



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
S T A F F R E P O R T

FOR BOARD ACTION  
JANUARY 12, 2023

## 1773 Oxford

**Use Permit #ZP2022-0062 to demolish a six-unit multifamily building and construct a five-story, 21,048 square-foot multifamily building with 24 units (three Very-Low Income), utilizing State Density Bonus.**

### I. Background

#### A. Land Use Designations:

- General Plan: High Density Residential (HDR)
- Zoning: Multiple-Family Residential (R-4)

#### B. Zoning Permits Required:

- **Use Permit** to demolish a building with two or more dwelling units constructed before June 1980, under BMC Section 23.326.030
- **Use Permit** to construct a multifamily dwelling building, under BMC Section 23.202.020(A)
- **Use Permit** to construct a building up to 65 feet in height, under BMC Section 23.202.110(E)
- **Administrative Use Permit** to construct rooftop allowed projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district, under BMC Section 23.304.050

#### C. Concessions and Waivers – Pursuant to State Density Bonus Law (CA Gov't Code Section 65915)

- **Concession** of BMC Section 23.202.110(E)(1) to reduce the residential useable open space requirement from 4,400 square feet to 1,529 square feet
- **Waiver** of BMC Section 23.202.110(E)(1) to exceed the lot coverage limit of 35 percent and permit project with 60 percent lot coverage
- **Waiver** of BMC Section 23.202.110(E)(2) to reduce the required rear setback from 15 feet to 5 feet-9 inches
- **Waiver** of BMC Section 23.202.110(E)(2) to reduce the required front setback from 15 to 7 feet
- **Waiver** of BMC Section 23.202.110(E)(2) to reduce the side setback (north) from 10 to 5 feet

**D. CEQA Recommendation:** It is staff's recommendation that the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("Infill Development"). The determination is made by ZAB.

The project meets all of the requirements of this exemption, as follows:

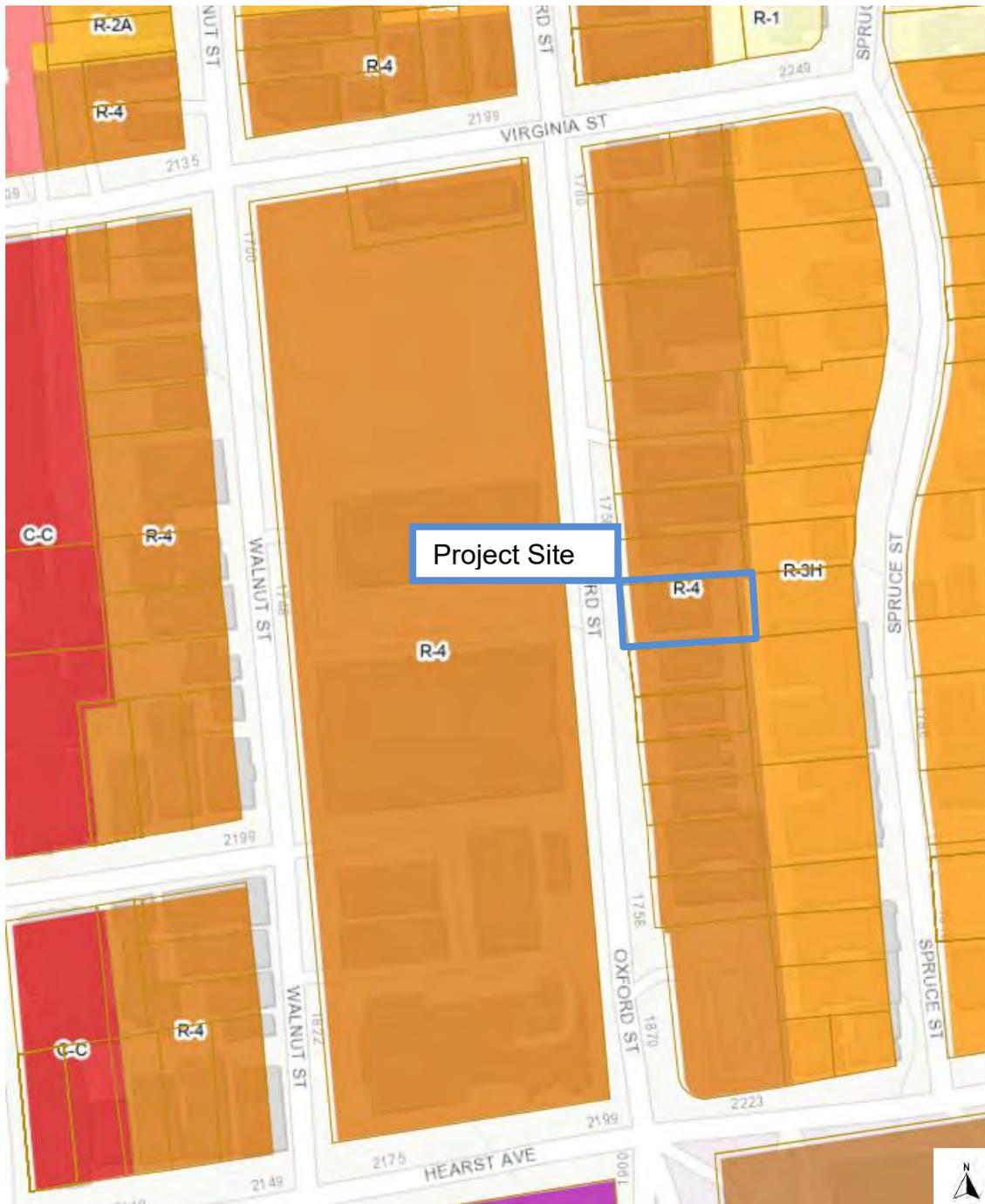
- The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- The parcels within the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

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

**A. Parties Involved:**

- Applicant Qian Wang (Yes Duffy Architects) Berkeley, CA
- Property Owner Qian Wang (iREAM) Orinda, CA

**Figure 1: Vicinity Map**

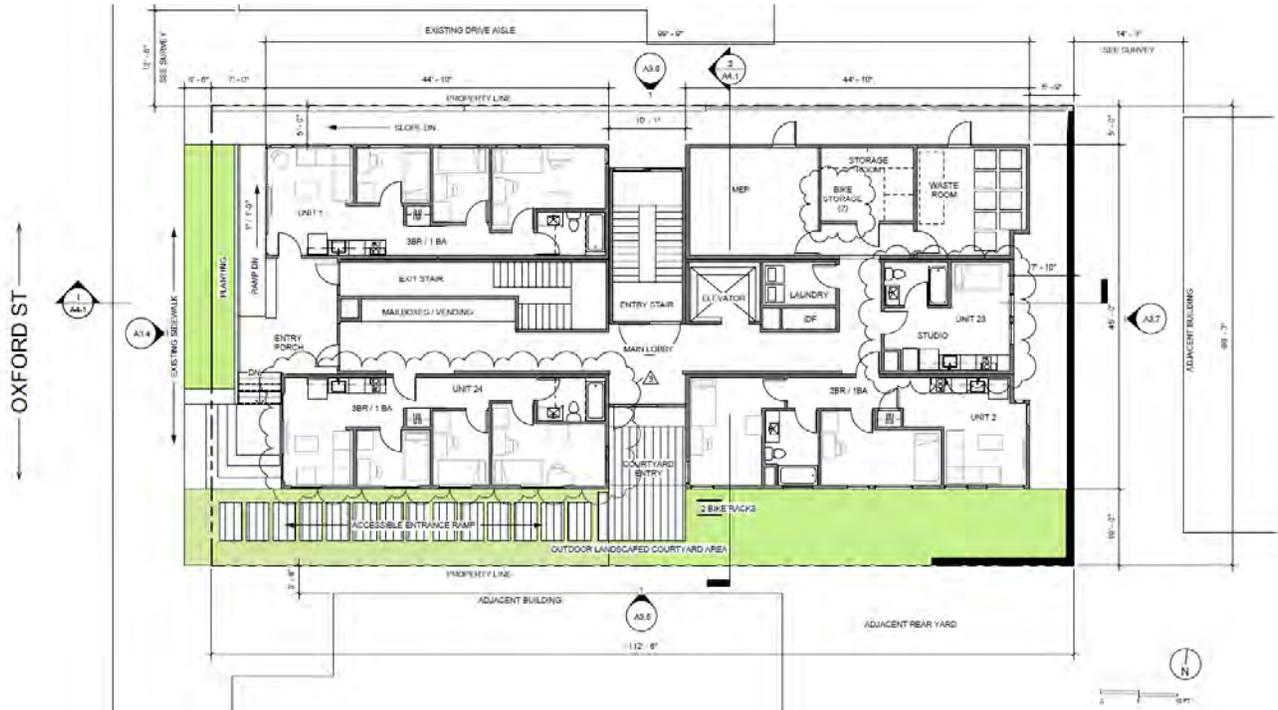


*\*Map not to scale.*

**Map Key**

- R-4 : Multiple Residential Zoning District
- R-3-H : Multiple-Family Residential Zoning District – Hillside Overlay District
- C-C : Corridor Commercial
- R-2A: Restricted Multiple-Family Residential District
- R1: Single Family Residential District

Figure 2: Site Plan



\*Map not to scale.

Figure 3: Proposed Elevations



West Elevation



East Elevation



*South Elevation*



*North Elevation*

**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Multifamily building	R-4	High Density Residential
Surrounding Properties	North			
	South			
	West	Educational Use (Farm maintained by UC Berkeley)		
East	Multifamily building	R-3H	Medium Density Residential	

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to net new nonresidential floor area over 7,500 square feet. The proposed project is 100% residential and is not subject to this requirement.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	Yes	
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	Project would provide three Below Market Rate (BMR) units at the Very Low-Income (VLI) rate, and pay a fee to satisfy the requirements of BMC Section 22.20.065 (See discussion below).
Creeks	No	The site is not near a mapped creek or a creek culvert.
Density Bonus	Yes	The proposed project qualifies for a 50% density bonus under State Density Bonus law (see discussion below).
Historic Resources	No	The project site is not designated as a Landmark by the City and has not previously been surveyed individually for historical significance under local, state, or federal historic significance criteria. Reference section
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The proposed project is for residential units only, and meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) <sup>1</sup> . The base project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)		The proposed project is for residential units only, and meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) <sup>2</sup> . See Section III.A of this

<sup>1</sup> Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing.

<sup>2</sup> See footnote 1

		report for additional discussion on the sections of SB330 that apply to the project.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	This project is an application for new construction and was submitted after January 1, 2020, and is therefore subject to the Natural Gas Prohibition.
Oak Trees	No	There are no oak trees on the property.
Rent Controlled Units	No	The building on the site contains a six-unit residential building. Previous to the Ellis Act <sup>3</sup> evictions from 2016 – June 2017, the units were rent controlled per BMC Section 13.76. Five years have elapsed since the units were withdrawn from rent or lease, and as a result these units are no longer considered “rent controlled” and are eligible for demolition per BMC Section 23.326.030.
Residential Preferred Parking (RPP)	No	The project is not eligible for RPP permits per BMC Section 14.72.080(C)(1) as no permits shall be issued to residents in newly constructed residential units.
Seismic Hazards (SHMA)	Yes	The site is located within an Environmental Management Area and is therefore subject to standard conditions of approval.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.
Transit	Yes	The site is mid-block along Oxford Street. Oxford Street is serviced by AC Transit Line 67. The site is proximate to Shattuck Avenue which is serviced by College Street, between two bus stops is serviced by AC Transit Lines. Less than a block south, Hearst Avenue is serviced by Bear Transit (campus shuttles) Lines C and P. The site is also located half a mile from the Downtown Berkeley BART Station. Additionally, there are several Bay Wheels bike stations located within a few blocks of the subject site.

<sup>3</sup> The Ellis Act, found in California Government Code Section 7060, et seq., gives rental property owners the right to exit the rental housing business, but also allows local governments to place conditions and restrictions on landlords who evict tenants in order to exit the market.

