (name): Anthony Buffington Bruce
Address: 6 Encina Place City Berkeley ZIP: 94705
Phone: (415) Olympic 2-0975 Organization: Berkeley Architectural Heritage Association



(State Use Only)

Fig. 20 State of California Historic Resources Inventory form, page 2.

The
PEPPER TREE
 • Reopens •
 Saturday, August 17th
For Luncheon, Tea and Dinner
Same Hours on Week Days -- 11 a.m to 8 p.m.
NEW SUNDAY SERVICE
Starting next Sunday Dinner will be served all day
from 12 p.m. to 8 p.m.

- We've Enlarged
- We've Redecorated

for your comfort and convenience
Same Management -- Same Location
Same Fine Food
2138 Kittredge Street
Opposite the Calif. Theater

The
PEPPER TREE
 • Reopens •
 Saturday, August 17th
For Luncheon, Tea and Dinner
A SPECIAL SUNDAY DINNER
Will Be Served All Day
 from 12 noon until 8 p. m.
 (and every Sunday thereafter)
Same Hours on Week Days—
11:00 A. M. to 8:00 P. M.
We are confident our redecorated and enlarged
dining rooms will add much to your
comfort and enjoyment.
Same Management -- Same Location
Same Fine Food
2138 Kittredge Street
Opposite the Calif. Theater

Special Sunday Dinners
 Will be served every Sunday from 12 m. to 8 p. m.
 Visit our New Enlarged Colonial Dining Room--
 We serve Daily Luncheon, Tea and Dinner.
THE PEPPER TREE
2138 Kittredge Street *Opposite California Theater*

THE PEPPER TREE
 We Serve SPECIAL DINNERS
SUNDAY and ADMISSION DAY
 from 12 p.m. to 8 p.m.
You are invited to enjoy these delicious
dinners in our newly decorated and
enlarged dining rooms
2138 Kittredge Street
Opposite California Theater

THE PEPPER TREE
 —Special—
SUNDAY DINNER
 Served from 12 M. to 8 00 P. M.
Lunch • Tea • Dinner
 Every Day — You Are Invited to Visit Our New
COLONIAL DINING ROOM
2138 KITTREDGE STREET, opposite California Theater

THE PEPPER TREE
 Announces
Special Sunday Dinners
 in the
New Colonial Dining Room
 From 12 M. to 8 P. M. Every Sunday
 Lunch, Tea and Dinner Served Daily
2138 Kittredge St. *Opposite California Theater*

Fig. 21 Various display ads for the enlarged Pepper Tree Tea Room that appeared in the Berkeley Gazette. The top two are from August 14 and 16, 1935. The others are from the fall of 1935.

APPLICATION FOR BUILDING PERMIT
ALTERATION AND REPAIRS

Application is hereby made to the Bureau of Buildings and Inspections of the City of Berkeley for permission to
 Build, Alter or Add to a Two story misc room. Type Bed room Building
 Located 2138 Kittredge St

All provisions of the Building Law will be complied with in the erection, alteration or repairing of said building
 whether specified herein or not.
 Value \$38,000.00

Building to be occupied as Bed room & dwelling by (No.) Two families.

WRITE PLAINLY FULL DESCRIPTION OF WORK TO BE DONE

Kitchen and dining quarters to be remodelled
and front to extend back 8 ft 6 in.

Name of Owner Mr. & Mrs. Taylor Residence Address 2138 Kittredge St.
 Name of Builder Victor Carlson Residence Address 3021 Oak St.
 State License No. 18778

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

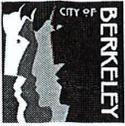
Use District Class. _____ Ordinance No. 663 Signature of Owner, Architect or Builder Victor Carlson

Plz. Zone No. _____ Address _____

FOR DEPARTMENT USE ONLY

Number	Street	Page	Permit No. <u>39423</u>
Filed	Read	Checked by	Date Issued <u>JUN 13 1935</u>

Fig. 22 City of Berkeley Building Permit Application No. 39423, June 13, 1935.



PLANNING & DEVELOPMENT

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Received
OCT 30 2024
Land Use Planning

LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge Street

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

1	Name: <u>Anthony B. Bruce</u> Please Print	Address: <u>6 Encina Place</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>Anthony B. Bruce</u>	Date: <u>9-20-2024</u>		
2	Name: <u>Ruth Phillips</u> Please Print	Address: <u>656 Santa Barbara</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>Ruth Phillips</u>	Date: <u>9/21/24</u>		
3	Name: <u>LEE BEVIS</u> Please Print	Address: <u>1349 Arch St</u>	City: <u>B</u>	Zip: <u>94708</u>
	Signature: <u>Lee Bevis</u>	Date: <u>9/22/24</u>		
4	Name: <u>Carol Buckles</u> Please Print	Address: <u>917 Contra Costa Ave</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>Carol</u>	Date: <u>9/22/24</u>		
5	Name: <u>Jacqueline Beth</u> Please Print	Address: <u>1517 Grant St</u>	City: <u>Berkeley</u>	Zip: <u>94703</u>
	Signature: <u>Jacqueline Beth</u>			

Date: _____

Name of Property:	Fitzpatrick House — Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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6	Name: <u>Hillary Metz</u> <small>Please Print</small>	Address: <u>1152 Amador Ave</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>	Date: <u>9/22/24</u>		
	Name: <u>Virginia Warheit</u> <small>Please Print</small>	Address: <u>2418 Sacramento Street</u>	City: <u>Berkeley</u>	Zip: <u>94702</u>
7	Signature: <u>[Signature]</u>	Date: <u>9/22/24</u>		
	Name: <u>Liz Giarratona</u> <small>Please Print</small>	Address: <u>1814-A 7th St.</u>	City: <u>Berkeley</u>	Zip: <u>94710</u>
	Signature: <u>[Signature]</u>	Date: <u>9/22/24</u>		
8	Name: <u>JON PRITIKIN</u> <small>Please Print</small>	Address: <u>185 MACCE</u>	City: <u>MILL VALLEY</u>	Zip: <u>94941</u>
	Signature: <u>[Signature]</u>	Date: <u>9-22-2024</u>		
	Name: <u>EUGENE ERICKSON</u> <small>Please Print</small>	Address: <u>323 COLUSA AV</u>	City: <u>EMERYVILLE</u>	Zip: <u>94530</u>
10	Signature: <u>[Signature]</u>	Date: <u>9/22/24</u>		

X
Y

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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11	Name: <u>DAN JOHNSON</u> Please Print	Address: <u>92 SAN MATEO</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>	Date: <u>9/22/24</u>		
12	Name: <u>STEPHANIE MANNING</u> Please Print	Address: <u>2339 OREGON, #C</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>[Signature]</u>	Date: <u>9/22/24</u>		
13	Name: <u>MARGARETHA M. LOVELL</u> Please Print	Address: <u>1160 Amador Ave</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>	Date: <u>Sept 23, 2024</u>		
14	Name: <u>ELISABETH BIGELOW-TELLER</u> Please Print	Address: <u>1124 FRESNO AVE</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>	Date: <u>9/22/2024</u>		
15	Name: <u>PAUL Terrell</u> Please Print	Address: <u>1812 Capistrano</u>	City: <u>Berke</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>	Date: <u>9/18/24</u> <u>22</u>		

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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16	Name: <u>Jean Mudge</u> Please Print	Address: <u>2444 Hillside Ave</u>	City: <u>Berkeley</u>	Zip: <u>94704</u>
	Signature: <u>Jean M. Mudge</u>			Date: <u>9/22/24</u>
17	Name: <u>Richard Thomas</u> Please Print	Address: <u>843 Marlboro</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>			Date: <u>9/22/24</u>
18	Name: <u>Richard Ross Collins</u> Please Print	Address: <u>2105 Eunice</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>[Signature]</u>			Date: <u>9/22/24</u>
19	Name: <u>Kevin Kozak</u> Please Print	Address: <u>2309 Parker</u>	City: <u>Berkeley</u>	Zip: <u>94704</u>
	Signature: <u>[Signature]</u>			Date: <u>9/22/24</u>
20	Name: <u>J. F. Frederick</u> Please Print	Address: <u>1710 Oregon</u>	City: <u>Berkeley</u>	Zip: <u>94704</u>
	Signature: <u>JF Frederick</u>			Date: <u>9/22/24</u>

[Handwritten mark]

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 - Kittredge St.

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21	Name: <u>Timothy HANSEN</u> Please Print	Address: <u>2633 BENVENUE</u> City: <u>BERKELEY</u> Zip: <u>94704</u>	Signature: <u>[Signature]</u> Date: <u>22/9/24</u>
22	Name: <u>Lindsay Ryle</u> Please Print	Address: <u>2830 Derby St</u> City: <u>Berkeley</u> Zip: <u>94705</u>	Signature: <u>[Signature]</u> Date: <u>9/22/24</u>
23	Name: <u>John Bender</u> Please Print	Address: <u>50 San Marco</u> City: <u>Berkeley</u> Zip: <u>94707</u>	Signature: <u>[Signature]</u> Date: <u>9/22/24</u>
24	Name: <u>JEAN BOY</u> Please Print	Address: <u>50 San Marco</u> City: <u>Berkeley</u> Zip: <u>94707</u>	Signature: <u>[Signature]</u> Date: <u>Sept 22</u>
25	Name: <u>DIANNE AYRES</u> Please Print	Address: <u>2633 BENVENUE</u> City: <u>BERKELEY</u> Zip: <u>94704</u>	Signature: <u>[Signature]</u> Date: <u>22 Sept 24</u>

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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26	Name: STEPHANNE MANNING Mary Straats <small>Please Print</small>	Address: 42 Bret Harte Rd.	City: Berkeley	Zip: 94708
	Signature: <i>Mary Straats</i>			Date: 9/22/2024
27	Name: BARBARA LUNDBURG <small>Please Print</small>	Address: 2080 HILGARD AVE	City: BERKELEY	Zip: 94709
	Signature: <i>Barbara Lundburg</i>			Date: 9/22/24
28	Name: Melissa McPencels <small>Please Print</small>	Address: 1305 Shu Hook	City: BERKELEY	Zip: 94706
	Signature: <i>Melissa McPencels</i>			Date: 9-22-24
29	Name: Deborah Kropp <small>Please Print</small>	Address: 1231 Bonita Ave	City: Berkeley	Zip: 94709
	Signature: <i>Deborah Kropp</i>			Date: 9-22-24
30	Name: ARLENE SAK <small>Please Print</small>	Address: 31 DEL MAR AVE	City: Berkeley	Zip: 94708
	Signature: <i>Arlene Sak</i>			Date: 9/22/24

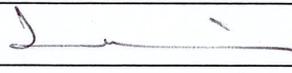
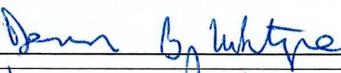
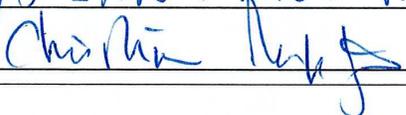
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31	Name: <u>Jueth Ziajka</u> Please Print	Address: <u>721 Contra Costa Ave</u> City: <u>Berkeley</u> Zip: <u>94707</u>	Signature: <u>[Signature]</u> Date: <u>9/22/24</u>
32	Name: <u>Alan Ziajka</u> Please Print	Address: <u>721 Contra Costa</u> City: <u>Berkeley</u> Zip: <u>94707</u>	Signature: <u>[Signature]</u> Date: <u>9/22/24</u>
33	Name: <u>John De Leon</u> Please Print	Address: <u>2309 Howe St</u> City: <u>Berkeley</u> Zip: <u>94705</u>	Signature: <u>[Signature]</u> Date: <u>9/22/24</u>
34	Name: <u>Elizabeth Bernstein</u> Please Print	Address: <u>50 San Mateo</u> City: <u>Berkeley</u> Zip: <u>94707</u>	Signature: <u>[Signature]</u> Date: <u>9/24/24</u>
35	Name: <u>DAVID BERNSTEIN</u> Please Print	Address: <u>50 SAN MATEO RD</u> City: <u>BERKELEY</u> Zip: <u>94707</u>	Signature: <u>David Bernstein</u> Date: <u>09/24/2024</u>