**Table 3: Project Chronology**

Date	Action
May 10, 2022	Application submitted
June 9, 2022	Application deemed incomplete
July 13, 2022	Application resubmitted
August 12, 2022	Application deemed incomplete
August 22, 2022	Application resubmitted
September 21, 2022	Application deemed complete
December 7, 2022	Application resubmitted for modifications to the project
December 22, 2022	Public hearing notices mailed/posted
January 12, 2023	ZAB hearing

**Table 4: Development Standards**

Standard		Existing	Proposed Total	Permitted/ Required
BMC Sections 23.202.100				
Lot Area (sq. ft.)		6,700	No change	5,000
Gross Floor Area (sq. ft.)		11,131	21,048	max
Floor Area Ratio		N/A	3.12	N/A
Dwelling Units	Total	6	24	N/A
	Affordable	0	3	N/A
Building Height	Average (ft.)	50'	60'-9"	65' max
	Stories	4	5	6 max
Building Setbacks (ft.)	Front	8'-8"	7'	15' min
	Rear	0'	5'	15' to 21' min
	Left Side	5'-8"	5'	4' to 12' min
	Right Side	10'	10'	4' to 12' min
Lot Coverage (%)		55	60	35 max
Usable Open Space (sq. ft.)		N/A	1,529	200/ Unit (4,800) min
Parking	Automobile	6	0	N/A
	Bicycle	0	2 short term 18 long term	4 short term 18 long term min

**II. Project Setting**

- A. Neighborhood/Area Description:** The project site is situated in close proximity to the UC Berkeley campus and Downtown Berkeley - both located \ half a block south of the project. The project site is located mid-block along Oxford Street, between Virginia Street (north) and Hearst Avenue (south). The eastern portion of the block consists of multifamily residential buildings, ranging three to four stories. Similarly, lots to the east of the project maintain multi-story, high- density residential buildings. Across the street from the project, the western portion of the block is the Oxford Tract – a farm / educational facility managed by UC Berkeley students. The project site is proximate to a mix of commercial districts being located two blocks east from Shattuck Avenue and less than a block from Downtown Berkeley along Hearst Avenue.
- B. Site Conditions:** The project site is a rectangular, 6,700 square foot interior lot with about 44 feet of frontage along Oxford Street. The site slopes slightly downward towards Hearst Avenue and upward, towards the rear portion of the lot. The site is currently developed with a four-story, 11,131 square-foot multifamily building with six dwelling units and six-car parking garage structure at the rear of the lot. As noted in Table 2, the existing structure has been unoccupied since June 2017 through the application of the Ellis Act, which removed all rental units from the market. The lot is accessed by a curb cut fronting Oxford Street.

### III. Project Description

- A. Proposed Project:** The proposed project would demolish the six-unit residential building and accessory structure, and construct a new multifamily building with the following primary components:
- 24 dwelling units (10 three-bedroom, 9 two-bedroom, and 4 studio) for a total of 53 bedrooms
  - 18 long-term bicycle parking spaces onsite, dispersed throughout each floor of the project and two short-term parking spaces located outside of the building, near the courtyard entryway
  - Residential amenities on the ground floor include on-site laundry facilities
  - 1,529 square feet of open space
- A. Base Project and Density Bonus:** The applicant has requested a density bonus under the State Density Bonus Law. Under the City's density bonus procedures, the "base project" <sup>4</sup> is 16 units and four stories. The Density Bonus calculations are provided in more detail, below:

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<sup>4</sup> Per the City's Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, Section 65915(f).

**Table 5: Density Bonus**

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
16	3 VLI (18% of BP)	50%	8 (50%x16)	24
*Per Gov't Code 65915(q), all unit calculations are rounded up to the nearest whole number.				

By providing three Very-Low Income (VLI) BMR units on site (18% percent of the 16-unit base density), the project is eligible for a 50 percent density bonus, or eight additional units. Therefore, the applicant proposes eight additional units above the base density for a total of 24 dwelling units.

To accommodate the additional units, the project would use six waivers/modifications:

- 1) Exceed the lot coverage limit of 35 percent and permit project with 60 percent lot coverage
- 2) Reduce the required rear setback from 15 feet to 5 feet-9 inches
- 3) Reduce the required front setback from 15 to 7 feet
- 4) Reduce the street side setback (north) from 10 to 5 feet

The project is eligible for two concessions which results in identifiable and actual cost reductions. The project uses the following concession:

- 1) Reduce the residential useable open space requirement from 4,400 square feet to 1,529 square feet

#### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting this application to the city, the applicant invited interested neighborhood organizations as well as owners and occupants within 300 feet of the project to a project preview meeting. The meeting was held on June 20 2022, and attended by 7 people (meeting minutes are included as Attachment 4). A pre-application poster was erected by the applicant in May 2022. On December 22, 2022, the City mailed public hearing notices to property owners and occupants within a 300-foot radius of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. At the time of writing this report, staff has not received any communications regarding the project.

**B. Committee Review:** This project is not subject to design or landmarks review because it is an all residential project in the R-4 zoning district and does not include the demolition of a historic resource, respectively.

#### V. Issues and Analysis

**A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating

restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

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

The project was deemed complete on September 21, 2022. The January 12, 2023 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

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

As discussed in an historic resource evaluation prepared for the property in April 22, 2020 the property does not appear to be historically significant and therefore is not eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmark or Structure of Merit. Therefore, staff determined the site is not a historic resource. Further, standard conditions of approval have been included to halt work in case of any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on September 21, 2022. Should ZAB determine the application is categorically exempt from CEQA at the January 12, 2023 public hearing, the application must be approved or disapproved by March 13, 2023.

- B. Housing Accountability Act Analysis:** The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:
1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
  2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The Base Project, including the extension of height to 65 feet and rooftop elements above the district height limit, complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduced the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. All findings discussed below are subject to the requirements of Government Code Section 65589.5.

As described in Table 4 above, the project complies with the applicable general plan and zoning standards. While the project may include other Use Permits or Administrative Use Permits to modify standards not associated with the base project, there are no objective criteria in the findings. The ZAB still has the discretion to approve, deny or modify the request according to the zoning findings, provided the action does not reduce the project density or effectively deny the project by making it infeasible, unless the ZAB is also able to make the required findings for denial set forth under Section 65589.5(j), above.

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

- C. Density Bonus Concessions and Waivers:** The project is entitled to two concessions (or incentives) under Government Code Section 65915(d), and an unlimited number of waivers under Section 65915(e).

Concessions: A concession is a modification of a development standard that reduces the cost of providing affordable housing. The applicant is requesting one concession for the project to reduce the useable open space requirement from 4,800 square feet to 1,529 square feet.

The City may only deny the concession if it finds that the concession would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there

is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the concession would be contrary to State or Federal law. Staff believes such a finding cannot be made.

Waivers: A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. The applicant is requesting four waivers from the following development standards:

- 1) Exceed the lot coverage limit of 35 percent and permit project with 60 percent lot coverage
- 2) Reduce the required rear setback from 15 feet to 5 feet 9 inches
- 3) Reduce the required front setback from 15 feet to 7 feet
- 4) Reduce the street side setback (north) from 10 feet to 5 feet

The waivers are requested because they are necessary to physically accommodate the additional eight units as allowed under the density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the waiver would be contrary to State or Federal law. Staff believes such a finding cannot be made.<sup>5</sup>

**D. Demolition of Dwelling Unit(s):** Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished; prohibits the demolition of occupied or vacant protected units, unless replaced according to replacement provisions therein; and does not supersede any local ordinance that reserves greater protections/provisions for lower income households or displaced households. The project proposes replacing six demolished units with 24 new units; the existing units are not considered a “protected” unit as defined in Section 66300(d); and compliance with this section also satisfies the findings to approve the demolition of the dwelling unit under BMC Section 23.326.030. The units proposed to be demolished are vacant, and is not subject to tenant displacement provisions pursuant to Section 66300(d).

**E. Non-Detriment Findings:** As required by BMC Section 23.406.040(E), the Zoning Adjustments Board (ZAB) must find that the proposed structure will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons and adjacent properties for any Use Permit in the R-4.

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<sup>5</sup> See Footnote 5.

- 1) **Shadows:** According to the shadow studies submitted for the project (see Attachment 1, Project Plans – sheets A0.4A – C) new shadows affect existing multifamily building directly to the north (1778 Oxford) primarily during the spring months, shadowing bedrooms two hours after sunrise and at noon. New shadows are cast on the existing multifamily building to the east (1786 Spruce) throughout the year two hours before sunset. These changes in sunlight pattern are found to be reasonable given the orientation of these properties in relation to the subject building and their close proximity given the urban residential environment. These affects are not found to be detrimental because limited in duration and will not persist for extended periods throughout the year.

Shadow impact on adjacent dwellings are to be expected, because the subject site is located in the R-4 district, which allows heights of up to 65 feet with a use permit and roof top projections beyond the base height with an administrative use permit. Development standards allowed by a discretionary permit may be included in the density bonus base project. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. Staff believes that shadow impacts from the project would be reasonable and not detrimental.

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

- F. Rooftop Projections:** BMC Section 23.304.050(A) requires an Administrative Use Permit for roof-top projections, such as mechanical penthouses, elevator equipment rooms or stair towers, that would exceed the maximum height limit. Such projections are limited to no more than 15 percent of the average floor area of all of the building's floors, and cannot be used as habitable space or for commercial purposes. The project proposes a staircase/elevator penthouse, totaling 100 square feet that extends 10 feet over 60-foot-tall roof height. The penthouse represents about seven percent of the 3,508-square-foot average of all the floor areas. The projection is, therefore, permissible.

## VI. Other Considerations

The following analyses of conformance with district purposes, and the 2002 General Plan goals and policies are provided for informational purposes only, to provide context.

- A. District Purposes Consistency:** The project proposes a relatively high-density use by creating 24 dwelling units to a neighborhood that is conveniently located within

proximity to a variety of commercial, institutional, and transportation amenities. Further, the project will not unreasonably obstruct light or air from adjacent properties. The project is therefore consistent with the purposes of R-4 multi-family zoning district.

**B. General Plan Consistency:** The following analysis of conformance with the 2002 General Plan goals and policies is provided for information purposes only.

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.
5. Policy T-16 – Access by Proximity, Action B: Encourage higher density housing and commercial infill development that is consistent with General Plan and zoning standards in areas adjacent to existing public transportation services.
6. Policy T-43 – Bicycle Network, Action C: Encourage, and when appropriate, require new multi-family residential developments to provide secure locker space for resident bicycles.
7. Policy T-16-Access by Proximity: Improve access by increasing proximity of residents to services, goods, and employment centers.

## V. Recommendation

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

- A. **APPROVE** Use Permit #ZP2022-0062 pursuant to Section 23.406.040.D and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, received December 7, 2022
3. Notice of Public Hearing
4. Community Meeting Notes – June 20, 2022

**Staff Planner:** Katrina Lapira, [klapira@cityofberkeley.info](mailto:klapira@cityofberkeley.info), (510) 981-7488



# ATTACHMENT 1

## FINDINGS AND CONDITIONS

JANUARY 12, 2023

### 1773 Oxford

**Use Permit #ZP2022-0062 to demolish a six-unit multifamily building and construct a five-story, 21,048 square-foot multifamily building with 24 units (three Very-Low Income), utilizing State Density Bonus.**

#### PERMITS REQUIRED

- **Use Permit** to demolish a building with two or more dwelling units constructed before June 1980, under BMC Section 23.326.030
- **Use Permit** to construct a multifamily dwelling building, under BMC Section 23.202.020(A)
- **Use Permit** to construct a building up to 65 feet in height, under BMC Section 23.202.110(E)
- **Administrative Use Permit** to construct rooftop allowed projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district, under BMC Section 23.304.050

#### CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- **Concession** of BMC Section 23.202.110(E)(1) to reduce the residential useable open space requirement from 4,400 square feet to 1,529 square feet
- **Waiver** of BMC Section 23.202.110(E)(1) to exceed the lot coverage limit of 35 percent and permit project with 60 percent lot coverage
- **Waiver** of BMC Section 23.202.110(E)(2) to reduce the required rear setback from 15 feet to 5 feet-9 inches
- **Waiver** of BMC Section 23.202.110(E)(2) to reduce the required front setback from 15 feet to 7 feet
- **Waiver** of BMC Section 23.202.110(E)(2) to reduce the side setback (north) from 10 to 5 feet

#### I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("Infill Development").

The project meets all of the requirements of this exemption, as follows:

- A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
- E. The site can be adequately served by all required utilities and public services.



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

## II. DENSITY BONUS FINDINGS

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1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
  - A. Under the City's methodology for implementing density bonuses, the "base project" consists of 16 units;
  - B. The project will provide at least three qualifying unit in the 16-unit "base project", as more fully set forth in Condition 24;
  - C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element per the requirements of Government Code Section 65915(b) and (f), two concessions or incentives to provide for affordable housing costs, and waivers of development standards to accommodate the bonus units. This equates to a density bonus of 8 units above the base project, for a total of up to 24 units.
2. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:
  - A. Reduce the open space requirement from 4,800 square feet to 1,529 square feet to eliminate the costs of constructing a roof deck.
3. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the concession would not be contrary to State or Federal law.
4. In accordance with Government Code Section 65915(e), the Zoning Adjustments Board hereby grants the following waivers to accommodate the density bonus units:
  - **Concession** of BMC Section 23.202.110(E)(1) to reduce the residential useable open space requirement from 4,400 square feet to 1,529 square feet
  - **Waiver** of BMC Section 23.202.110(E)(1) to exceed the lot coverage limit of 35 percent and permit project with 60 percent lot coverage
  - **Waiver** of BMC Section 23.202.110(E)(2) to reduce the required rear setback from 15 feet to 5 feet-9 inches
  - **Waiver** of BMC Section 23.202.110(E)(2) to reduce the required front setback from 15 to 7 feet
  - **Waiver** of BMC Section 23.202.110(E)(2) to reduce the side setback (north) from 10 to 5 feet

These waivers and concession are required because State law requires the City to modify development standards as necessary to accommodate the density bonus units and facilitate project feasibility, and because the Zoning Adjustments Board hereby finds that the density bonus units can best be accommodated by granting these waivers.

5. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds: 1) approval of the requested waivers is required to construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

### III. FINDINGS FOR APPROVAL

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1. The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
  - a. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
  - b. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

The project includes construction of 24 dwelling units. Because the base project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff.

2. As required by Section 23.326.070(D) of the BMC, the Zoning Adjustments Board finds that the proposed demolition of the existing building at 1773 Oxford Street will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition of the structure: (1) is required to allow a proposed new building or other proposed new use; (2) will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses; (3) will remove a structure which represents an un-abatable attractive nuisance to the public; or (4) is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

The most recent use of the existing building was a six-unit multifamily building. Prior to the application of the Ellis Act in June 2017 and the subsequent removal of the units from the rental market, the units were rent-controlled. Since the units have been unoccupied for over five years, the building is eligible for demolition per BMC Section 23.326.030. The demolition of this building results in the replacement of demolished six units within the development of a new, 21,048 square-foot multifamily residential building. The demolition of the existing residential structures and proposed construction of the new multifamily building conform to the adjacent uses permitted in the R-4 District.

#### IV. OTHER FINDINGS FOR APPROVAL

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1. As required by Section 23.406.040(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, is not detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use nor is detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The Project is a higher-density development in proximity to residential uses of a similar density, universities (school uses), transit, commercial districts, and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the Multiple-Family Residential District (R-4). The project provides 24 new dwelling units sized from studios- to three-bedrooms. Three of the units are deed restricted as affordable housing units for very-low-income residents. The proposal also includes private balconies and an outdoor courtyard that amounts to 1,529 square feet of useable open space. Dispersed throughout the building floors are 18 long-term bicycle parking spaces. Short-term bicycle parking is also provided on the ground floor in the outdoor courtyard. The Project site is well served by public transportation, with an AC transit bus stop along Oxford Street, several bus stops within a three block radius, and Downtown Berkeley BART located a half-mile away. The Project adds additional dwelling units and supportive amenities, furthering the residential use that is compatible with the residential district and neighborhood.
  - B. New shadows affect the existing multifamily building directly to the north primarily during the spring months, shadowing bedrooms two hours after sunrise and at noon. New shadows are cast on the existing multifamily building to the east throughout the year two hours before sunset. These changes in sunlight pattern are found to be reasonable given the orientation of these properties in relation to the subject building and their close proximity given the urban residential environment. These affects are not found to be detrimental because limited in duration and will not persist for extended periods throughout the year.
  - C. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
2. As required by Section 23.304.050(A) of the BMC, the Zoning Adjustments Board finds that the proposed rooftop equipment, which exceeds the district height limit (65 feet), does not exceed 15 percent the average floor area of the building's floors. None of the equipment structures are used as habitable or commercial space.

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## **STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

### **1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### **2. Compliance Required (BMC Section 23.102.050)**

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

### **3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060(B)(1) and (2))**

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

### **4. Conformance to Approved Plans (BMC Section 23.404.060(B)(4))**

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

### **5. Exercise and Expiration of Permits (BMC Section 23.404.060(C))**

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

### **6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D))**

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

**7. Permit Modifications (BMC Section 23.404.070)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

**8. Permit Revocation (BMC Section 23.404.080)**

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

**9. Indemnification Agreement**

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

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

10. Tenants who were evicted under the Ellis Act shall have the opportunity to re-establish their tenancy in the building if they express interest. The owner may charge market rent.

**Prior to Submittal of Any Building Permit:**

11. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible

to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

**Project Liaison** \_\_\_\_\_  
Name Phone #

12. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.
13. Construction Noise Reduction Program. The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
- A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
  - B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
  - C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
  - D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
  - E. Prohibit unnecessary idling of internal combustion engines.
  - F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
  - G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
  - H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
  - I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.
14. Damage Due to Construction Vibration. The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment

(assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall

- establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and
- include written descriptions and photographs.

The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

- 15. Compliance with Conditions.** The building permit application is subject to verification of compliance to the adopted. The applicant shall be responsible for demonstrating compliance with all conditions of approval per the timeline set forth by this use permit. The applicant shall deposit \$10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

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

- 16. Fee Deferrals.** All zoning project application fees that were deferred at the time of application submittal shall be paid in full.
- 17. Construction Noise Management - Public Notice Required.** At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related

complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

18. Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
19. Demolition. Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
20. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
21. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
  - A. Environmental Site Assessments:
    - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:
      - All new commercial, industrial and mixed-use developments and all large improvement projects.
      - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
      - EMA is available online at:  
[http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3 - General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
    - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
    - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
  - B. Soil and Groundwater Management Plan:
    - 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants

and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

**Prior to Issuance of Any Building (Construction) Permit**

22. Percent for Public Art: Consistent with BMC §23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
23. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065 and fee resolution No. 68,074-N.S., the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, or provide an alternative to the fee payment as permitted by the BMC. Payment of the AHMF may be reduced if paid prior to the building permit per resolution No. 68,074-N.S., and shall be paid no later than prior to the issuance of a certificate of occupancy for the project.
24. As indicated on the development application, the he applicant shall provide three (3) Very-Low Income below market rate rental dwelling units ("BMR Units") and pay a proportionately reduced AHMF as calculated in Berkeley Municipal Code (BMC) Section [22.20.065.D](#). The applicant may elect to avoid the AHMF by providing, for the life of the project, a number of units

equal to 20% of the total units in the project at rental rates affordable to Low-Income and Very Low-Income Households in accordance with the BMC. The applicant may also elect to provide additional BMR units above the identified three (3) Very-Low Income units but below 20% of total units for a further reduced AHMF as calculated in BMC) Section 22.20.065.D. The applicant must contact and coordinate with the Department of Health, Housing and Community Services (HHCS) via email to [affordablehousing@cityofberkeley.info](mailto:affordablehousing@cityofberkeley.info) for review and approval. The final number of affordable onsite units must be declared prior to issuance of the first building permit for the project.

- 25.** Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement shall include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for very low income BMR Units shall be 50 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 50 percent of AMI. The maximum qualifying household income for Low Income BMR units shall be 80 percent of Area Median Income (AMI), and their maximum housing payment shall be 30 percent of 80 percent of AMI for Low-Income households, as set forth in the following paragraphs of this condition. If the BMR units are occupied by Very Low-Income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Department of Health, Housing and Community Services (HHCS) via email to [affordablehousing@cityofberkeley.info](mailto:affordablehousing@cityofberkeley.info) for review and approval.
- 26.** In addition, affordable units must adhere to the administrative guidelines for the City's Below Market Rate program. These guidelines can be found online at <https://berkeleyca.gov/community-recreation/affordable-housing-berkeley/below-market-rate-rental-information-owners-and>. The guidelines are updated annually by HHCS and posted online. Please note the following key provisions from the guidelines:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
  - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
  - C. BMR units will be provided for the life of the project under Section 22.20.065.
  - D. Determination of Area Median Income (AMI).
- The AMI shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in

existence, the City will designate another appropriate source or method for determining the median household income.

- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

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

27. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.
28. Dwellings that are approved as rental units, but in which a condo map is approved prior to issuance of an occupancy permit, shall be subject to the affordability requirements within BMC 23.328, which applies to the any of the following:
- A. Residential housing projects for the construction of five or more Dwelling Units;
  - B. Residential housing projects for the construction of one to four new Dwelling Units, when such units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter;
  - C. Residential housing projects proposed on lots whose size and zoning designation is such to allow construction of five or more dwelling Units.
- If a density bonus was granted for the project, the regulatory agreement shall reflect the number of qualifying units set forth in Government Code Section 65915(f)(4) that are needed to support the bonus that was granted.
29. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City’s exterior noise requirements in BMC Section 13.40.050. The City’s Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
30. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
31. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as

specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.

32. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
33. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET<sub>o</sub>) for Berkeley is 41.8.
34. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
35. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

**Prior to Demolition or Start of Construction:**

36. Construction Meeting. The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

**During Construction:**

37. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
38. Construction Hours- Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.
39. Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:
  - Contact information (i.e. "hotline" phone number, and email address) for the project construction manager;

- Calendar and schedule of daily/weekly/monthly construction activities; and
  - The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
- 40. Public Works - Implement BAAQMD-Recommended Measures during Construction.** For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- 41. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
  - B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
  - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
42. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
43. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
44. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

45. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
46. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
  - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
  - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
  - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
  - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
47. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American,

the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

48. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
49. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
50. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff.

When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
  - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
  - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
  - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
  - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - I. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
  - J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 51. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 52. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

53. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
54. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
55. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
56. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

**Prior to Final Inspection or Issuance of Occupancy Permit:**

57. Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in these sections.
- A. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
  2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass.
- B. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

58. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
59. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings received **June 22, 2022**, except as modified by conditions of approval.