Name of Property:	Fitzpatrick House — Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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36	Name: <u>JUAN PINEDA</u> Please Print	Address: <u>49 San Mateo Rd</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: 	Date: <u>9/25/24</u>		
37	Name: <u>Glendine Pineda</u> Please Print	Address: <u>49 San Mateo R</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: 	Date: <u>9-25-2024</u>		
38	Name: <u>DEANIS DENNIS MONTARE</u> Please Print	Address: <u>40 SAN MATEO RD</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: 	Date: <u>9/25/2024</u>		
39	Name: <u>Christina McInnes</u> Please Print	Address: <u>40 SAN MATEO RD</u>	City: <u>BERKELEY</u> ↓	Zip: <u>94707</u>
	Signature: 	Date: <u>9/25/24</u>		
40	Name: <u>THOMAS ACKERMAN</u> Please Print	Address: <u>77 SAN MATEO RD</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: 	Date: <u>9-25-24</u>		

Name of Property:	Fitzpatrick House — Pepper Tree Tea Room
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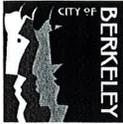
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41	Name: <u>Marilee J. Allan</u> Please Print	Address: <u>77 San Mateo Rd.</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>Marilee J. Allan</u>			Date: <u>9-25-24</u>
42	Name: <u>Anne Smith</u> Please Print	Address: <u>37 San Mateo Road</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>Anne R Smith</u>			Date: <u>9-25-24</u>
43	Name: <u>TREW H. BENNETT</u> Please Print	Address: <u>21 SAN MATEO RD</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: <u>T M H Bennett</u>			Date: <u>9/25/24</u>
44	Name: <u>Robert A. Bennett</u> Please Print	Address: <u>21 San Mateo Ave</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>Robert A. Bennett</u>			Date: <u>9/25/24</u>
45	Name: <u>PAMELA E. SIHVOLA</u> Please Print	Address: <u>1476 SUMMIT ROAD</u>	City: <u>BERKELEY</u>	Zip: <u>94708</u>
	Signature: <u>Pamela E. Sihvola</u>			Date: <u>10/19-24</u>

Name of Property:	Fitzpatrick House — Peppertree Tea Room
Street Address(es) of Property:	2138 Kithredge St.

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46	Name: <u>Bertram Jones</u> Please Print	Address: <u>195 The Uplands</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>Bertram Jones</u>	Date: <u>10/10/24</u>		
47	Name: <u>Lesley Emmington Jones</u> Please Print	Address: <u>195 The Uplands</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>Lesley Emmington Jones</u>	Date: <u>October 10, 2024</u>		
48	Name: <u>Lawnie Brown Sanchez</u> Please Print	Address: <u>1000 Fispin Drive</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>Lawnie Brown</u>	Date: <u>10/18/2024</u>		
49	Name: <u>Laurent Colvin</u> Please Print	Address: <u>2539 MLK Jr. Way Apt D</u>	City: <u>Berkeley</u>	Zip: <u>94704</u>
	Signature: <u>Laurent Colvin</u>	Date: <u>10/21/24</u>		
50	Name: <u>Chris Green</u> Please Print	Address: <u>1145 Shattuck Apt. B</u>	City: <u>Berkeley</u>	Zip: <u>94709</u>
	Signature: <u>Chris Green</u>	Date: <u>10/21/24</u>		



PLANNING & DEVELOPMENT

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
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LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge Street

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1	Name: <u>TW Edwards</u> Please Print	Address: <u>47 Alamo Av</u>	City: <u>Berkeley</u>	Zip: <u>CA</u>
	Signature: <u>TW Edwards</u>	Date: <u>9-28-24</u>		
2	Name: <u>Rebecca Parlette-Edwards</u> Please Print	Address: <u>47 Alamo Ave</u>	City: <u>Berkeley</u>	Zip: <u>94708</u>
	Signature: <u>Rebecca Parlette-Edwards</u>	Date: <u>9/28/24</u>		
3	Name: <u>Donald Brooy</u> Please Print	Address: <u>650 Spruce St</u>	City: <u>Berkeley</u>	Zip: <u>94707</u>
	Signature: <u>Donald Brooy</u>	Date: <u>10/2/24</u>		
4	Name: <u>Bruce Stangeland</u> Please Print	Address: <u>691 Cragmont Ave</u>	City: <u>Berkeley</u>	Zip: <u>94708</u>
	Signature: <u>Bruce Stangeland</u>	Date: <u>10/2/24</u>		
5	Name: <u>MARGOT SMITH</u> Please Print	Address: <u>1300 A Shattuck Ave</u>	City: <u>Berkeley</u>	Zip: <u>94705</u>
	Signature: <u>Margot Smith</u>			

Date: 2024

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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6	Name: <u>MICHAEL FLEISCHER</u> Please Print	Address: <u>1719 OXFORD APT A</u>	City: <u>Berkeley CA</u>	Zip: <u>94709</u>
	Signature: <u>[Signature]</u>			Date: <u>10/6/24</u>
7	Name: <u>Carol Fleischer</u> Please Print	Address: <u>1519 Oxford St</u>	City: <u>Berkeley CA</u>	Zip: <u>94709</u>
	Signature: <u>[Signature]</u>			Date: <u>10/6/24</u>
8	Name: <u>CANDICE L. SCHOTT</u> Please Print	Address: <u>1420 KAINS AVE</u>	City: <u>BERKELEY</u>	Zip: <u>94702</u>
	Signature: <u>[Signature]</u>			Date: <u>10/6/24</u>
9	Name: <u>Linda S. Keilch</u> Please Print	Address: <u>2229 Jefferson Ave</u>	City: <u>Berkeley CA</u>	Zip: <u>94708</u>
	Signature: <u>[Signature]</u>			Date: <u>10/6/24</u>
10	Name: <u>GEORGE O. PETTY</u> Please Print	Address: <u>843 ARLINGTON AVE</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: <u>[Signature]</u>			Date: <u>10/6/24</u>

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
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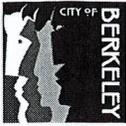
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11	Name: <u>KAREN CHAPMAN</u> <small>Please Print</small>	Address: <u>1858 SAN LORENZO AVE</u>	City: <u>BERKELEY</u>	Zip: <u>94707</u>
	Signature: <u>Karen Chapman</u>			Date: <u>10/6/24</u>
12	Name: <u>MICHAEL SEVERAS</u> <small>Please Print</small>	Address: <u>1906 STUART</u>	City: <u>Berkeley</u>	Zip: <u>94703</u>
	Signature: <u>Michael Severas</u>			Date: <u>10/13/24</u>
13	Name: <u>Littui Tsai</u> <small>Please Print</small>	Address: <u>2610 Etna St. #10</u>	City: <u>Berkeley</u>	Zip: <u>94702</u>
	Signature: <u>Littui Tsai</u>			Date: <u>10/13/24</u>
14	Name: <u>Robert Dering</u> <small>Please Print</small>	Address: <u>525 Woodmont Ave</u>	City: <u>Berkeley</u>	Zip: <u>94708</u>
	Signature: <u>Robert Dering</u>			Date: <u>10/13/24</u>
15	Name: <u>Mary Gilligan</u> <small>Please Print</small>	Address: <u>1842 Berryman St</u>	City: <u>Berkeley</u>	Zip: <u>94703</u>
	Signature: <u>M Gilligan</u>			Date: <u>10-13-24</u>

Name of Property:	
Street Address(es) of Property:	2138 Kittredge St.

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16	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
		Signature: _____	Date: _____	
17	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
		Signature: _____	Date: _____	
18	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
		Signature: _____	Date: _____	
19	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
		Signature: _____	Date: _____	
20	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
		Signature: _____	Date: _____	



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Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge Street

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

1	Name: <u>Jesse Sheehan</u> Please Print	Address: <u>1650 6th St.</u>	City: <u>Berkeley</u>	Zip: <u>94710</u>
	Signature: <u>[Signature]</u>	Date: <u>10/21</u>		
2	Name: <u>PAGE NELSON</u> Please Print	Address: <u>192 THE ISLANDS</u>	City: <u>BERKELEY</u>	Zip: <u>94705</u>
	Signature: <u>[Signature]</u>	Date: <u>10/23/24</u>		
3	Name: <u>Gale Garcia</u> Please Print	Address: <u>2538 Fulton St</u>	City: <u>Berkeley</u>	Zip: <u>94704</u>
	Signature: <u>[Signature]</u>	Date: <u>10/24/24</u>		
4	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
	Signature: _____	Date: _____		
5	Name: _____ Please Print	Address: _____	City: _____	Zip: _____
	Signature: _____	Date: _____		



Todd A. Williams
Director
toddwilliams@fennemorelaw.com
1111 Broadway, 24th Floor
Oakland, California 94607
PH (510) 622-7630 | FX (510) 834-1928
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December 30, 2024

VIA EMAIL

Fatema Crane (fcrane@berkeleyca.gov)
City of Berkeley Land Use Planning Division
Landmarks Preservation Commission
2120 Milvia Street
Berkeley, CA 94704

**Re: 2138 Kittredge Street, APN 057-2029-015-00
Landmark or Structure of Merit Designation Consideration**

Dear Ms. Crane:

We write on behalf of our client StudiOne QOZB LLC, applicant for a use permit to construct a 66-unit housing development project at the above-referenced property as to which a preliminary application was filed pursuant to SB 330 (the Housing Crisis Act of 2019) on March 18, 2024.¹ A full application was submitted on August 6, 2024, and was deemed complete by the City on September 5, 2024. The project, which includes deed-restricted affordable units and a density bonus, complies with all applicable, objective general plan and zoning standards.

On October 30, 2024, an application to designate 2138 Kittredge Street as a City of Berkeley landmark was submitted to the City. It expressly indicated that it was being filed to protect the site from development. Despite the fact that a preliminary application and full application for a housing development project was already in process, the City has scheduled a public hearing to consider the Landmark Application before the Landmarks Preservation Commission (LPC) on January 6, 2025.

The purpose of this letter is to state our strong legal objections to the proposed consideration by the LPC regarding whether the above-referenced property should be declared a Landmark or Structure of Merit, and to request that the item be taken off the LPC's agenda.

The site is currently vested under state housing law (SB 330), which prohibits the LPC from making or applying a Landmark or Structure of Merit determination while the SB 330

¹ The applicant submitted a preliminary application on February 14, 2024, and provided a quick update on March 18, 2024. Via letter dated April 4, 2024, the City of Berkeley acknowledged a preliminary application was received effective March 18, 2024.

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application remains in effect. This alone should end the inquiry. The meeting should not go forward in violation of state law.

Moreover, the Landmark Application is factually inaccurate and does not represent substantial evidence to merit designation of the site as a landmark. The Application concedes that it was filed in response to the development application. (Landmark Application at p. 11.) The 2024 Historic Resources Evaluation, which is the most thorough and detailed survey on record for this site, concludes that the site is not eligible for landmark designation.²

A decision by the LPC to approve the Landmark Application would constitute a reversible abuse of discretion in violation of California law. Furthermore, such a decision is entirely unnecessary. Designating the site a landmark or structure of merit is not supported. While the building is old (originally built in 1904 and extensively altered in 1935), it does not otherwise meet the criteria for project at the national, state or local level.

1. State law limits LPC review of the Landmark Application.

A. The HAA and SB 330 Curtail Belated Attempts to Determine Historic Significance.

The scope of the LPC's discretion in reviewing the Landmark Application is limited to (1) determining the site is not a Landmark or Structure of Merit; or (2) referring the site to the City's list for future consideration if the SB 330 application lapses.

On July 8, 2020, the Berkeley Office of the City Attorney issued an SB 330 Memorandum, which included the legal directive that "Government Code section 65913.10(a) prohibits the City from imposing additional historic or cultural resources protections..." on a site subject to an SB 330 preliminary application under the Housing Accountability Act ("HAA") (Gov. Code § 65589).³ The City Attorney concluded that, as a result, the "LPC and the City are prohibited by state law from denying or imposing conditions on a housing development project based on any cultural or historic resources protections" on a site subject to an SB 330 preliminary application, and that any historic resources information required as part of the preliminary application must be limited to the identification of resources "known to exist" at the time of the application.

Since then, the City has improperly eroded the vesting protections of SB 330 by alleging that a Landmark or Structure of Merit determination may still be made on sites that are subject to an SB 330 application. The City's alleged basis for this (as stated in staff reports on other projects facing the same situation) is that the legal effect of that determination will only be imposed if the

² A copy of this analysis is attached as **Attachment 1**.

³ See July 8, 2020, Memorandum from Farimah Brown, City Attorney to Jordan Klein, Planning Director.

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SB 330 application ultimately does not move forward and thereby lapses. The City's stated position – that the LPC can designate an SB 330 site a Landmark or Structure of Merit, but then conditionally defer the effect of that determination – violates the vesting protections in the HAA, runs contrary to due process protections required in adjudicative hearings, and constitutes an abuse of discretion subject to reversal by a court.

Moreover, the City's justification fails to appreciate that a landmark designation provides a burden on the title of the property and impacts the applicant's ability to finance the project. The Berkeley Municipal Code (BMC) requires that an approval of a designation requires such designation to be recorded (BMC § 3.24.180.A.) If an unforeseen circumstance results in the application losing its vesting, the site would be immediately devalued given that any designation would immediately apply (and potentially limit and possibly prohibit development) and a lender would not want to take the risk of loaning money on a project that could have such a dramatic change in future value. As such, any "prospective" designation would put the project at risk and would discourage the development of much-needed housing⁴.

The LPC's landmarking process is a "quasi-adjudicative hearing," meaning that evidence may be presented, specific findings must be made, and any findings to support a Landmark or Structure of Merit determination must be supported by substantial evidence in the record. (See Cal. Code Civ. Proc., § 1094.5.) Courts will invalidate a quasi-adjudicative ruling if it constitutes an "abuse of discretion." An abuse of discretion occurs if the LPC fails to proceed in the manner required by law, fails to adopt sufficient findings, or makes findings that are not supported by substantial evidence. (Cal. Code Civ. Proc., § 1094.5(b).)

The LPC hearing and its consideration of the site is, as a practical matter, a waste of time and City resources. Any designation would be both speculative and ineffective if the pending development application is ultimately approved. However, both City staff and applicant now must spend time and resources (including hiring legal and historical consultants) on a potentially superfluous proceeding (not to mention an illegal one).

Given the housing crisis, Legislative direction from Sacramento, as well as guidance from the Department of Housing and Community Development, the City should be removing, not imposing, barriers to the production of housing.

⁴ The BMC requires that a decision on whether to designate a property occur within 180 days of the public hearing where the application is considered. (BMC § 3.24.150.) Thus, it does not appear that the BMC allows for the indefinite postponement of a designation as would occur if the LPC (and ultimately City Council) were to decide to designate the site.

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B. The plain language of the HAA prohibits the LPC from making a landmark determination while a development application is vested under SB 330.

An LPC determination that the site is a Landmark or Structure of Merit would be an abuse of discretion in violation of the HAA. Historic resource determinations are legally vested when a housing development application is deemed complete:

For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made. (Cal. Gov. Code § 65913.10(a).)

Chapter 3.24 of the BMC authorizes the LPC to determine whether the property is a historic site. (BMC § 3.24.120 – 3.24.160.) The timing of that determination is strictly limited by SB 330, which requires the LPC to make "that determination" at the time that the SB 330 application is submitted or deemed complete.⁵ As such, the legal effect is that the LPC only had authority to designate this property as a Landmark or Structure of Merit prior to the filing of the SB 330 application.

C. None of the HAA's exceptions to automatic vesting apply in this case.

SB 330 prohibits cities from making landmark determinations for the entire time that an SB 330 application remains vested. The only enumerated exception to the automatic vesting provision for historical resources arises if "any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities." (Gov. Code § 65913.10(a).) These exceptions do not apply in this instance.

No other exceptions to the vesting protections under the HAA apply here. While the HAA provides exceptions that allow City-wide policies to be imposed after an SB 330 application lapses, those exceptions do not apply to site-specific determinations, such as the Landmark Application proposed to go to the LPC. Adjudicative hearings—like those for Landmarks and Structures of Merit—are legally distinct from legislative approvals, such as a rezoning or general plan amendment. Legislative approvals apply city-wide, and are subject to an entirely different, more deferential "arbitrary and capricious" standard.

⁵ Gov. Code § 65913.10(a); The City Attorney has noted, an application is "deemed complete" for purposes of vesting under the HAA when an SB 330 preliminary application or a complete application is submitted (i.e., whichever occurs first), as set forth in Government Code § 65589.5(h)(5). (Attachment 2, p. 2.)

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Adjudicative decisions focus on specific properties and projects, and the law provides stronger requirements and standards. Those standards are tied to basic constitutional due process protections that apply to everyone, including landowners and real estate developers.

The vesting protections in the HAA and SB 330 are in alignment with this fundamental distinction. A “housing development project shall be subject **only** to the ordinances, policies, and standards adopted and in effect when a preliminary application... was submitted.” (Gov Code § 65589.5(o).) The HAA's vesting protections for legislative policies include a set of enumerated exceptions where certain policies, such as the imposition of new impact fees, are expressly deemed to apply to a project site if the SB 330 application lapses or does not move forward:

[SB 330] shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application ... was submitted... in the following circumstances... [including when a] housing development project has not commenced construction within two and one-half years... following the date that the project received final approval. (Gov Code § 65589.5(o)(2)(A-E).)

SB 330's vesting provisions for historic resources, however, were codified in a separate statute that prohibits cities from making site-specific landmark determinations once a development application has been determined to be complete. (Gov Code § 65589.5 (h)(5); Gov. Code § 65913.10(a).) Fundamental principles of statutory interpretation require that the HAA be construed in harmony with this clear distinction between legislative and adjudicative approvals. (See, e.g., *Jones v. Hendrix* (2023) 599 U.S. 465, 478.)

This distinction is consequential. The exceptions contained in the HAA allowing policies and ordinances to be imposed after an application lapses are consistent with the legal underpinnings for legislative approvals. The vesting provisions for historical resources, however, are clearly stated to prevent local bodies from making a site-specific, adjudicative determination that could reduce the development potential of a site that is vested under SB 330, with only one limited exception (not applicable here) related to artifacts discovered during construction.

Therefore, an LPC determination in favor of the Landmark Application would violate SB 330. There are no applicable exceptions to state housing law that allow the LPC to render a site-specific landmarking decision but then defer its imposition if the SB 330 application lapses. Furthermore, there is not any provision in the BMC that allow for such open-ended deferrals. (See e.g., BMC § 3.24.180.A (requiring that a designation be recorded); BMC § 3.24.150

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(requiring a decision re designation within 180 days of the close of the public hearing on the application).⁶

The HAA and SB 330 prohibit the City from approving the proposed Landmark Application at this time. A determination that there is no Landmark or Structure of Merit on this site occurred by operation of law when the SB 330 project application was submitted and deemed complete, and that determination remains in effect for so long as the SB 330 vesting remains in place. (Gov. Code § 65913.10(a) [determination re historic designation “**shall be made**” at the time of the preliminary application, and “**shall remain valid during the pendency of the housing development project**”].) The City is proposing to make a determination *after* submittal of the preliminary application and during the pendency of the housing development project in violation of the law.

D. The City's interpretation of SB 330 conflicts with the “finality rule” – a core legal principle governing adjudicative hearings and increases the risk of litigation and impedes achievement of City and state housing goals.

There is no legal authority for the City's position that the LPC can render a final decision on a Landmark or Structure of Merit determination, but then condition the effect of that determination on the occurrence of a future event, such as the lapse of an SB 330 application.⁷ The City's position runs contrary to the “finality rule,” a bedrock principle in administrative law. Under the finality rule, the City must render a final, site-specific decision after all appeals regarding the landmarking designation decision have been exhausted.

If the LPC makes a Landmark or Structure of Merit determination for this site, an abbreviated statute of limitations to challenge that finding would run from the date that any appeal to challenge the Landmark decision is resolved. Presented with this situation, the project owner would have to initiate litigation within 90 days (given the short statute of limitation to bring such challenges) to prevent an unlawful designation from affecting future property values and development feasibility for the site, even if the Landmark determination was purportedly not yet “imposed” on the site.

The City's interpretation would lead to perverse effects and unnecessarily increases the risk of litigation, given that a Landmark determination would need to be immediately challenged in court even if the City's stated position is that the Landmark determination would not be imposed on this particular project. The failure to challenge a Landmark determination could result in a

⁶ This process also divests the LPC and public from considering whether designation is appropriate at a future date if and when the SB 330 vesting protection lapses, and the site actually becomes subject to LPC's jurisdiction.

⁷ Continuing Education of the Bar, Administrative Law § 8.62.2.

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significant risk that a future challenge, if the SB 330 application were to lapse, would be waived due to the expedited statutes of limitations for challenging final decisions by local agencies.

A key purpose of the HAA, and SB 330, is to incentivize housing production and make the process more predictable, while creating incentives such as statutory penalties that are ultimately intended to reduce the likelihood of unnecessary litigation that impedes the production of housing. (See Gov. Code § 65589.5(a)(2)(A-L).) By contrast, the City's interpretation of SB 330 impedes the achievement of the city's and the state's housing goals in violation of the HAA.

E. Violation of the No Net Loss Law.

The provisions of No Net Loss Law are separate and complementary to those of the Housing Crisis Act of 2019 (Gov. Code, § 66300), which states that “an affected county or an affected city shall not enact a development policy, standard, or condition that would [have the effect of] changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use... below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018.” (Gov. Code § 66300, subd. (b)(1)(B)). A jurisdiction may only change a parcel's land use designation or zoning if there is a concurrent upzoning to ensure no net loss of overall residential capacity.

Here, designation of the site would effectively limit the ability to redevelopment the site with a project that could take advantage of the density permitted in the zoning code, in other words, the designation would result in a de facto condition that would have the effect of putting the site into a less intensive use than currently allowed and in effect on January 1, 2018.

2. The Landmark Application lacks credibility and fails to meet the substantial evidence test. An LPC determination in favor of the Landmark Application would constitute an abuse of discretion under Code of Civil Procedure § 1094.5.

A detailed presentation will be provided to the LPC if this hearing moves forward and will set out factual inaccuracies and unsupported analysis and conclusions in the current Landmark Application which was not based on a historic survey and was not prepared by an architectural historian. An analysis of any staff report will also be prepared.

In connection with the development application for the site, the landowner engaged an architectural historian to inspect the site and provide a professional evaluation of the historical legacy of the building in its current physical condition. As is typical, those findings have been memorialized in a Historic Resources Evaluation (“HRE”) prepared in January 2024. It does not appear that any site-specific survey of the property has been made previously.

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The HRE concludes that the site does not meet the criteria for designation as a Landmark or for inclusion in the California Register.⁸ This finding is based on an assessment that the building was (1) heavily altered, including most notably that the primary facade was subsumed by a Georgian Revival style addition in 1935, and has lost historic integrity; (2) the property does not appear to have any significant associations with historically important events or noteworthy historical figures; and (3) the property does not exhibit high architectural merit nor readily conveyed associations with important architects or builders.

The HRE's findings are based on an intensive and thorough site visit, in-depth review of all available documentation,⁹ and detailed review of previous surveys of the site. The HRE constitutes substantial evidence and therefor takes precedence over the Landmark Application, which is based on artistic drawings by non-historians, selected quotes and passages from previous, incomplete and outdated information, and numerous unsubstantiated assertions about the overall integrity of the building. These include claims that are demonstrably wrong.

3. Conclusion: the LPC should defer consideration until (and if) the SB 330 application lapses. Moving forward would count towards the allowed maximum of five public hearings for the project.