### **BELOW MARKET RATE UNITS**

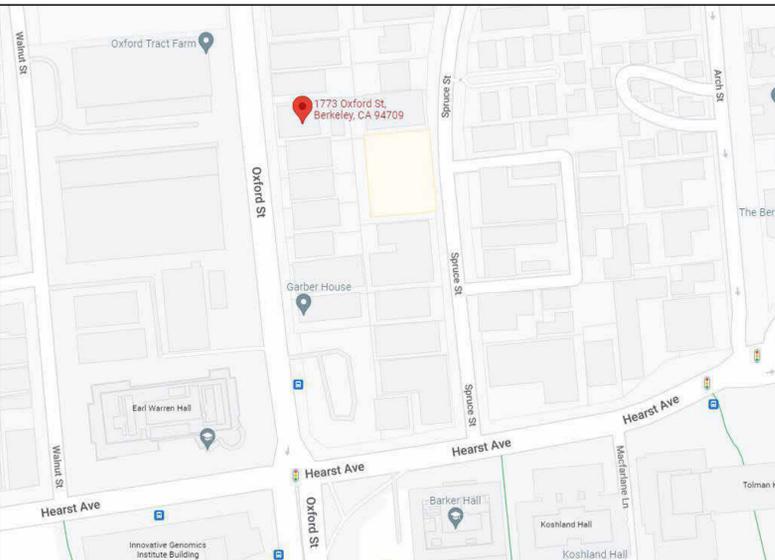
60. Number of Below Market Rate Units. The project shall provide **three (3) Very Low-Income** BMR rental dwelling units, which are required to comply with the State Density Bonus Law (Government Code Section 65915) and receive a proportional reduction in the AHMF. The BMR Units shall be designated in the Regulatory Agreement; comply with the City's BMR administrative guidelines; shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City. Any additional BMR units the applicant may choose to provide must also conform with these conditions.

### **At All Times:**

61. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
62. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
63. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
64. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
65. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
66. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

- 67. Residential Permit Parking.** No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
- 68. Bike Parking.** Secure and on-site bike parking for at least 16 bicycles shall be provided for the life of the building. Four bicycle parking spaces (two bike racks) shall be provided in the public right-of-way along Parking Street, fronting the Project.
- 69. Subject to Review.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
-

VICINITY MAP



PROJECT DESCRIPTION

PROJECT ADDRESS: 1773 OXFORD ST BERKELEY CA 94709  
 APN: 58-2181-27  
**SCOPE OF WORK:**  
 NEW CONSTRUCTION OF 5 STORY RESIDENTIAL DEVELOPMENT WITH A STATE OF CALIFORNIA DENSITY BONUS  
**ZONING CODE:**  
 BASED UPON THE BERKELEY MUNICIPAL CODE R-4 DISTRICT, SEE SHEET A0.1 FOR COMPLETE ZONING DATA  
 CONSTRUCTION TYPE: TYPE 3  
 SPRINKLERED: YES  
**NATURAL GAS PROHIBITION**  
 THE BUILDING WILL NOT INCLUDE ANY NATURAL GAS INFRASTRUCTURE IN COMPLIANCE WITH BMC CHAPTER 12.80  
**BERKELEY GREEN CODE, BERKELEY ENERGY CODE**  
 THE PROJECT IS DESIGNED TO COMPLY WITH BERKELEY ENERGY CODE (BMC CHAPTER 19.36 AND BERKELEY GREEN CODE (BMC CHAPTER 19.37). BUILDING DESIGN MUST INCORPORATE ALL-ELECTRIC SYSTEMS.

PROJECT DIRECTORY

**OWNER/APPLICANT:**  
 1773 OXFORD STREET LLC  
 29 ORINDA WAY #2060  
 ORINDA, CA 94563  
 QIAN.WANG@IREAM.COM  
**CONSULTANT:**  
 RHOADES PLANNING GROUP  
 2140 SHATTUCK AVENUE, SUITE 705, BERKELEY CA, 94704  
 INFO@RHOADESPLANNINGGROUP.COM  
 510.545.4341  
**ARCHITECT:**  
 YES DUFFY ARCHITECTS  
 835 HEARST AVE  
 BERKELEY CA 94710  
 YES@YESDUFFY.COM  
 (510)593-7139  
 WWW.YESDUFFYARCHITECTS.COM  
**SURVEYOR:**  
 SANDIS  
 636 9TH ST, OAKLAND, CA 94607  
 408.636.0900  
 WWW.SANDIS.NET

DRAWING LIST

A0.0	GENERAL INFORMATION
A0.1	ZONING INFORMATION AND DIAGRAMS
A0.3	DENSITY BONUS DIAGRAMS
A0.4A	SHADOW STUDIES
A0.4B	SHADOW STUDIES
A0.4C	SHADOW STUDIES
A0.5	SITE CONTEXT PHOTOS
A1.1	SITE SURVEY
A1.2	SURVEY ENLARGED
A2.1	FLOORPLAN LEVEL 1
A2.2	FLOORPLANS LEVELS 2-5 + ROOF
A3.1	RENDERINGS
A3.2	RENDERINGS
A3.3	RENDERINGS
A3.4	ELEVATION WEST
A3.5	ELEVATION SOUTH
A3.6	ELEVATION NORTH
A3.7	ELEVATION EAST
A3.8	STREET STRIP ELEVATIONS
A3.9	PHOTO CONTEXT VIEWS
A3.10	PHOTO CONTEXT VIEWS
A4.1	BUILDING SECTIONS
A4.3	MATERIAL BOARD
L1	LANDSCAPE PLAN



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 510-214-3676  
 yes@yesduffy.com



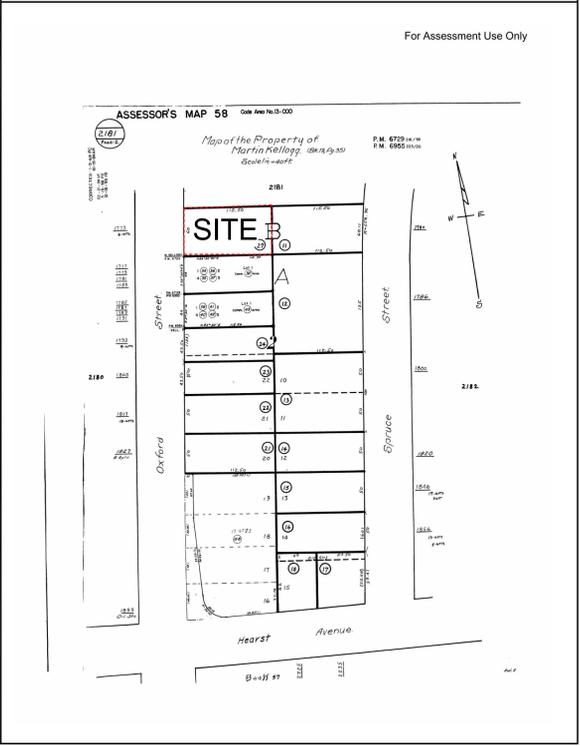
LICENSE  
**1773 OXFORD HOUSING**

BERKELEY CA 94709

CONCEPTUAL PERSPECTIVE LOOKING NORTH ON OXFORD STREET



PARCEL MAP



ISSUED FOR	DATE
ZONING UPDATE	12/02/2022

REVISIONS	DATE
1 ZONING COMPLETENESS	06/24/2022
2 ZONING COMPLETENESS	08/12/2022
3 ZONING UPDATE	12/02/2022
4	

JOB NUMBER	RELEASE DATE
22201	12/07/2022

SHEET TITLE  
**GENERAL INFORMATION**

**A0.0**



YES DUFFY ARCHITECTS

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510-214-3676  
yes@yesduffy.com



LICENSE

1773 OXFORD HOUSING

BERKELEY CA 94709

AREA DIAGRAMS



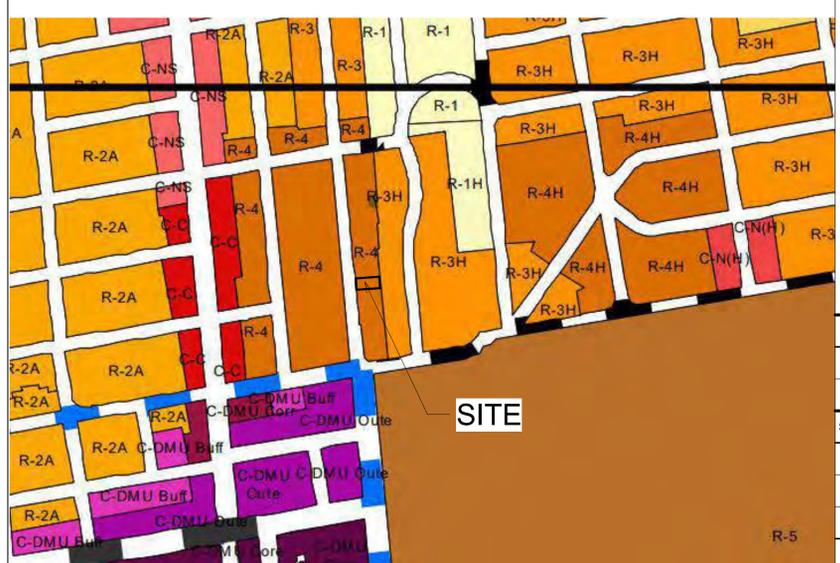
OPEN SPACE DIAGRAM



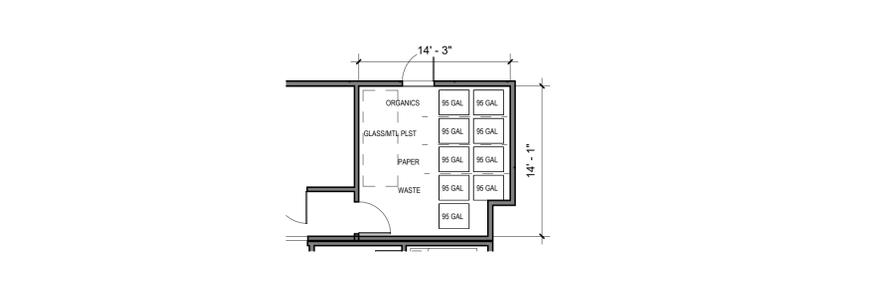
ZONING CODE DATA

	BASE ZONING ALLOWABLE / REQUIRED	PROPOSED WITH USE DENSITY BONUS		
<b>ZONING</b>	R-4	R-4		
TOTAL LOT SIZE (SQFT)	6750	6750		
TOTAL LOT SIZE (ACRES)	.155 AC	.155 AC		
FLOOR AREA RATIO (FAR)	NO MAX	3		
BASE FLOOR AREA	SEE A0.3			
HEIGHT - FEET	65' W/ UP	60' 9"		
HEIGHT - STORIES	6	5		
LOT COVERAGE	35%	60%		
FOOTPRINT	2362	4059		
SETBACKS				
FRONT	15FT	7ft		
SIDE	VARIES (4-12FT)	5' - 10' W/WAIVER		
REAR	VARIES (15-21FT)	5' - 9" W/ WAIVER		
PARKING	0	0		
OPEN SPACE	4800	1529 W/ WAIVER		
*SEE DENSITY BONUS SHEET A0.3 FOR WAIVERS AND CONCESSIONS				
<b>DWELLING UNIT TABLE</b>				
	3 BR / 2 BA	2 BR / 1 BA	3 BR / 1 BA	STUDIO
LEVEL 5	2	2	0	1
LEVEL 4	2	2	0	1
LEVEL 3	2	2	0	1
LEVEL 2	2	2	0	1
LEVEL 1	1	1	2	1
TOTAL UNITS BY TYPE	8	9	2	5
TOTAL BEDROOMS BY TYPE	24	18	6	5
TOTAL UNITS IN PROJECT	24			
TOTAL BEDROOMS	53			
<b>PROJECT AREAS</b>				
		RESIDENTIAL	MECHANICAL	
ROOF		254	0	
LEVEL 5		4165	0	
LEVEL 4		4165	0	
LEVEL 3		4165	0	
LEVEL 2		4165	0	
LEVEL 1		3872	262	
SUB TOTAL		20786	262	
TOTAL GROSS FLOOR AREA				21048
<b>BIKE PARKING CALCULATIONS</b>				
	BEDROOMS	BIKES	PER	REQUIRED
RESIDENTIAL (LONG TERM)	53	1	3	18
RESIDENTIAL (SHORT TERM)	53	1	40	2
RESIDENTIAL LONG TERM PROVIDED				18
RESIDENTIAL SHORT TERM PROVIDED				2
<b>OPEN SPACE CALCULATIONS</b>				
	UNITS	SF / UNIT	TOTAL	
RESIDENTIAL UNITS	24	200	4,800	
TOTAL OPEN SPACE REQUIRED			4,800	
PROPOSED WAIVER			4800-1529 = 3,271	
TOTAL OPEN SPACE PROVIDED			1,529	
PRIVATE BALCONY			54 SF X 8 = 432	
GROUND FLOOR			1097	

VICINITY MAP



REFUSE AND RECYCLING



WASTE AND RECYCLING CALCULATION						
# UNITS	FACTOR	OCCUPANTS	TOTAL CU FT REQUIRED: 50 GALLONS/3	WASTE(40%)	RECYCLING(40%)	ORGANICS(20%)
22	1.25	27.5	27.5/3 X 50 = 458	184 GAL	184 GAL	92 GAL
SPACE CALCULATION			CONTAINER QUANTITIES		SPACE REQUIRED	
	ORG	GLS	PPR	WST	FACTOR/CONTAINER	SPACE/CONTAINER
96 GAL CART	2	2	2	3	7 SQ FT	9X7 = 63 SF
TOTAL CAPACITY	192	192	192	288	63 SQUARE FEET	95 SF

ISSUED FOR DATE  
ZONING UPDATE 12/02/2022

REVISIONS DATE  
1 ZONING COMPLETENESS 06/24/2022  
2 ZONING COMPLETENESS 08/12/2022  
3 ZONING UPDATE 12/02/2022  
4

JOB NUMBER RELEASE DATE  
22201 12/07/2022

SHEET TITLE  
ZONING INFORMATION AND DIAGRAMS  
A0.1



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LICENSE

1773 OXFORD HOUSING

BERKELEY CA 94709

ISSUED FOR ZONING UPDATE DATE 12/02/2022

REVISIONS	DATE
1 ZONING COMPLETENESS	06/24/2022
2 ZONING COMPLETENESS	08/12/2022
3 ZONING UPDATE	12/02/2022
4	

JOB NUMBER 22201 RELEASE DATE 12/07/2022

SHEET TITLE

DENSITY BONUS DIAGRAMS

A0.3

Density Bonus Table

Base Project	Base	Base # Units	%VLI Units	#VLI Units	#VLI Units	Bonus %	#DB Units	#DB Units	Max DB project
sq. ft. - see calculation below	base project area / avg. unit size	Base Units / Max Residential Density (rounds up)	VLI = Very Low Income < 50 AMI	%VLI x Base # Units			% Bonus x Base # Units	% Bonus x Base # Units (rounded up)	# Base Units + # Bonus Units
14172	16	16	15%	2.4	3	50.00%	8	8	24

Base Project Res Area	Floor	Proposed Project Res area	#VLI	%VLI	%DB	#DB	#Concessions
2362	Sixth	254	1	5%	20.00%	3.2	1
2362	Fifth	4165	1	6%	22.50%	3.6	1
2362	Fourth	4165	2	7%	25%	4	1
2362	Third	4165	2	8%	27.50%	4.4	1
2362	Second	4165	2	9%	30.00%	4.8	1
2362	Ground	3872	2	10%	32.50%	5.2	2
			2	11%	35%	5.6	2
			2	12%	38.75%	6.2	2
			3	13%	42.50%	6.8	2
			3	14%	46.30%	7.408	2
			3	15%	50%	8	3

Total Floor Area 14172 20786

Base Project # of units	Floor	Proposed Project # of Units
2	Sixth	5
2	Fifth	5
3	Fourth	5
3	Third	5
3	Second	5
3	Ground	4

Proposed Residential Area: 20786

Proposed Units: 24

AVG Unit Size: 886

Base Project Zoning Compliance Checks

Open Space	Units	Ratio	Total Area
Base Units	16	200	3200

FAR	Res Area	Commercial	Total GFA
GFA	14172	0	
Site Area	6750		
FAR	2.09955556		

Bike Parking	Bedrooms	Ratio	Total Req	Provided
Res (Long)	30	0.33	9.9	10
Res (Short)	30	0.025	0.75	1

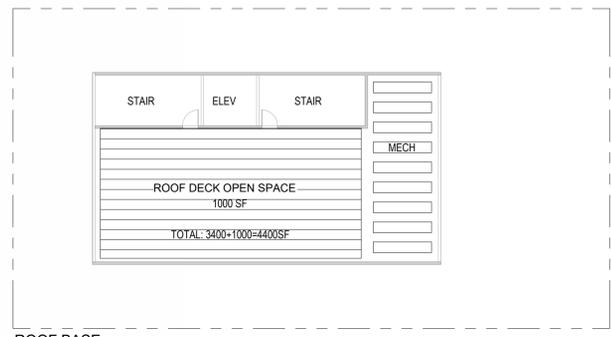
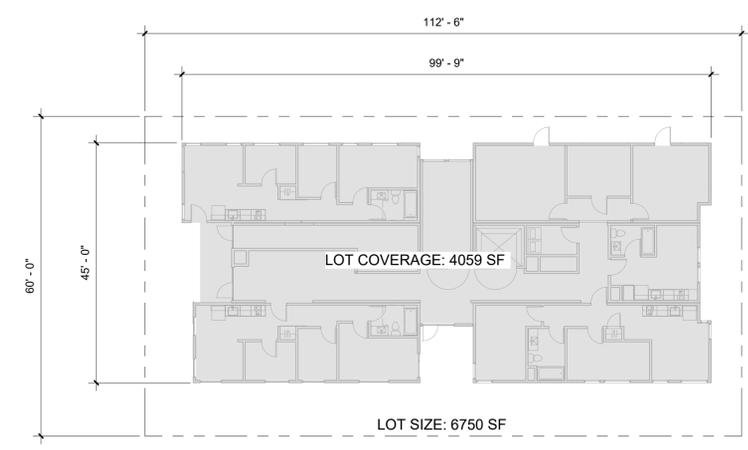
Proposed Project Zoning Compliance Checks

Open Space	Units	Ratio	Total Area
Base Units	24	200	4800

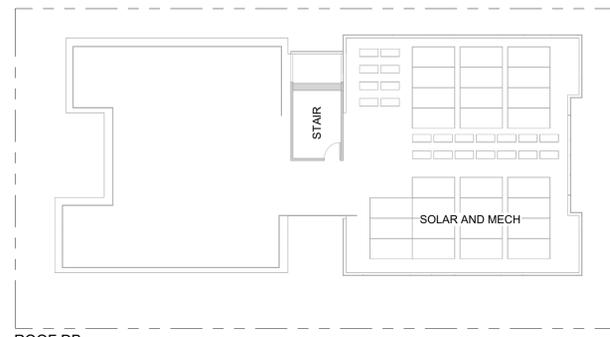
FAR	Res Area	Commercial	Total GFA
GFA	21048	0	
Site Area	6750		
FAR	3.11822222		

Bike Parking	Bedrooms	Ratio	Total Req	Provided
Res (Long)	53	0.33	17.49	18
Res (Short)	53	0.025	1.325	2