Prior staff reports for projects facing belated attempts at historic designation, have mistakenly claimed that an LPC hearing regarding designation would not count toward the five-hearing limit under SB 330. The decision to hold a public hearing on the Landmark Application while the SB 330 application is pending necessarily makes this a “public hearing in connection with the approval of that housing development project.” (Gov. Code § 65905.5.) SB 330 defines “hearing” broadly to include “any public hearing, workshop, or similar meeting, including any appeal, conducted by the city... with respect to the housing development project.” (*Id.*) The only hearings excepted from this section are for legislative approvals, such as a general plan amendment, specific plan amendment, or rezoning. (*Id.*)

Given SB 330's broad intent to expedite housing development projects and provide great certainty in processing, and the fact that none of the limited exceptions apply here, the five-hearing rule applies to the Landmark Application hearing. As a result, the January 7, 2025, LPC meeting will count toward the five-hearing rule.

The Landmark Application was filed for the stated purpose of thwarting this development application and is in conflict with the HAA and SB 330. For the reasons stated herein, we strongly and respectfully request that the City not move ahead with an LPC agenda item regarding the proposed consideration of designation of the property. Moving forward would be

⁸ Historic Resources Evaluation for 2138 Kittredge Street, January 2024, at p. 11.

⁹ *Id.*

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both illegal and ineffectual and would result in building barriers to the project that will make development of this project more difficult, costly and would jeopardize its feasibility.

Please do not hesitate to contact me if you have any questions for the applicant.

Sincerely,

FENNEMORE WENDEL



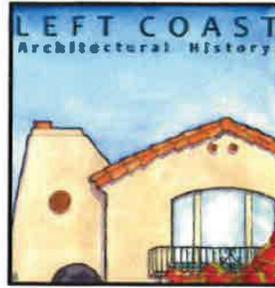
Todd A. Williams

TAWI/tawi

Cc: William Schrader
Jordan Klein, Planning Director (jklein@berkeleyca.gov)
Berkeley City Council (council@berkeleyca.gov)
Farimah Brown, City Attorney (fbrown@berkeleyca.gov)
Paul Buddenhagen, City Manager (pbuddenhagen@berkeleyca.gov)
Jessica Evans, HCD Senior Housing Policy Specialist (jessica.evans@hcd.ca.gov)
Shannan West, HCD Housing Accountability Chief (shannan.west@hcd.ca.gov)
David Zisser, HCD Assistant Deputy Director (david.zisser@hcd.ca.gov)

TODDWILLIAMS/50860149.1/514138.0006

Attachment 1



P.O. Box 70415, Richmond, CA. 94807 • (415) 745-1906 • caitlin@leftcoastarchitecturalhistory.com

30 January 2024

To Whom It May Concern:

Left Coast Architectural History has completed a Historic Resource Evaluation of the property at 2138 Kittredge Street, Berkeley. The attached California Department of Parks & Recreation (DPR) 523 series forms present a physical description of the property, a record of its history, and evaluation according to California Register of Historical Resources significance and integrity criteria, and City of Berkeley Landmark and Structure of Merit criteria.

The study finds that the building dates to 1904 and was designed by architect William H. Wharff for local livery stable/auto garage owner J.C. Fitzpatrick. It was originally a Free Classical Queen Anne style single-family residence, but was later converted to a restaurant and multi-family apartment building, with the primary facade subsumed by a Georgian Revival style addition in 1935. The property has been occupied by residential tenants and at least one business, but does not appear to have any significant associations with historically important events or noteworthy historical figures. The property does not exhibit high architectural merit nor readily conveyed associations with important architects or builders. It has been identified as part of a small grouping of residences on Kittredge Street that were converted to commercial uses via storefront additions, which may equate to significance at the local level. These points are elaborated upon in detail on the attached forms.

Left Coast Architectural History is happy to answer questions or provide additional assistance, as needed.

Sincerely,

A handwritten signature in cursive script that reads "Caitlin Paige Hibma". The signature is written in black ink and is positioned above the typed name and title.

Caitlin Hibma
Principal/Architectural Historian
Left Coast Architectural History

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION PRIMARY RECORD		Primary # HRI # Trinomial NRHP Status Code
Other Listings Review Code	Reviewer	Date

Page 1 of 21 *Resource Name or #: 2138 Kittredge Street, Berkeley, CA

P1. Other Identifier: n/a

*P2. Location: Not for Publication Unrestricted *a. County: Alameda

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Oakland West, Calif. Date: 2015 T ; R ; ¼ of ¼ of Sec ; M.D. B.M.

c. Address: 2138 Kittredge Street City: Berkeley Zip: 94704

d. UTM: Zone: 10 ; mE/ mN (G.P.S.)

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) Elevation:
APN: 57-2029-15

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

Site

The property at 2138 Kittredge Street consists of a rectangular lot on the south side of Kittredge Street, between Shattuck Avenue and Fulton Street. Topography in the area is flat and the parcel is bordered by a public sidewalk on the north and neighboring properties to the east, west, and south. A two-story building sits at the front of the lot with no setback from the sidewalk. It sits at the western lot line while a driveway runs along the east side of the lot to a paved yard at the rear (south) of the lot and a one-story L-shaped carport sits at the southwest corner of the lot.

Building

The building is two stories and has a generally rectangular plan. It is primarily of wood frame construction with a front addition constructed of brick masonry. It is capped by a complex hip roof with a flat roof over the front addition. The exterior walls of the front addition are brick (common bond), while the rear/original portion of the building is clad with wood lap siding. (Continued)

*P3b. Resource Attributes: (List attributes and codes) HP2. Single family property, HP3. Multiple family property, HP6. 1-3 story commercial building

*P4. Resources Present: Building Structure Object Site District Element of District Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)



P5b. Description of Photo: (View, date, accession #)

North and west facades, looking southeast, January 2024

*P6. Date Constructed/Age and Sources: Historic Prehistoric Both
1904; Berkeley Daily Gazette construction notice

*P7. Owner and Address:

*P8. Recorded by: (Name, affiliation, and address)
Left Coast Architectural History
PO Box 70415
Richmond, CA. 94807

*P9. Date Recorded: Jan. 2024

P10. Survey Type: Intensive

*P11. Report Citation: None

*Attachments: NONE Location Map Sketch Map Continuation Sheet Building, Structure, and Object Record
 Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record
 Artifact Record Photograph Record Other (List):
DPR 523A (1/95)

*Required information

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION BUILDING, STRUCTURE, AND OBJECT RECORD	Primary # HRI#
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*NRHP Status Code 6Z

*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

B1. Historic Name: None

B2. Common Name: None

B3. Original Use: Single-family residence

B4. Present Use: Commercial/Multi-family residence

*B5. Architectural Style: Free Classical Queen Ann, altered to/mixed with Georgian Revival

*B6. Construction History: (Construction date, alterations, and date of alterations)

Constructed 1904. Primary facade addition, 1935. (See Continuation Sheets for additional construction history.)

*B7. Moved? No Yes Unknown Date: n/a

Original Location: n/a

*B8. Related Features: Carport at rear of lot.

B9a. Architect: William H. Wharff

b. Builder: Pearson & Olsen

*B10. Significance: Theme: None

Area: Downtown Berkeley

Period of Significance: None

Property Type: Residential/Commercial Applicable Criteria: None

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

Neighborhood Context

The building at 2138 Kittredge Street is located in Downtown Berkeley, just off the Shattuck Avenue commercial corridor, study of which was undertaken by the "Shattuck Avenue Commercial Corridor Historic Context and Survey" (Archives & Architecture, 15 Sept. 2015). The historic context is applicable to this property, as follows.

Downtown Berkeley is characterized by a variety of uses but is heavily commercial, as is typical of an urban downtown. Along Shattuck Avenue, these commercial uses – restaurants, boarding houses, groceries, laundries – were present as early as the 1870s, encouraged by the establishment of the nearby University of California campus; construction of a rail line along Shattuck Avenue; and ultimately, incorporation of the community as the Town of Berkeley. The University spurred surrounding residential growth as well and the presence of a train station at Shattuck and University avenues made that the locus of the city's de facto downtown.

In the 1880s, residential growth boomed and the area's character transitioned from rural to urban. In the 1890s, the previously vacant east side of Shattuck Avenue was graded, allowing for additional development and more businesses to be established along the corridor. Such development extended as far south as Allston Way, while a smaller secondary commercial cluster existed at Shattuck Avenue and Dwight Way.

The turn of the 20th century brought electric rail lines and further commercial growth to Shattuck Avenue, but the 1906 earthquake did the most to spur massive residential and commercial growth, as displaced residents from San Francisco came across the Bay to settle in Berkeley and demand for goods and services subsequently increased. Many older properties along Shattuck Avenue were redeveloped to meet the needs and fashions of the new century. (Continued)

B11. Additional Resource Attributes: (List attributes and codes)

HP2. Single family property, HP3. Multiple family property, HP6. 1-3 story commercial building

*B12. References:

(See parenthetical citations within text and on last Continuation Sheet)

B13. Remarks:

*B14. Evaluator: Caitlin Hibma/Left Coast Architectural History

*Date of Evaluation: January 2024

(This space reserved for official comments.)



State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET	Primary # HRI# Trinomial
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*Resource Name or # (Assigned by recorder) 2138 Kittredge Street, Berkeley, CA

*Recorded by: Caitlin Hibma/Left Coast Architectural History

*Date: Jan. 2024

 Continuation Update**P3a. Description: (continued)**

Multi-lite wood sash windows in double-hung and casement configurations are the most prevalent type of fenestration. Original double-hung iterations feature lambs-tongue sash stops, while newer wood iterations have no stops. Some vinyl sashes are also present.

The primary/north facade is two stories, clad with brick, and faces Kittredge Street without setback from the sidewalk. Two rows of soldier coursed bricks are found at the base of the wall. Above, the first story features a series of three regularly spaced round arches. A course of shiner coursed bricks set at an angle and topped by a row of stretcher coursed bricks create a decorative beltcourse at the height of the arches' springing points, while the tops of the arches are trimmed with voussoir bricks and slightly elongated bricks that form keystones at the top. The two arches at left and center have molded wood dado panels at the bottom and multi-lite wood sash windows above. The windows consist of a large, fixed, 12-lite, center sash, flanked by narrow four-lite casement sashes, and topped by fanlights with distinctive spiderweb muntins. The primary entrance is located within the rightmost arch which opens to a recessed vestibule. The entry door is elevated and approached by brick steps and a stoop. The solid wood door is adorned with a carved reeded motif and topped by a leaded glass transom lite. It is surrounded by wide reeded trim with a plain keystone at the top.

The second story of the primary facade features two window openings at either side and a decorative roundel at the center. The roundel is filled with a decoratively laid pattern of brickwork, voussoir trim, and keystones of elongated bricks at top, bottom, and each side. The windows have rectangular openings flanked by faux wood shutters and topped by lintels of soldier coursed bricks. Decorative metal half-round balconettes are located below each window. The windows have wood double-casement sashes with three lites in each leaf. A band of stretcher coursed bricks defines a low parapet wall at the top of the facade, which has brick coping and a low metal railing along the top edge.

The brick front wraps the building corner and extends briefly along the west facade, where there is a recessed blind arch with a wood flower box at the first story and a non-original six-over-one wood sash window with brick sill and soldier coursed lintel at the second story. To the right, the original portion of the building is clad with wood lap siding. Utility hatches and lattice vents are located at the base of the wall with a wide wood watertable above. The first story features a horizontally-oriented art glass window on the left, a standard one-over-one, double-hung, wood sash window on the right, and a partially-glazed wood pedestrian door at the far right. The first and second stories are divided by a wide wood beltcourse. The second story features four irregularly placed windows in a variety of sizes with molded wood trim. Three are one-over-one double-hung sashes, while one is a fixed art glass window. The facade terminates in a wide plain wood frieze overhung by the boxed eaves of the roof. One eave bracket with a foliate scroll motif is found near the juncture of the brick addition with the original portion of the building.

On the east facade, too, the brick front wraps the building corner and extends briefly along the facade. At the first story there is an arched window like those described on the primary facade, while the second story features two six-over-one wood sash windows with brick sills and soldier coursed lintels. To the left, the original portion of the building is clad with wood lap siding. A projecting bay is located near the center of the facade. It is angled at the first story and overhung by a square bay at the second story with decorative scrolls brackets adorning the overhanging corners. As on the west facade, there is a wide wood watertable, wide wood beltcourse between stories, and wide plain wood frieze overhung by the boxed eaves of the roof. Windows are generally standard one-over-one, double-hung sashes with molded wood trim; some wood and some vinyl. A hip-roofed dormer projects from the east plane of the roof over the projecting bay.

The rear/south facade is clad with wood lap siding and has a wide wood watertable, wide wood beltcourse between stories, and wide plain wood frieze overhung by the boxed eaves of the roof. There is a secondary entrance and window at the right side of the first story. The second story is setback at the left side, accommodating a deck with a decorative wood railing. The right side features a pair of standard windows. A non-original addition projects from the rear plane of the roof.

Carport

An L-plan carport sits at the southwest corner of the lot. It is one-story high with a flat roof and opens onto the property's paved rear yard. The carport has concrete block rear walls, heavy wood roof beams, and metal support poles. Stucco clads the low parapet wall at the front of the roof.

B10. Significance: (continued)

Downtown was spared destruction by the 1923 Berkeley Fire, but Shattuck Avenue was nevertheless changed by the growing popularity of the private automobile in the 1920s. Although modes of transit conflicted at times, private cars increased travel to and from the commercial corridor. A number of large department stores came to the area at the time and, along with other businesses, flourished until the Great Depression. Even the serious economic downturn of the 1930s had gentler effects in Berkeley, though, because the University's student population kept business flowing.

By the mid-1940s, the entire Bay Area had experienced a war-time population boom and prosperity was high. Although the evolution of transportation away from public mass transit and toward the private automobile dispersed many businesses into

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 Continuation Update**B10. Significance: (continued)**

new outlying areas, Shattuck Avenue remained a strong commercial corridor, and as was a recurring theme, the proximity of the University of California campus continued to bolster Downtown commerce.

As happened in many cities, Downtown declined in the 1950s and 60s due to the migration of commercial uses to outlying malls and shopping centers. Population also diminished as urban residents moved to the suburbs, which were accessible by car and did not require the presence of convenient nearby businesses. In Berkeley, the deterioration of residential hotels and apartments that were commonly located above the street-level commercial establishments along Shattuck Avenue compounded the loss of Downtown vitality. Additional challenge was presented by the construction of BART in the 1970s, although this ultimately connected Berkeley's Downtown to the wider Bay Area region once it was completed.

Property History

A notice in the 27 October 1902 issue of the *Berkeley Daily Gazette* (BDG) reported that lots 16 and 17 of the Blake Tract (which had been subdivided in 1881) were sold by W.H. Leimert to John C. Fitzpatrick. A map of the Blake Tract indicates that the property now addressed 2138 Kittredge Street was Blake Tract lot 17 (lot 16 sat to its east). (Berkeley Property Map No. 3 of the Blake Tract, 1881; Berkeley Public Library via Calisphere.) The following year, the 1903 Sanborn Fire Insurance map illustrates that lot 17 was vacant, while lot 16 was had a large, two-story, corrugated iron stable sitting at its rear.

On 4 January 1904, the *Berkeley Daily Gazette* reported plans "To Erect Large Building" at Shattuck Avenue and Kittredge Street. The article reported that the building was to be a two-story and basement frame dwelling, built for John C. Fitzpatrick by contractors Pearson & Olsen, designed by architect William H. Wharff. (See "Architect & Builders" section below.) The house would cost \$4,090 and was to be completed around mid-April of 1904.

John C. Fitzpatrick was born in Benicia in 1866 and came to Berkeley in 1890. Soon thereafter, he began working on the Claremont, University & Ferries horsecar line (known as the C.U. & F., established 1891), serving variously as secretary, manager, superintendent, and motorman. The horsecar line was discontinued in 1901 and Fitzpatrick went into business running a "railroad station horse and hack taxi service." This livery stable business was initially headquartered on Allston Way, but was soon moved to the property adjacent to Fitzpatrick's new house at 2138 Kittredge Street. Banking on transportation trends moving away from horses and toward automobiles, Fitzpatrick eventually purchased three gas-powered automobiles which he hired out and also used for deliveries, taxi service, and driving for funerals and other events. Fitzpatrick's stable eventually became one of Berkeley's first public auto garages. ("So We're Told by Hal Johnson: Horsecar Man," *BDG*, 28 February 1940.)

The 1910 census lists the John C. Fitzpatrick family as the residents of 2112 Kittredge Street. John C. Fitzpatrick was 45 years old, born in California to Irish parents, and was listed as the proprietor of a livery stable; the one located on the lot next door, and which by 1910, was probably more automobile than horse-oriented. Also residing at the house were Fitzpatrick's wife, Carrie, and their five children. The children's ages ranged from 16 to 22 and only the oldest, Albert Reginald, was employed as an electric company clerk.

The house at 2138 Kittredge Street first appears on the 1911 Sanborn Fire Insurance map, addressed 2112 Kittredge Avenue. It is illustrated as a 2-story, rectangular-plan dwelling with an inset porch at the front northwest corner, a square bay window on the east facade, and a rear porch. An L-shaped outbuilding was present at the rear of the lot and was addressed 2112 ½ Kittredge Street. On the lot to the east, which was also owned by Fitzpatrick (Blake Tract lot 16, mentioned above), the corrugated iron stable shown on the 1903 Sanborn Fire Insurance map had been enlarged to fill the front of the lot. It was still clad in iron, had a concrete block street-facing facade, and was labeled as a livery stable.

A decade later, the 1920 census continues to list John C. Fitzpatrick at 2112 Kittredge Street. By then Fitzpatrick was a 54 year old widow and had no listed occupation. Living with him were his son Albert Reginald; 37 years old with no listed occupation; and his daughter and son-in-law, Gladys C. and George H. Brown, both in their 30s. George Brown was employed as a salesman for a wholesale coffee company.

The property was renumbered from 2112 to 2138 Kittredge Street on 5 October 1926. (City of Berkeley Planning Department records) The Sanborn Fire Insurance map of 1929 shows that by the end of the 1920s, the property been converted into a restaurant. John C. Fitzpatrick's adjacent livery stable had officially become an automobile garage, housing 20 cars with a repair department at the rear. The 1930 census confirms that John C. Fitzpatrick had moved away from the subject property, purchasing and living in a house on Delaware Street. He may have retained ownership of the house and adjacent auto garage until either 1924 or 1942. (*BDG*, 28 February 1940.) John C. Fitzpatrick died in 1945. (Vital records, ancestry.com.)

The timing of Fitzpatrick's sale of the property is unclear. It was next purchased by William H. and Alma T. Taylor. Logically, he would have sold the property when he moved away, possibly in 1924 as one source states. (Anthony Bruce, "The Fitzpatrick House & Pepper Tree Tea Room, 2138 Kittredge Street," 2022, BAHA files) Donogh real estate records show a sales transaction between Fitzpatrick and the Taylors in 1942, however. Its possible that numbers were transposed, but a newspapers article

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profiling Fitzpatrick notes that he still owned the livery stable property as late as 1940, which could suggest he owned the house into the 1940s as well. In any case, William and Alma Taylor were the next owners of 2138 Kittredge Street and were present, either as renters or owners, as early as 1925.

The restaurant shown on the 1929 Sanborn Fire Insurance map was operating at least as early as 1925, when it was referred to as the Pepper Tree Inn in a newspaper article. (BDG, 12 June 1925) It was also known at various times as the Pepper Tree Tea Room or the Pepper Tree Restaurant. Its proprietress was Alma T. Taylor, wife of William H. Taylor, who was a real estate agent. The Taylors' residential address was 2138 Kittredge Street, indicating that they lived upstairs, while Alma Taylor ran the restaurant, presumably on the lower floor of the house. Alma's father and adult niece lived with them; her niece helping wait tables in the tea room. (Anthony Bruce, 2022; BAHA files.)

In 1928, the newspaper ran both a recommendation for the Pepper Tree, and a rental advertisement for an apartment at 2138 Kittredge Street, indicating that in addition to the tea room, the Taylors had subdivided the residential portions of the house into apartments. They continued to live at the address. (BDG, 4 Jan. 1928 and 30 March 1928) In both 1926 and 1929, chimney sparks ignited the roof of the house, but no substantial damage was done. (BDG, 9 July 1926 and 13 Feb. 1929)

In 1935, the Taylors took out a building permit for "alterations and addition to tea room and dwelling" involving the remodeling of the kitchen and dining quarters and extension of the front of the building by 8 ft. 6 in. (BAHA, permit 39423) This was when the brick Georgian Revival style front was constructed on the house's primary facade.

The Pepper Tree Tea Room continued to operate until 1942, when newspapers announced that the restaurant premises was up for lease and its equipment and furniture was for sale. (BDG, 11 May and 24 June 1942.) Alma Taylor thus retired from 21 years in the restaurant business, but she and William H. Taylor continued to own and live at 2138 Kittredge Street. Later in 1942, they applied for a permit to convert the building to apartments, hiring architect Paul Hammarberg to design the project. (Permit 53030) The Taylors continued as resident-landlords of the apartment house and ran a public "honor" parking lot nearby, while another parking lot operated at the rear of the subject lot (although newspapers assign it a different proprietor). (BDG, 22 March 1948)

In 1955, the property made the news when the skeletal remains of a Native American burial were uncovered in the course of construction at the rear of the lot. It was noted that an old shed related to the adjacent J.C. Fitzpatrick livery stable had been torn down and the footings of a new carport were being poured when the discovery was made by a workman. The remains were assessed by a U.C. Berkeley archaeologist and determined to be over a century old and belong to an Ohlone woman, who had probably lived in one of the villages that once proliferated in Strawberry Canyon.

In October 1960, Alma T. Taylor passed away at age 70. Her obituary highlighted her 39 years of residency in Berkeley and her 21-year ownership of the former Pepper Tree Tea Room. She was survived by her husband, who remarried in 1963 to Helen Ingham. (BDG, ca. 21 Nov. 1974) In 1964, Taylor was listed as the owner of the property when applying to build an additional dwelling unit on top of the property's rear carport. It was specified that the addition would be a large apartment to be occupied by the property owners, while the existing five-unit apartment building continued to be used as such. Based on the fact that the carport remains one-story with no second story unit, the project does not appear to have ever been undertaken. (Use Permit #5245) William Taylor appears to have retained ownership of the property until his death in 1974. Helen Ingham Taylor passed away in 1979 and may have continued living at the property until then.

According to building permit records, Wayne Ronneburg owned the property around 1981, when the roof was replaced. In May 1985 a lot line adjustment was made between 2138 Kittredge Street and the neighboring property to the east (the former site of J.C. Fitzpatrick's livery stable) to "eliminate minor encroachment of a commercial building at 2150 Kittredge Street." Per City of Berkeley land use history records, the lot line adjustment application was later withdrawn, but the owner at the time was stated to be Berkeley Commercial Property Developments/Reorganized Church of Jesus Christ of the Later Day Saints. (Application for Parcel Map #4511/4571)

By 1992, Steve and Francisca Schneider were the property owners and retained ownership until at least 2001. During this time, the building appears to have remained a five-unit apartment building, although not rented to full occupancy. In 1997, architectural plans were filed and an application for Design Review was submitted to "convert the existing multi-unit residential building into restaurant." (UP# 97-10000082) An Application for Change of Use Statement (17 July 1997) reported that the building consisted of five residential units; two on the bottom floor that were vacant, two on the second floor being used as a single dwelling by the Schneiders, and one at the attic level that was also vacant. Steve Schneider was a real estate consultant and, based on a sign that remains on the building, he maintained an office in the building. The 1997 restaurant conversion project was undertaken with the intent that the Schneiders would sell the building to Ching Hwa Yu to become the Great China Restaurant if the commercial conversion was possible and a use permit was granted. It appears that it was not and the project was not undertaken.

Architect

The building at 2138 Kittredge Street, in its original residential guise, was designed by William Hatch Wharff. Wharff was born

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in Maine in 1836. He attended Foxcroft Academy, an arts-oriented preparatory high school, and learned the carpentry trade from his uncle, eventually becoming a master carpenter and joining his uncle in business. The source of Wharff's architectural training is unclear and its possible that he had no formal training, although he did claim at one time to have studied architecture in Maine and Massachusetts and eventually became a member of the American Institute of Architects.