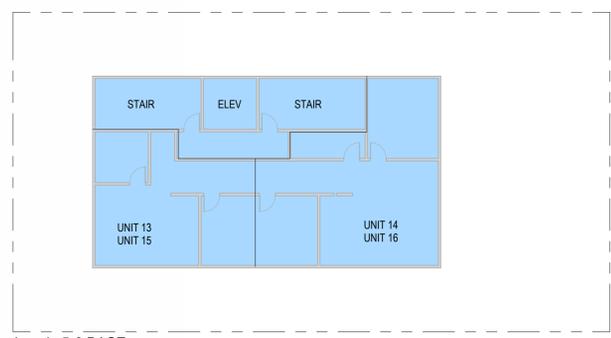
LOT COVERAGE DIAGRAM



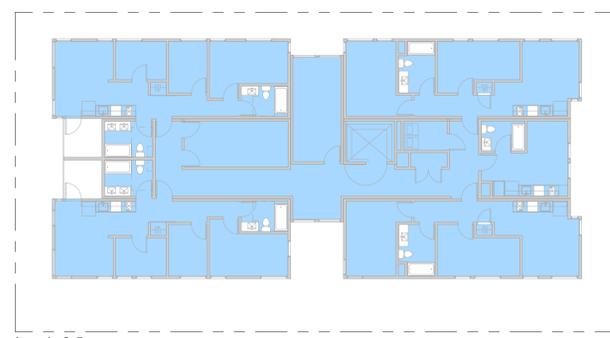
ROOF BASE



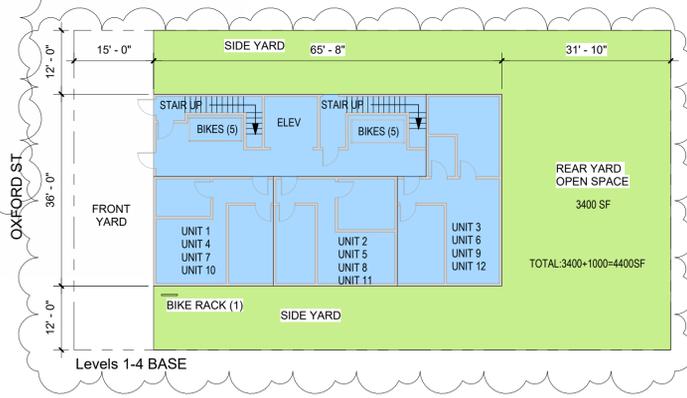
ROOF DB



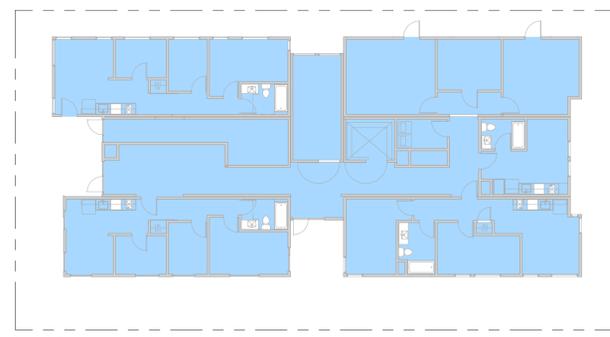
Levels 5-6 BASE



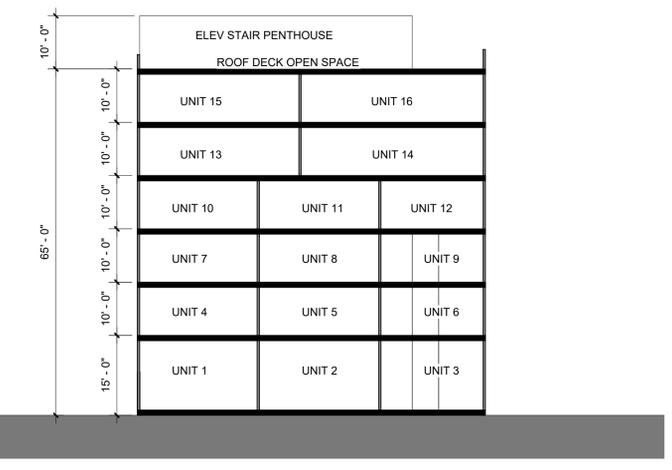
Levels 2-5



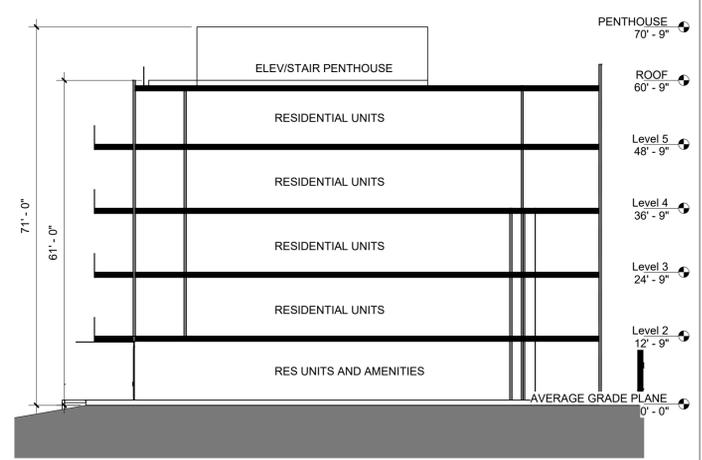
Levels 1-4 BASE



Level 1



BASE SECTION



SECTION DENSITY BONUS



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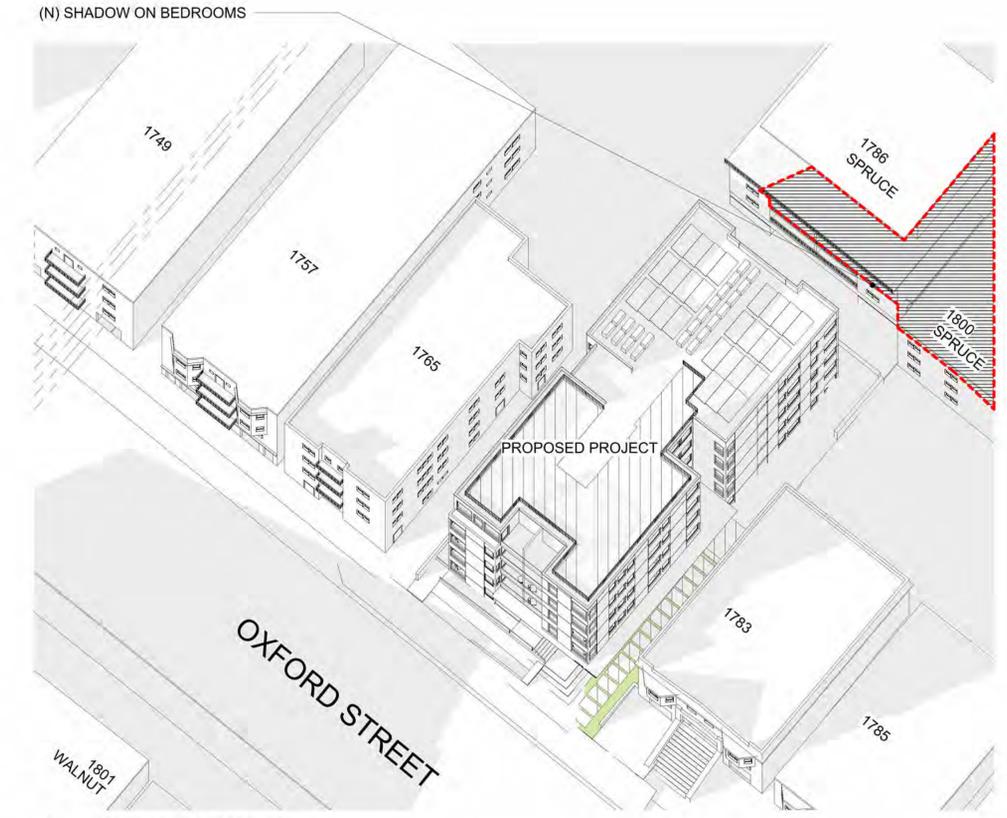
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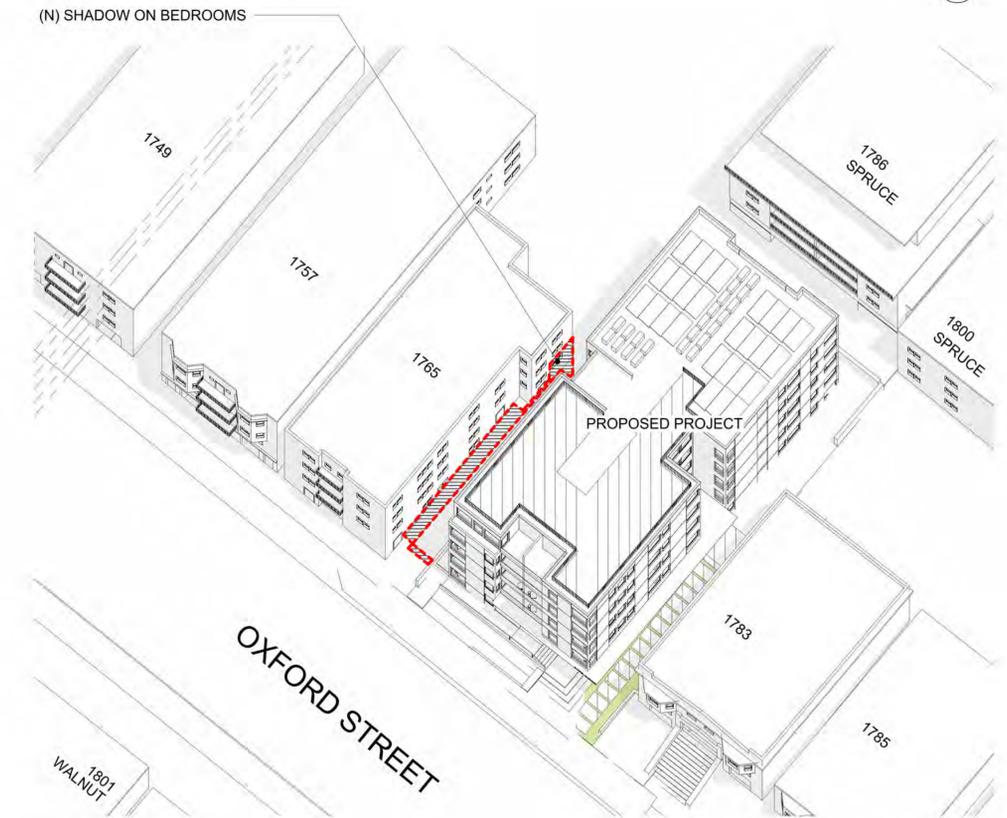
BERKELEY CA 94709

 INDICATES NEW SHADOW FROM PROPOSED PROJECT

 INDICATES EXISTING SHADOW FROM EXISTING BUILDINGS



Shadow Study - Jun 21 2 HRS Before Sunset



Shadow Study - Jun 21 at Noon



Shadow Study - Jun 21 2 HRS After Sunrise

ISSUED FOR	DATE
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REVISIONS	DATE
1 ZONING COMPLETENESS	06/24/2022
2 ZONING COMPLETENESS	08/12/2022
3 ZONING UPDATE	12/02/2022
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JOB NUMBER	RELEASE DATE
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SHEET TITLE

**SHADOW STUDIES**

**A0.4A**



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 INDICATES NEW SHADOW FROM PROPOSED PROJECT

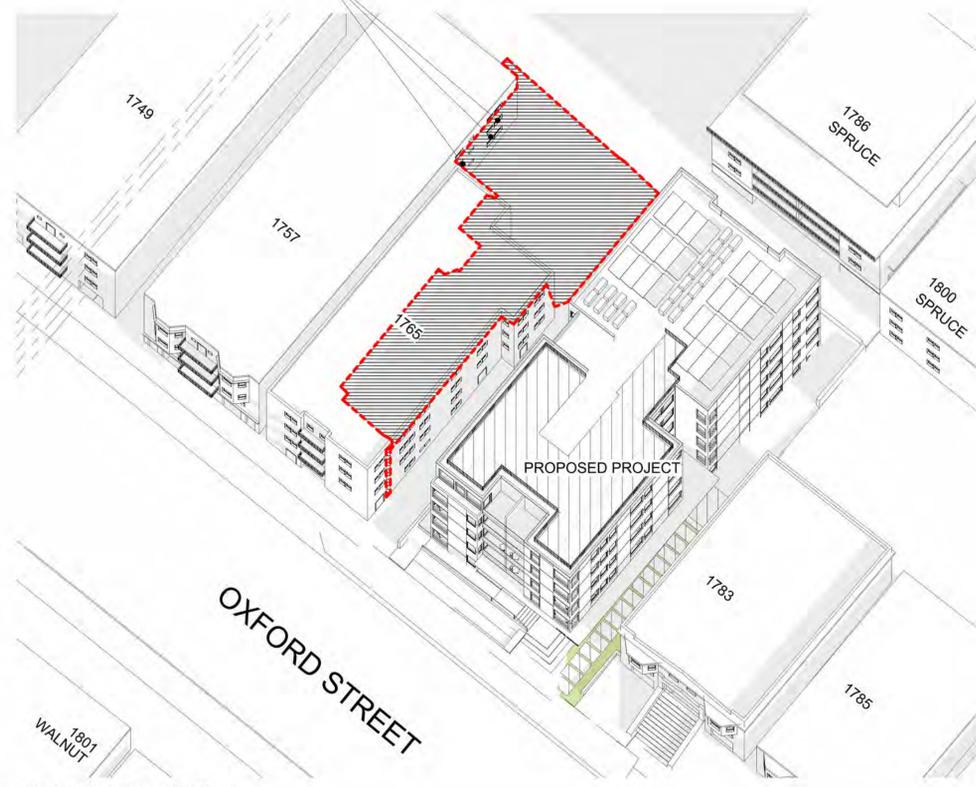
 INDICATES EXISTING SHADOW FROM EXISTING BUILDINGS

(N) SHADOW ON BEDROOMS



Shadow Study - Dec 21 2 HRS Before Sunset

(N) SHADOW ON BEDROOMS



Shadow Study - Dec 21 at Noon

(N) SHADOW ON BEDROOMS



Shadow Study - Dec 21 2 HRS After Sunrise

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REVISIONS	DATE
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SHEET TITLE

**SHADOW STUDIES**

**A0.4B**



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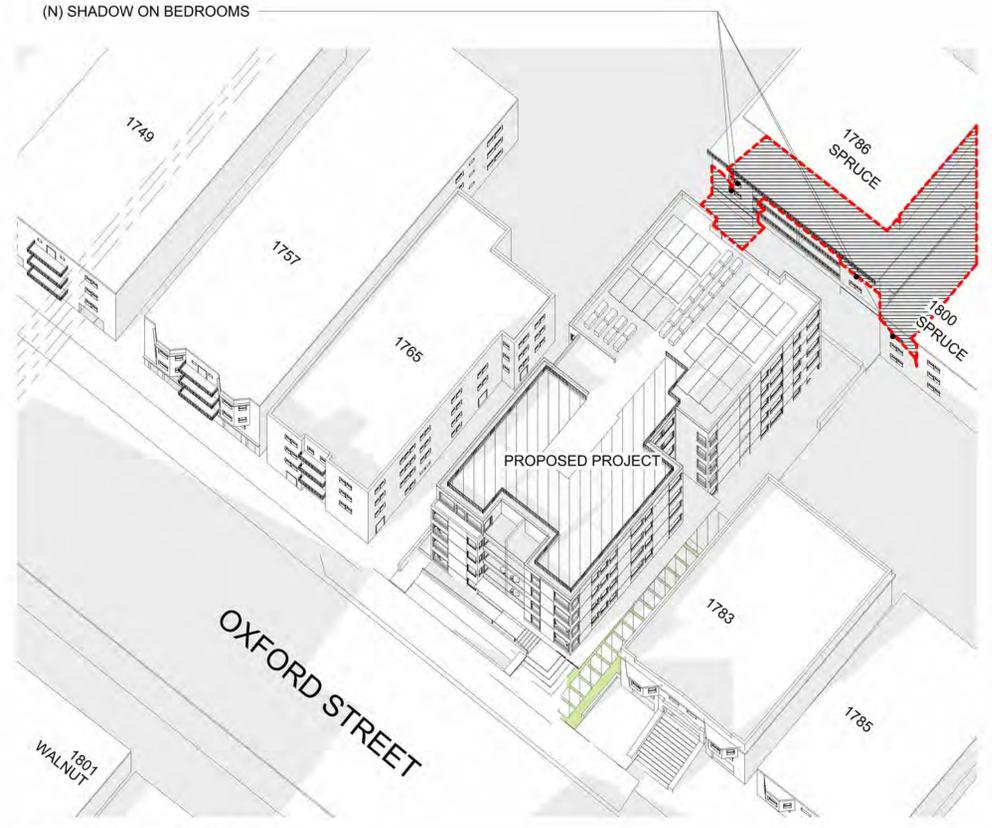
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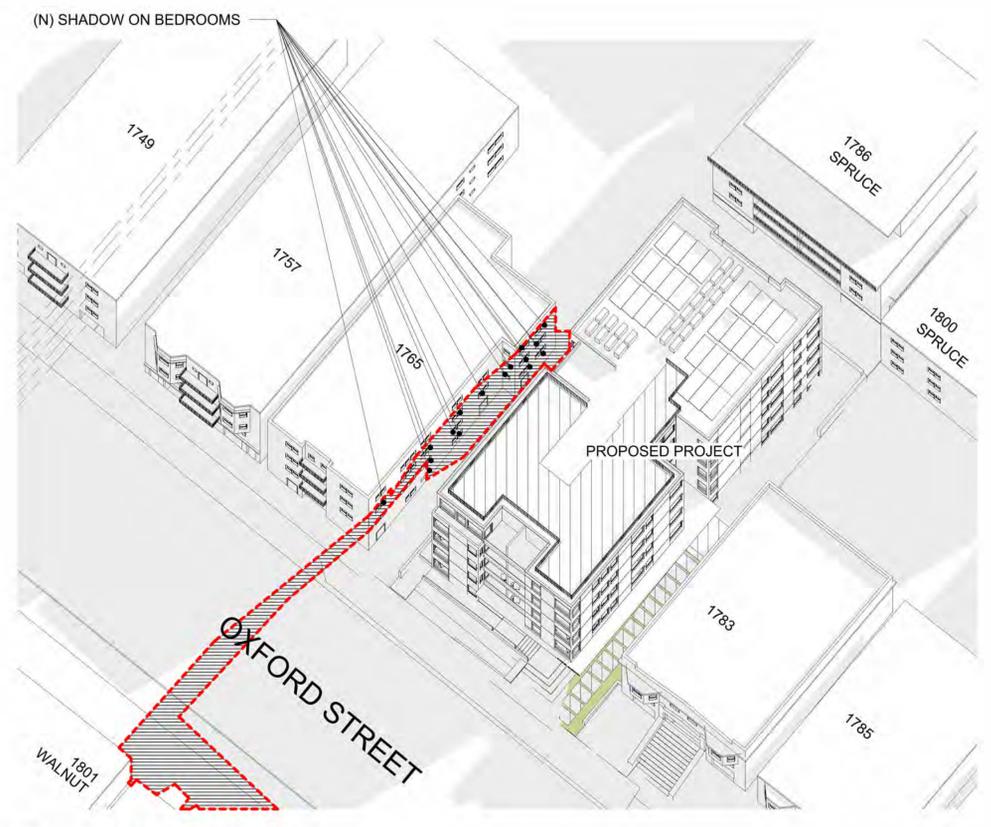
BERKELEY CA 94709

 INDICATES NEW SHADOW FROM PROPOSED PROJECT

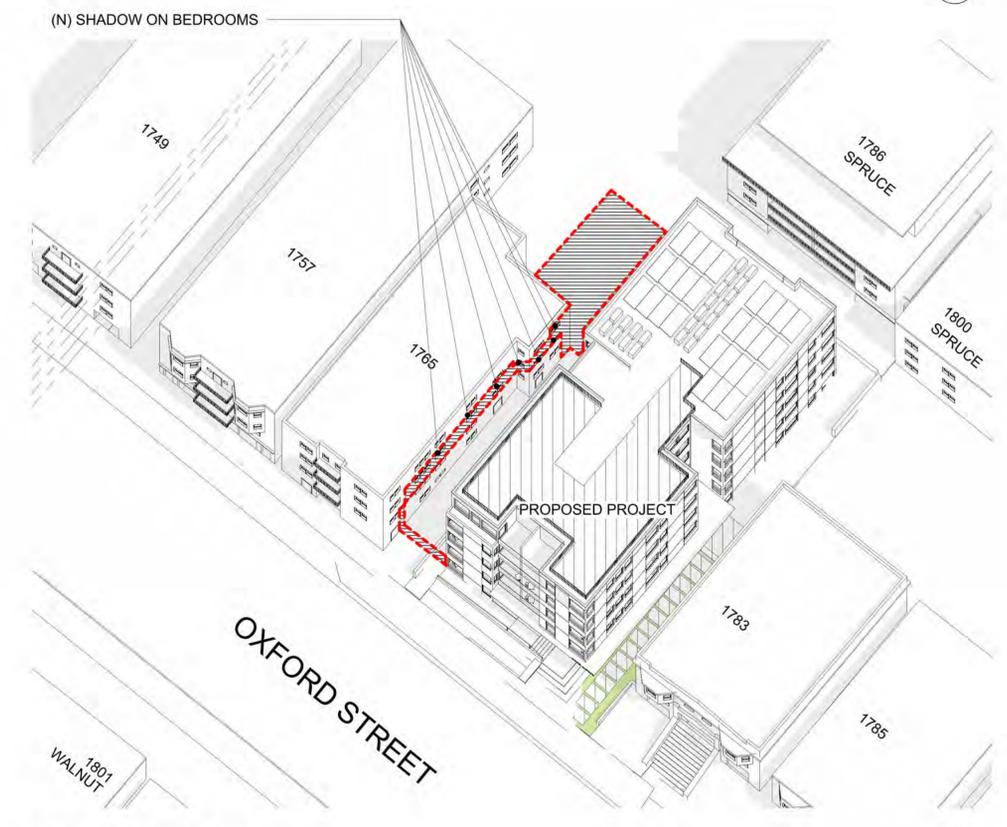
 INDICATES EXISTING SHADOW FROM EXISTING BUILDINGS



2 Shadow Study - Apr 18 2 HRS Before Sunset



3 Shadow Study - Apr 18 2 HRS After Sunrise



1 Shadow Study - Apr 18 at Noon

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2 ZONING COMPLETENESS	08/12/2022
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SHEET TITLE  
**SHADOW STUDIES**

**A0.4C**



ADJACENT YARD - SOUTH



ADJACENT FACADE - EAST



OXFORD STREET - SITE VIEW



ADJACENT YARD - NORTH



ADJACENT FACADE - SOUTHEAST



OXFORD STREET - NORTHBOUND VIEW



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SHEET TITLE

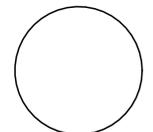
**SITE  
CONTEXT  
PHOTOS**

**A0.5**



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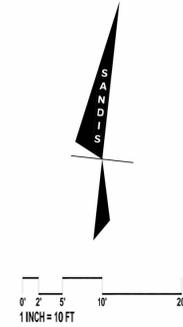
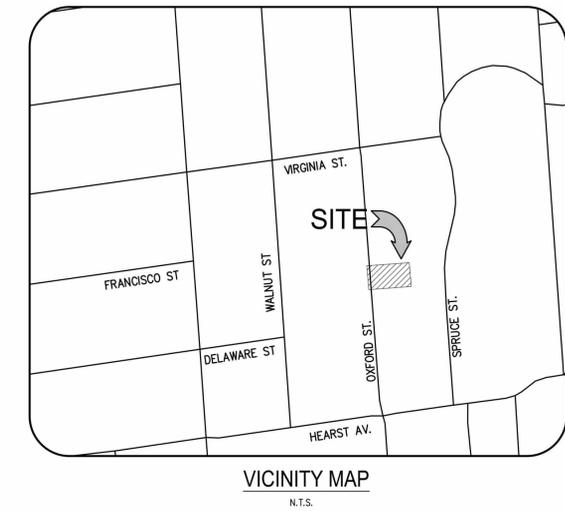
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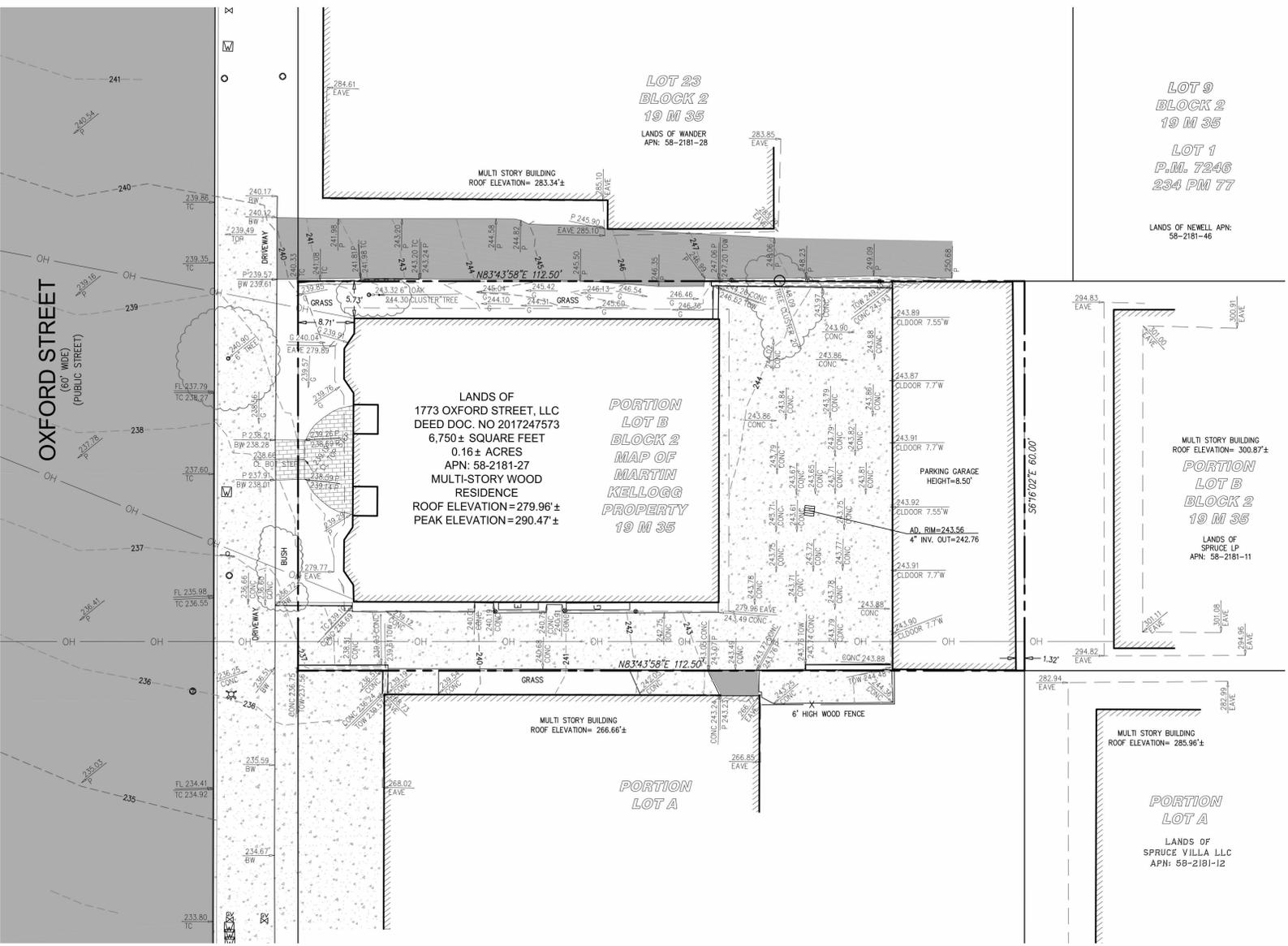


### LEGEND

- BUILDING FACE
- CURB LINE
- RETAINING / SCREENING WALL, HEIGHT AS INDICATED
- 95 - CONTOURS
- X - FENCE LINE, TYPE / HEIGHT AS INDICATED
- OH - OVERHEAD UTILITY LINE
- BUILDING OVERHANG LINE
- PROPERTY LINE
- LOT LINE
- PAVEMENT SURFACE
- CONCRETE SURFACE
- FOUND SURVEY MONUMENT
- DRAIN INLET
- SANITARY SEWER MANHOLE
- SANITARY SEWER CLEANOUT
- WATER METER / BOX
- WATER VALVE
- FIRE HYDRANT
- GAS VALVE
- JOINT POLE
- MISCELLANEOUS CLEANOUT
- SIGN
- BOLLARD
- SPOT ELEVATION
- TREE WITH DRIPLINE, SIZE AS INDICATED

### ABBREVIATIONS

- AD - AREA DRAIN
- BW - BACK OF WALK
- CONC - CONCRETE
- EAVE - ROOF EAVE
- FH - FIRE HYDRANT
- FL - FLOW LINE
- FNC - FENCE
- G - GROUND
- GM - GAS METER
- GV - GAS VALVE
- P - PAVEMENT ELEVATION
- SSCO - SANITARY SEWER CLEANOUT
- SSMH - SANITARY SEWER MANHOLE
- TC - TOP OF CURB
- TOP - TOP OF SLOPE
- TOW - TOP OF WALL
- WM - WATER METER
- WV - WATER VALVE



### BOUNDARY NOTE

THE PARCEL LINES SHOWN HEREON ARE BASED UPON RECORD INFORMATION AS SHOWN ON THE MAP OF THE MARTIN KELLOGG PROPERTY FILED IN BOOK 19 OF MAPS, PAGE 35, AND GRANT DEED DOCUMENT NO. 2017247573, ALAMEDA COUNTY RECORDS.