Wharff served in the Union Army during the Civil War and in 1875 moved his family west to California, settling first in San Francisco. Wharff declared himself an architect to the 1880 census, but was listed in city directories as a draftsman and, later, contractor/builder with offices on Pine Street. By some accounts he designed or built over sixty buildings in San Francisco between 1882 and 1899.

In 1899, Wharff relocated to Berkeley. Despite being of retirement age, he renewed his practice in his new city and was active until 1915, when he retired from architecture but went into the insurance business instead. He died in 1936.

Buildings designed by Wharff in Berkeley, and which are also designated Landmarks, include:

- Carlson's Block (1903) at 3228 Adeline Street in Lorin Station
- Masonic Temple (1905–06) at 2105 Bancroft Way and Shattuck Avenue
- J.J. Pfister Co. Knitting Mill (1906) at 8th and Parker Streets;
- F.D. Chase Building (1909) at 2107 Shattuck

(Daniella Thompson, "William Wharff: Architect, Civil War Vet, and Freemason," ca. 22 Feb. 2008; http://berkeleyheritage.com/eastbay_then-now/wharff.html)

Architectural Type & Style

The building at 2138 Kittredge Street was originally a residential building that was probably designed in the Free Classical sub-type of the Queen Anne style. Although the original appearance of the primary facade is unknown, this determination is based on the building's age and remnant features on the rear portion of the building, including horizontal wood siding, double-hung windows with lambs-tongue sash stops, beltcourses and friezes, moldings, and remnant scroll brackets. The Free Classical sub-type of the Queen Anne style was popular in the later phase of the Queen Ann period, about 1890 to 1910. It used Classical columns, moldings, Palladian windows, and other related ornament rather than the spindlework and gingerbread more commonly associated with the Queen Anne aesthetic. (McAlester, Virginia & Lee, *A Field Guide to American Houses*, (New York: Alfred A. Knopf, 2003))

In 1935, the primary facade was subsumed by a front addition designed in the Georgian Revival style. As was popular in the 1920s and 30s, this was a revival of the older Georgian style that was used in the American colonies and eastern United States from around 1700 to as late as 1830. Like other revival styles, it sought to evoke a sense of nostalgia for times past, specifically that associated with early America, colonial history, the ideals of the early American republic, and the basic orderly principals of earlier architectural styles that had been considered elite, formal, and highly fashionable. It, too, referenced the Classical in its detailing, which can be seen in the facade's strict symmetry, the round arches forming an arcade and adorned with keystones, the roundel ornament on the upper facade, and parapet defined by brickwork. Features like decorative brickwork, complex window composition with spiderweb fanlights, and faux shutters put a Georgian emphasis on the Classical. Meanwhile, reeded detailing on and around the primary entrance appears to have been a departure toward the Art Deco trends of the 1930s, when the addition was made. (Ibid., Lester Walker, *American Shelter* (Overlook Press, 1998))

Alterations

Building permits and other records on file with the City of Berkeley Department of Planning & Development and Berkeley Architectural Heritage Association provide documentation of the property's development over time. In addition, sources such as Sanborn Fire Insurance maps, aerial photographs, and historical images provide information on alterations made to the building during certain periods of time.

Date	Permit #	Description of Work
20 Aug. 1915	4815	Unspecified addition to dwelling. Owner: J.C. Fitzpatrick [Rear addition, per California Dept. of Parks & Recreation Historic Resources Inventory form, 1978 (BAHA)]
4 Aug. 1926	25631	Unspecified demolition. Owner: Alma T. Taylor

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13 June 1935	39423	Alterations and addition to tea room and dwelling – kitchen and dining quarters to be remodeled and front to be extended 8 ft. 6 in. Owner: Mr. & Mrs. Taylor
5 Nov. 1936	41648	Reroof shed. Owner: Taylor.
11 May 1940	48712	Termite repair to dwelling and restaurant. Owner: Taylor
14 Aug. 1940	49347	Termite repairs to dwelling. Owner: Taylor.
10 Aug. 1942	53030	Convert building to apartments. Architect: Paul Hammarberg. Owner: W.H. Taylor
11 Jan. 1949	64622	Unspecified alterations to apartments. Owner: Taylor
20 Jan. 1949	64667	Installation of a fire escape ladder.
3 Nov. 1953	74231	Take out a wall and a half-closet wall in two adjoining bedrooms, frame in a closet, making the bedroom approx. 3 feet wider. Owner: W.H. and Alma T. Taylor
21 Sept. 1955	78298	Demolish existing carport at rear of lot, Owner: W.H. Taylor
? Sept. 1955	78300	Construct concrete block carport, 8" blocks, tar and gravel roof, asphalt floor and drive. Owner: W.H. Taylor
21 Aug. 1964	5245	NOT COMPLETED: Building dwelling unit above carport. Owner: W.H. Taylor
13 Jan. 1981	112814533	Re-roofing. Owner: Wayne Ronneburg.
17 May 1985	PM 4511/4571	NOT COMPLETED: Lot line adjustment. Owner: Berkeley Commercial Property Developments/Reorganized Church of Jesus Christ of the Later Day Saints
1992	CoB records	Owner requested and denied building's removal from URM list. Owner: Steve and Francisca Schneider
5 Sept. 1997	UP 97-10000082	NOT COMPLETED: Convert existing multi-unit residential building into restaurant. Owner: Steve and Francisca Schneider
3 July 2000	00-00001042	NOT COMPLETED: Remove existing second floor deck and replace with dining room. Owner: Steve and Francisca Schneider
15 Feb. 2001	01-00000252	Add Garden room on existing deck [at rear, second story] (in lieu of room addition, permit #1042). Contractor: Century Patio Village. Owner: Steve Schneider

Alterations noted by visual observation, but not otherwise documented, include:

- Window replacement: Some double-hung, wood-sash windows without lambs-tongue sash stops are present and indicate replacement of originals which did have sash stops. Meanwhile some vinyl ash windows are also present.

California Register Evaluation

The California Register of Historical Resources (California Register) is an inventory of significant architectural, archaeological, and historical resources in the State of California. In order for a property to be eligible for listing in the California Register, it must be found significant under one or more criteria relating to historically significant events, people, architects or architectural merit, or information potential. The following provides an evaluation of the historic significance of 2138 Kittredge Street:

Criterion 1 (Event): Resources that are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.

No specific events of historical importance are known to have occurred at the property. The building was constructed as a single-family residence located just off the commercial corridor of Shattuck Avenue in 1904. It pre-dated the 1906 earthquake and did not play any role in the aftermath of that event or the substantial effects that it had on the Bay Area and beyond. The house was partially-converted to a restaurant in the mid-1920s and a front addition was added to facilitate that use in 1935. Such changes to the physical character and use of residential buildings are fairly common in urban settings where a residential neighborhood has become heavily commercial over time and were done for reasons of very general practicality. The restaurant conversion pre-dated and was not influenced by or otherwise related to the events of the Great Depression that started in 1929 and dominated much of the 1930s. The building became a multi-family apartment building in 1942, which may have been very generally influenced by the massive population boom experienced in the Bay Area during the years of World War II as war workers and military families relocated to the region in large numbers and required housing. However, the subdivision of residential space to accommodate the wartime population boom (and make a profit) is a trend that occurred at countless properties in cities throughout the Bay Area

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and elsewhere in California. No evidence was found that 2138 Kittredge Street housed war workers or military families and it is just one example of a very common wartime trend throughout the State.

The property does not appear to be eligible for listing in the California Register under Criterion 1.

Criterion 2 (Persons): Resources associated with the lives of persons important in our past.

The property was first associated with John C. Fitzpatrick, who had the house built in 1904 and occupied it with his family until the early 1920s. Fitzpatrick worked on a horsecar line before establishing his own livery stable (next door to the house), which eventually transitioned from horses to automobiles, but operated under the same for-hire model. He was an early adopter of automobiles and his stable-turned-garage is claimed to have been one of Berkeley's first public auto garages, although this claim is unsubstantiated ("So We're Told by Hal Johnson: Horsecar Man," *BDG*, 28 February 1940) and could be complicated by the exact definition of "public auto garage" (ie: a garage for parking, for mechanical service, for rental of vehicles, etc.) In any case, although Fitzpatrick was an early purveyor of transportation, his business did not have significant implications for the broader history or development of Berkeley or California, and the house at 2138 Kittredge Street did not have an integral association with Fitzgerald's business or represent it in any way.

Beginning around 1925, the house was occupied by William H. and Alma Taylor. William Taylor was a real estate agent, while Alma Taylor ran a tea room in the front of the house. William Taylor's work in real estate earned little attention in historical documents, while Alma's tea room was advertised in newspapers (as would be expected for a restaurant) and appears to have been a successful establishment, operating for 21 years. Nevertheless, the tea room was one of countless restaurants in Berkeley during its years of operation and Alma Taylor had no great historical influence as its proprietress.

In 1942, the Taylors converted the house to a five-unit apartment building. Residents of the apartments are generally unknown and the few names that appear in association with the address in newspapers do not yield much biographical information and do appear to have been influential. Helen Ingham Taylor, William Taylor's second wife and widow, owned the property until 1979. Later owner/occupants were associated with the property outside of the historical period and none appear to claim any significant achievements that would qualify them as important historical figures.

The property does not appear to be eligible for listing in the California Register under Criterion 2.

Criterion 3 (Architecture): Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.

The building at 2138 Kittredge Street was designed as a single-family dwelling, likely in the Free Classical sub-type of the Queen Anne style. Aside from age-appropriate materials and a few remnant features found on the side and rear facades, the house no longer conveys its original appearance, nor is it capable of indicating its true age or style. In 1935, a Georgian Revival style front facade was added to the building, which had come to incorporate commercial and, eventually, multi-family residential uses. The front exhibits some characteristic features of the Georgian Revival style, but by nature of it being an addition to an existing building of an entirely different style, is not a pure or good example of the style and has some anomalies. Its intended function as a storefront is also not readily apparent, as it has few of the characteristics of commercial use, such as a street-level entrance, multiple entrances, large plate glass display windows, etc. Consequently, the architecture of 2138 Kittredge Street has little architectural merit and does not embody distinctive characteristics of either its original design and use, or the style and use imposed upon it in later years.

The architect of the house was William H. Wharff, who was a prominent and prolific Berkeley architect from 1899 to 1915. It is acknowledged, however, that he was not a great architectural trailblazer, being "neither a classicist nor an innovator, [but] a practical builder who incorporated the prevailing idiom of the day into his designs." (Daniella Thompson, "William Wharff: Architect, Civil War Vet, and Freemason," ca. 22 Feb. 2008; http://berkeleyheritage.com/eastbay_then-now/wharff.html) The fact that the house at 2138 Kittredge Street has been substantially altered with an addition to the primary facade that essentially obscures Wharff's original design means that it cannot stand as a valid representation of his work. Additionally, the fact that at least four other works by Wharff are designated local landmarks, retain integrity, and represent Wharff's work much better, means that the house at 2138 Kittredge Street is not a valuable representation of his work.

The property does not appear to be eligible for listing in the California Register under Criterion 3.

Criterion 4 (Information Potential): Resources that have yielded, or may be likely to yield, information important in prehistory or history

Criterion 4 is typically concerned with archaeological investigation. Where buildings or architectural elements are concerned, Criterion 4 typically relates to rare construction types, of which 2138 Kittredge Street is not an example.

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The property does not appear to be eligible for individual listing in the California Register under Criterion 4.

Berkeley Landmark Evaluation

Berkeley Landmarks are designated historical resources within the City of Berkeley. Resources may be designated as Landmarks if they meet one or more of five criteria similar to those used for the California Register, but which elaborate on areas of significance. The following provides an evaluation of the historic significance of 2138 Kittredge Street according to local significance criteria:

1. Architectural Merit:

a-c. Property that is the first, last, only or most significant architectural property of its type in the region; Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder; Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.

The property is an altered early-twentieth century residential building, later converted to commercial and multi-family residential uses, that does not hold the status of first, last, only, or most significant of its type or style in the region either in its original guise, nor its altered state. Its presumed original style and its wood-frame construction was very common to the early-twentieth century, while its altered character is equally unremarkable for the mid-1930s; therefore, it is not a prototype or outstanding example of its period, style, or any architectural movement or construction type. Even considered as an example of an early-twentieth century residence with a storefront addition, it does not qualify as a first, last, only, prototype, or outstanding example, as two others exist on the same block of Kittredge Street, with both of the others being of earlier construction dates and earlier alteration dates, and are still extant. The architect, William H. Wharff, was a prominent and prolific Berkeley architect but not particularly groundbreaking in his designs. He designed a number of other noteworthy buildings, some of which bear landmark designations, and are better examples of his work than 2138 Kittredge Street, which has been altered in such a way that the majority of Wharff's original design is not even evident.

2. Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City

The building at 2138 Kittredge Street was built as a single-family residence for a middle-class, non-immigrant family without any association to religious, cultural, governmental, social, or economic events or developments in Berkeley. It was built adjacent to its original owner's livery stable business, but only served to house his family and played no role in the neighboring commercial use, which itself was not strongly associated with any local economic developments. The house was later converted into a restaurant in the mid-1920s, but this also was not related to any significant economic evolution in Berkeley. It was one of countless restaurants in the city during its period of operation. Later still, it was converted into a multi-family apartment building during the years of World War II, but no evidence was found that this subdivision was directly related to or influenced by the wartime population boom, and subsequent cultural, social, and economic shifts, that happened in the Bay Area at that time.

3. Educational value: Structures worth preserving for their usefulness as an educational force

The property at 2138 Kittredge Street does not appear to have any use as an educational tool. The building is a modest structure that has an altered appearance and has had changing uses throughout its history. Both its altered physical character and dichotomy of uses confuse any interpretation of its historical role as either a house or commercial building, neither of which is particularly significant to local history.

4. Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States. History may be social, cultural, economic, political, religious or military.

The building at 2138 Kittredge Street was built as a single-family residence for a middle-class, non-immigrant family without any significant influence from or on social, cultural, economic, political, religious, or military history. It was built adjacent to its original owner's livery stable business, but only served to house his family and played no role in the neighboring commercial use, which itself was not strongly associated with any local economic trends. The house was later converted into a restaurant in the mid-1920s, but this also was not related to any significant economic trends in Berkeley. It was one of countless restaurants in the city during its period of operation. Later still, the building was converted into a multi-family apartment building during the years of World War II, but no evidence was found that this subdivision was directly related to or influenced by the wartime population boom, and subsequent cultural, social, and economic shifts, that happened in Berkeley and the Bay Area at that time.

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET	HRI# Trinomial	Primary #
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 *Recorded by: Caitlin Hibma/Left Coast Architectural History *Date: Jan. 2024 Continuation Update

B10. Significance: (continued)

5. Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.

The property at 2138 Kittredge Street is not listed in the National Register of Historic Places and therefore does not qualify as a Berkeley Landmark under this criterion.

Berkeley Structure of Merit Evaluation

Berkeley Structures of Merit are designated historical resources within the City of Berkeley. Resources may be designated as Structures of Merit if they meet general and/or specific criteria. An evaluation follows:

1. General criteria shall be architectural merit and/or cultural, educational, or historic interest or value. If upon assessment of a structure, the commission finds that the structure does not currently meet the criteria as set out for a landmark, but it is worthy of preservation as part of a neighborhood, a block or a street frontage, or as part of a group of buildings which includes landmarks, that structure may be designated a structure of merit.

As assessed under Berkeley Landmark criteria, the property at 2138 Kittredge Street does not possess high architectural merit or cultural, educational, or historic value. Visual observation of buildings around the property reveals a wide range of age, scale, style, and use, including a number of very large modern infill buildings that have been constructed in close proximity in recent years (or are under construction currently). Three late-nineteenth and early-twentieth century houses with added storefronts, similar to the subject property, are located on the same block of Kittredge. The "Shattuck Avenue Commercial Corridor Historic Context & Survey" addresses this grouping of properties as follows:

While a majority of residences located on Berkeley's downtown streets were demolished during the ensuing decades, to make room for larger, more commercially focused structures, a small handful of ca. 1890s houses, specifically the grouping located at 2117-2119 Kittredge St., 2124-2126 Kittredge St., and 2138 Kittredge St. were adapted into commercial storefronts, while remaining residential in the rear. These original rear wings are representative of residential uses that were adapted for commercial purposes as the twentieth century progressed, and as the commercial aspects of Shattuck Avenue began to extend beyond the main thoroughfare. The expansion of transportation options in the early twentieth century, as well as a burgeoning commercial downtown, led to an increasing amount of commercialization of the side streets directly off of Shattuck Avenue as the nineteenth century gave way to the twentieth century.

It is corrected, herein, that the property at 2138 Kittredge Street dates to 1904, not ca. 1890s, and was the last of the three properties to be built and the last to be altered with a commercial storefront. Nevertheless, the three properties have been identified as representing a small grouping of residential-to-commercial conversions, associated with the commercial growth of nearby Shattuck Avenue.

Specific Criteria

a. The age of the structure is contemporary with (1) a designated landmark within its neighborhood, block, street frontage, or group of buildings, or (2) an historic period or event of significance to the City, or to the structure's neighborhood, block, street frontage, or group of buildings.

Downtown Berkeley is characterized by an extremely dense concentration of designated landmarks. In order to distill the analysis down to manageable numbers, the subject block on which 2138 Kittredge Street is located, and the block face opposite (the north side of Kittredge Street) are used herein as the study area. Within those constraints there are seven designated landmarks, including: the Tupper & Reed building, Hezlett's Silk Store, the Odd Fellows Temple, the Masonic Temple, Brooks Apartment Building, the A.H. Broad House/Storefronts, and the California Theater. All are Landmarks, except the A.H. Broad House/Storefronts, which is a Structure of Merit. Construction dates range from 1894 to 1913, with two bearing significant alterations dating to the mid-1920s and 1929-30. The Masonic Temple and Brooks Apartment Building are roughly contemporaneous with 2138 Kittredge Street, having been built within the same decade, in 1905 and 1906, respectively.

The property's age does not correspond to any period or event of significance to the City, having been built at at time of general growth and before the 1906 earthquake.

b. The structure is compatible in size, scale, style, materials or design with a designated landmark structure within its neighborhood, block, street frontage, or group of buildings.

Among the designated landmarks located in the study area defined above (see Specific Criteria (a)), 2138 Kittredge Street is compatible with the A.H. Broad House/Storefronts (Structure of Merit) in size, scale, style, materials, and design. Both are two-story, single-family, residential structures of Victorian-era styling, of wood frame construction, with later storefront additions dating

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 Continuation Update**B10. Significance: (continued)**

to the mid-1920s and mid-1930s, that are of different materials and styling than the house to which they are attached. The other nearby Landmarks are mostly much larger, of distinctly different styles, and of different use-based design.

c. The structure is a good example of architectural design.

As a single-family dwelling, likely designed in the Free Classical sub-type of the Queen Anne style, the house no longer conveys its original appearance, nor is capable of indicating its true age or style. The later Georgian Revival front addition exhibits some characteristic features of the style, but by nature of it being an addition to an existing building of an entirely different style, is not a pure or good example and has some anomalies. Consequently, the architecture of 2138 Kittredge Street has little architectural merit and does not embody distinctive characteristics of either its original design and use, or the style and use imposed upon it in later years.

d. The structure has historical significance to the City and/or to the structure's neighborhood, block, street frontage, or group of buildings.

The property at 2138 Kittredge Street has been identified as part of a grouping of three properties exhibiting residential to commercial conversion via storefront addition. The group is "representative of residential uses that were adapted for commercial purposes as the twentieth century progressed, and as the commercial aspects of Shattuck Avenue began to extend beyond the main thoroughfare." (Archives & Architecture, 2015)

Integrity

In order to qualify for listing in the California Register, a property must possess significance under one of the aforementioned California Register criteria *and* have historic integrity according to seven aspects. Most, if not all, aspects of integrity must be met in order for the property to retain integrity. Integrity is not considered in the evaluation for Berkeley Landmark or Structure of Merit eligibility.

The property at 2138 Kittredge Street does not appear to possess the historic significance necessary to qualify for designation to the California Register; therefore, an analysis of its integrity is not required or included here.

Conclusion

Based on the above analysis, the property at 2138 Kittredge Street does not appear to be eligible for listing the California Register of Historical Resources or as a City of Berkeley Landmark. Because it has been identified as one of a grouping of three similar buildings with a somewhat unique use history, illustrated through physical alteration (SoM general criterion 1 and specific criterion D), and because it is contemporary in age and compatible in physical character with nearby Landmarks (SoM specific criteria A and B), multiple Structure of Merit criteria regarding its associations to similar nearby properties are met. Based on these conclusions, the property appears to qualify as a historical resource for the purposes of CEQA.

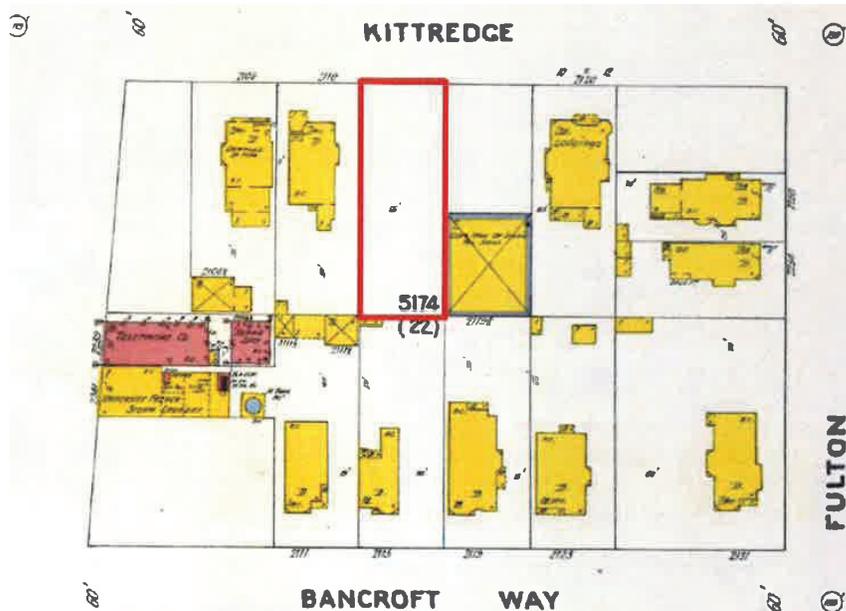
Sources

Ancestry.com: census and other vital records
Archives & Architecture, "Shattuck Avenue Commercial Corridor Historic Context & Survey," 28 May 2015.
Berkeley Architectural Heritage Association: block files, building permits, Ormsby Donogh collection
City of Berkeley Planning & Development Department microfiche records
McAlester, Virginia & Lee, *A Field Guide to American Houses*, (New York: Alfred A. Knopf, 2003)
NETR Online, Historic Aerials
NewspaperArchive.com
Newspapers.com
Sanborn Fire Insurance Map archives via ProQuest and HIG
University of California Riverside, California Digital Newspaper Collection
University of California Santa Barbara Library, aerial photographs collection
Walker, Lester, *American Shelter*. Overlook Press, 1998.

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Historical Images:



Sanborn Fire Insurance map, 1903. Subject property outlined in red; vacant. (Historical Information Gatherers)

To Erect Large Building

The contract to erect a two-story and basement frame dwelling on Shattuck avenue and Kittredge street, for John C. Fitzpatrick, has been awarded to Contractors Pearson & Olsen. William H. Wharff is the architect. This contract calls for all concrete, mason, carpenter, plumbing and painting work, at a total cost of \$4090. Payments are to be made as follows: Frame up, \$1022.50; plastered, \$1022.50; completed and acceptor, \$1022.50; thirty-five days after, \$1022.50. The contract was let December 30 and the building is to be completed in seventy-five working days, with a forfeit of \$5 a day. W. G. Black and Nils Person are sureties in bonds of \$1022.50.

Construction notice, Berkeley Daily Gazette, 4 January 1904.

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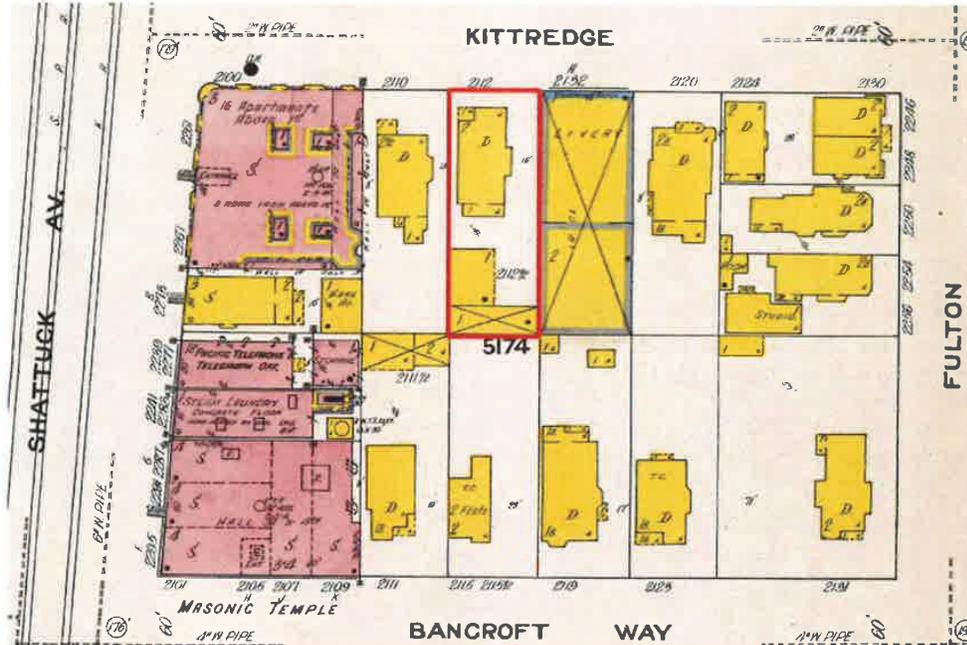
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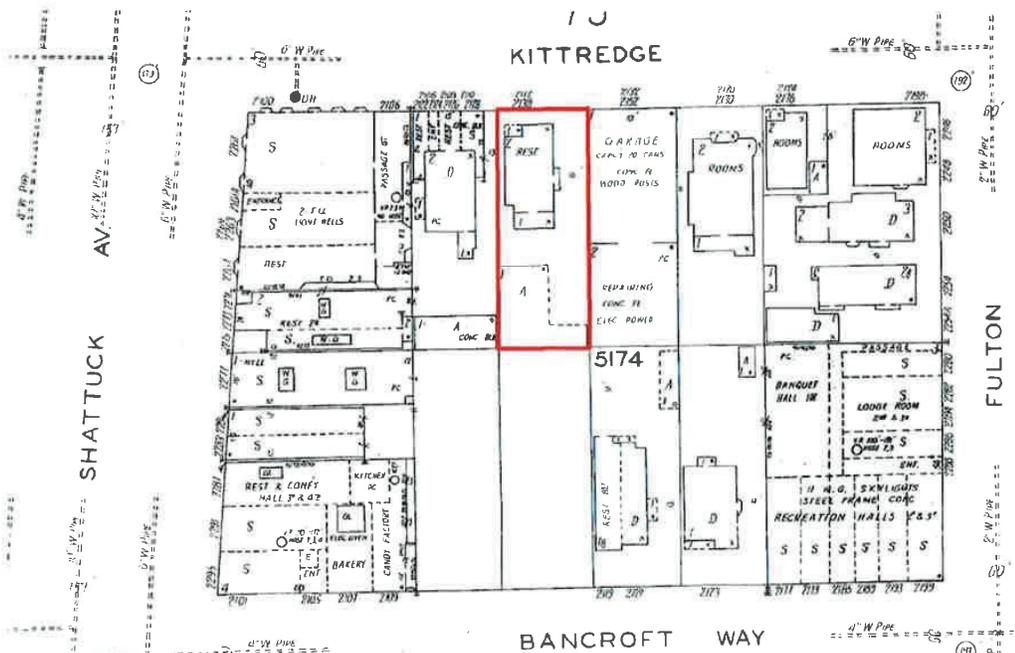
*Date: Jan. 2024

Continuation Update

Historical Images:



Sanborn Fire Insurance map, 1911. Subject property outlined in red. (Historical Information Gatherers)



Sanborn Fire Insurance map, 1929. Subject property outlined in red. (ProQuest)

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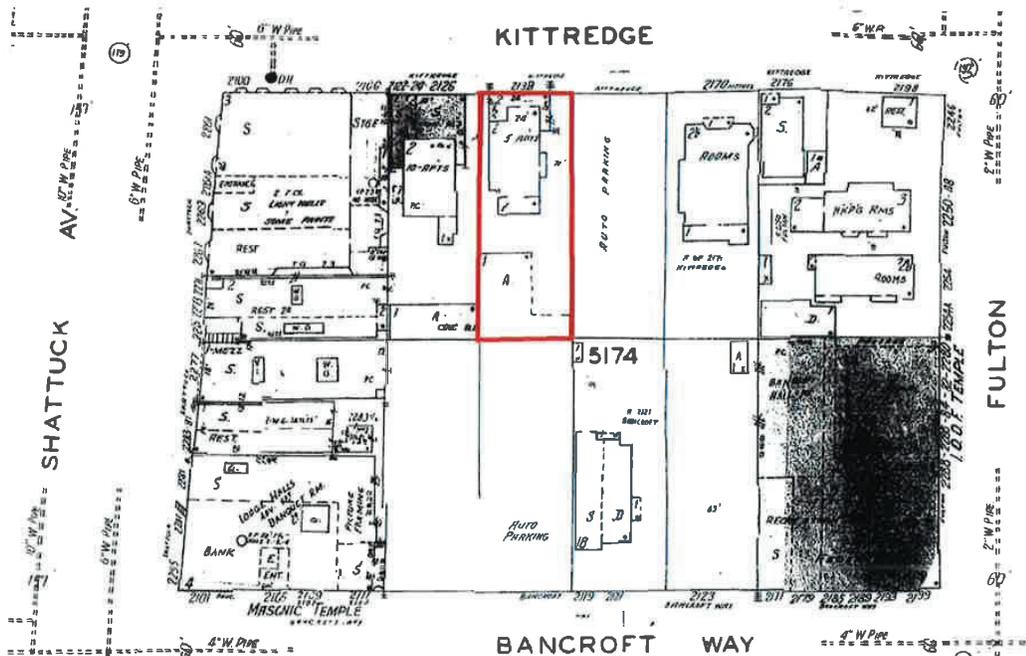
Continuation

Update

Historical Images:



2138 Kittredge Street, 1930s. (BAHA, Donogh Collection)



Sanborn Fire Insurance map, 1950. Subject property outlined in red. (ProQuest)

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Historical Images:



Aerial photograph, 1958. 2138 Kittredge Street circled. (U.C. Santa Barbara Library)



Aerial photograph, 1965. 2138 Kittredge Street circled. (U.C. Santa Barbara Library)

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Historical Images:



2138 Kittredge Street, looking southwest; 1978. (BAHA)



2138 Kittredge Street, looking northwest; 1978. (BAHA)

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Historical Images:



2138 Kittredge Street, looking southeast; 1982. (BAHA)



Kittredge Street, looking east. 2138 Kittredge Street at far right; 1982. (BAHA)

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Continuation Update

Current Images:



Primary facade, looking south from Kittredge Street.



Left: Primary facade, looking southeast. Right: Detail of primary entrance.

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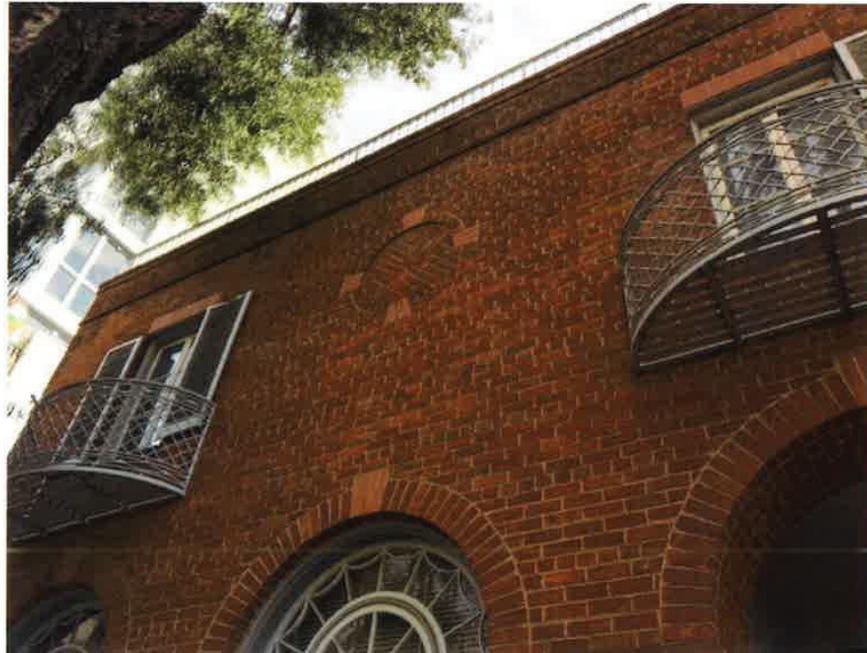
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Continuation Update

Current Images:



First story of primary facade, left of primary entrance.



Second story of primary facade.

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Current Images:



West facade, looking southeast.



Lower east facade, looking southwest.

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Continuation

Update

Current Images:



Upper east facade, looking southwest.



View to rear of lot, showing carport, looking south.

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

LPC APPEAL: 2138 KITTREDGE STREET, LANDMARK APPLICATION LMIN2024-0006

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **WEDNESDAY, JULY 23, 2025 at 6:00 P.M.** a public hearing will be conducted to consider an appeal against a decision by the Landmarks Preservation Commission for Landmark Application **#LMIN2024-0006 to designate the subject property located at 2138 Kittredge Street, known as the Fitzpatrick House and Pepper Tree Room, as a City Landmark.**

The hearing will be held on, July 23, 2025 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Robert Rivera, Senior Planner at (510) 981-7480

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of July 14, 2025. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council 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 the City Council, 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 City Clerk. 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 City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

Mark Numainville, City Clerk

Mailed by: July 9, 2025

Noticed Pursuant to: Berkeley Municipal Code Section 23.404.040(B), Public Hearing Notice

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Board or Commission decision may be*

Attachment 4

filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Board or Commission decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.

INDEX TO ADMINISTRATIVE RECORD
2138 KITTREDGE STREET
LANDMARK INIATION: #LMIN2024-0006
Prepared: June 18, 2025

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B	CAPTIONER'S RECORD and minutes of all hearings				
	2	LPC meeting minutes	2/6/2025	81	2
C	REMAINDER OF ADMINISTRATIVE RECORD				
	3	Application materials	10/30/2024	83	30
	4	Property detail report	11/13/2024	113	2
	5	Notice of Initiation letter sent to property owner	11/14/2024	115	1
	6	Letter of objection from the attorney for applicant of the Use Permit application	12/30/2024	116	32
	7	Invoice of landmark initiation fee	12/31/2024	148	1
	8	Notice of Public Hearing postcard and mailing list	1/27/2025	149	18
	9	Notice of Public Hearing poster posted at the site	1/27/2025	167	1
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	11	LPC Notice of Decision with Proof of Service letter	3/10/2025	170	39
	12	Appeal letter filed by Todd Williams of Fennemore Wendel	3/24/2025	209	38
	13	Appeal receipt letter from City Clerk to Appellant	4/9/2025	247	3
	14	Appeal reschedule letter from City Clerk to Appellant	6/17/2025	250	2



Administrative Record

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley's Website
<http://www.berkeleyca.gov>