### OVERHEAD UTILITY NOTE

OVERHEAD UTILITY LINES SHOWN HEREON ARE FOR REFERENCE ONLY, DEPICTING THAT OVERHEAD LINES EXIST. ACTUAL ATTACHMENT, LOCATION, HEIGHT AND TYPE OF UTILITY SERVICE LINES SHALL BE VERIFIED BY THE USER.

### SURVEY NOTES

- ALL DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
- DATES OF FIELD SURVEY: 3/17/2022 AND 3/18/2022.

### BENCHMARK

THE ELEVATION REFERENCE FOR THIS SURVEY IS A CITY OF BERKELEY MONUMENT, MON. ID B9604, LOCATED AT VIRGINIA ST. AND OXFORD ST. BEING A CITY OF BERKELEY 2-5/8" BRASS DISK WITH PUNCH, DOWN 0.7' IN MONUMENT WELL, IN EAST CROSS WALK AT MENTIONED STREETS.  
ELEVATION= 253.36 FEET (CITY OF BERKELEY DATUM)

### MONUMENT PRESERVATION NOTICE

IF AT ANY TIME A SURVEY MONUMENT WILL BE DESTROYED OR COVERED DURING CONSTRUCTION PHASE OF THE PROJECT, IT MUST BE PERPETUATED IN ACCORDANCE WITH STATE LAW.  
PURSUANT TO PROFESSIONAL LAND SURVEYOR'S ACT SECTION 8771(B), CONTROLLING MONUMENTS SHALL BE LOCATED AND REFERENCED BY OR UNDER THE DIRECTION OF A LICENSED LAND SURVEYOR. UPON COMPLETION OF CONSTRUCTION, THESE MONUMENTS WILL HAVE TO BE RESET IN THE SURFACE OF THE NEW CONSTRUCTION IN ORDER TO PERPETUATE THEIR LOCATION. A CORNER RECORD OR A RECORD OF SURVEY SHALL BE FILED TO DOCUMENT THE REFERENCED MONUMENTS PRIOR TO CONSTRUCTION AND THEIR NEW POSITION AND CHARACTER AFTER THEY HAVE BEEN RESET.

### SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYOR'S ACT AT THE REQUEST OF YES DUFFY ARCHITECTS IN MARCH, 2022.

KELLY S. JOHNSON  
L.S. NO. #126



4/06/2022  
DATE

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ZONING UPDATE	12/02/2022

REVISIONS	DATE
1 ZONING COMPLETENESS	06/24/2022
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22201	12/07/2022

SHEET TITLE

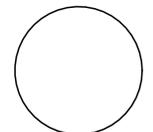
## SITE SURVEY

# A1.1



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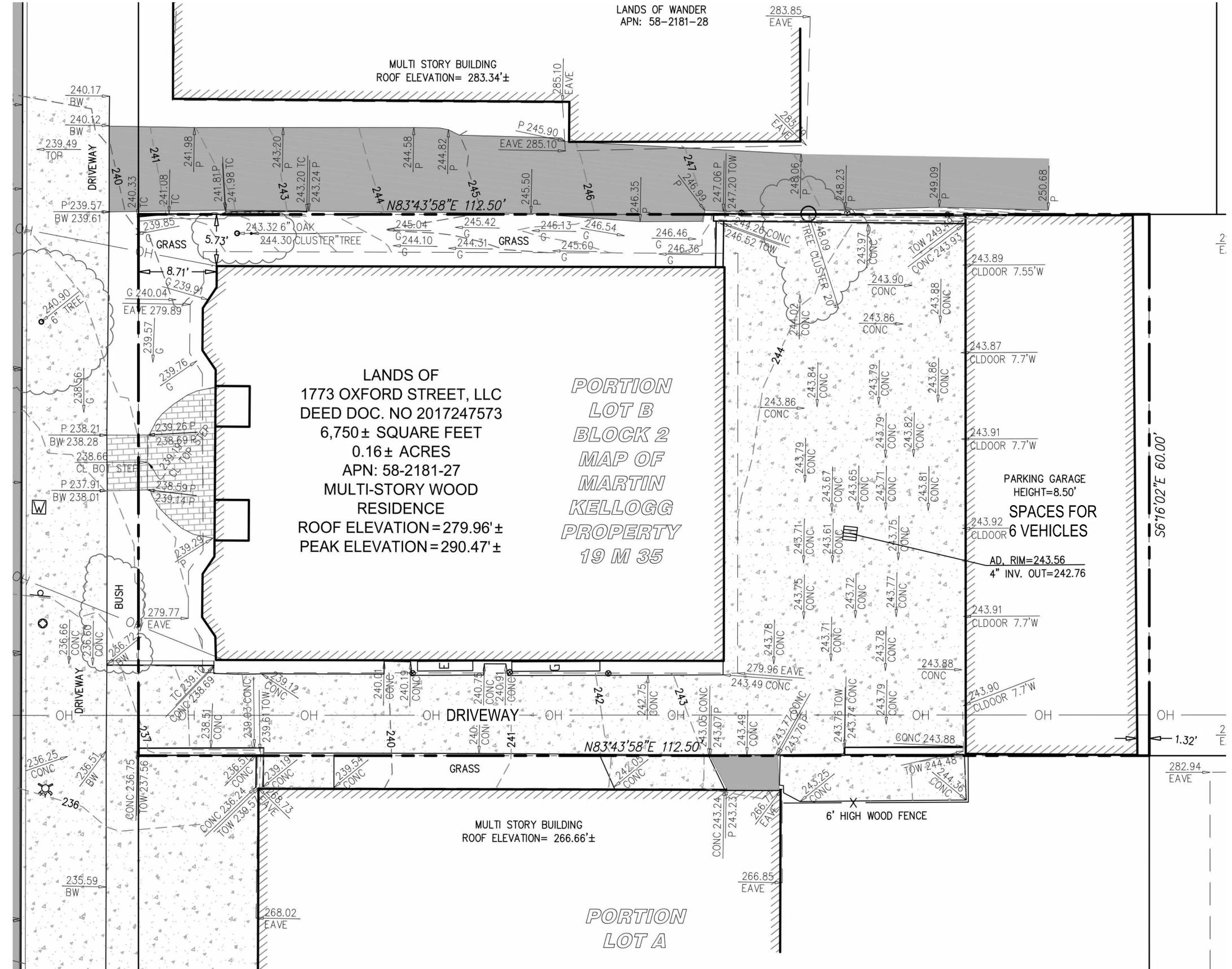
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SHEET TITLE

**SURVEY ENLARGED**

**A1.2**



1 SURVEY ENLARGED  
3/16" = 1'-0"



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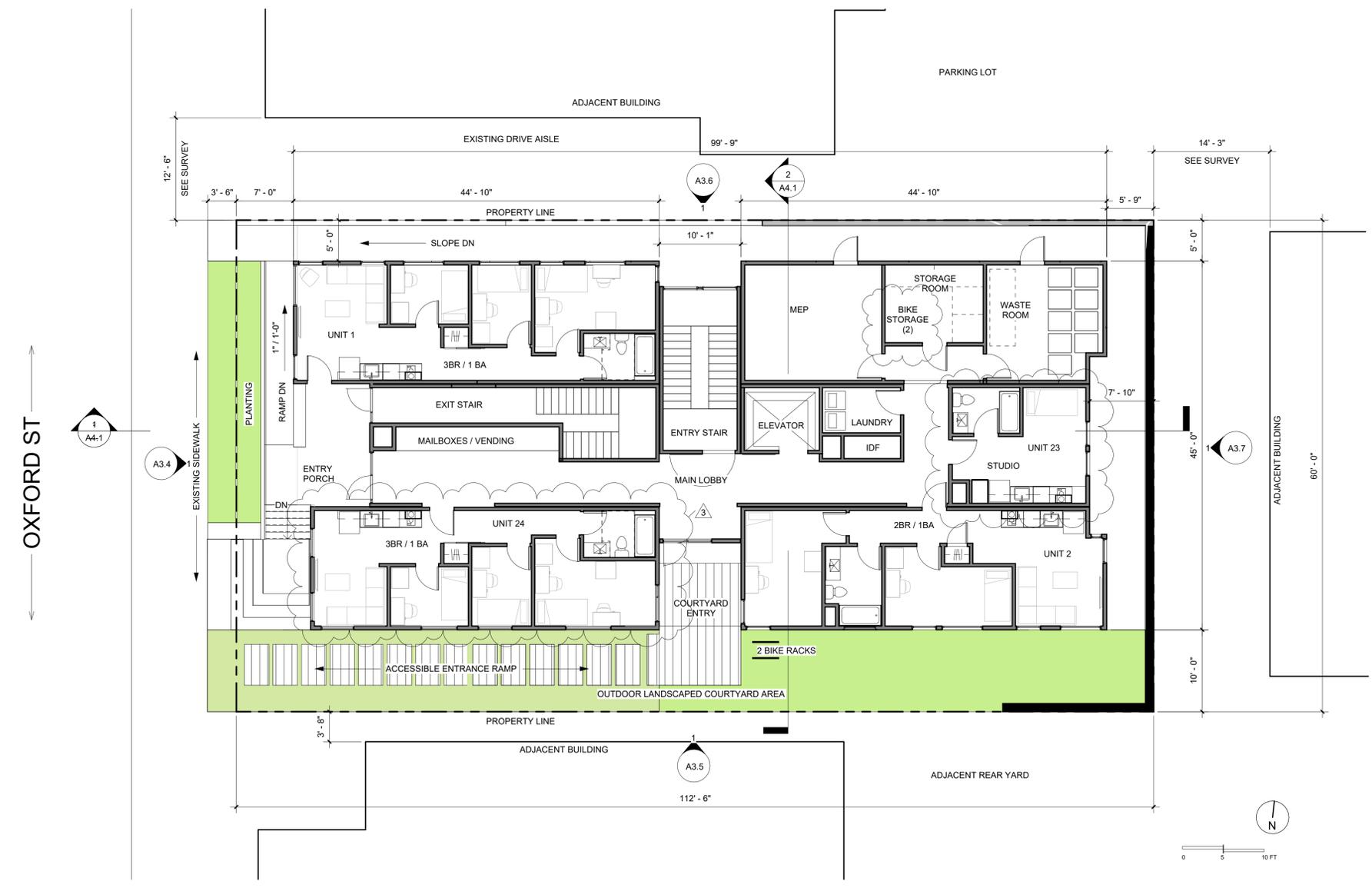
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① Level 1 - Ground Floor  
1/8" = 1'-0" @24 X 36 1/16" @11X17

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22201	12/07/2022

SHEET TITLE

FLOORPLAN  
LEVEL 1

A2.1



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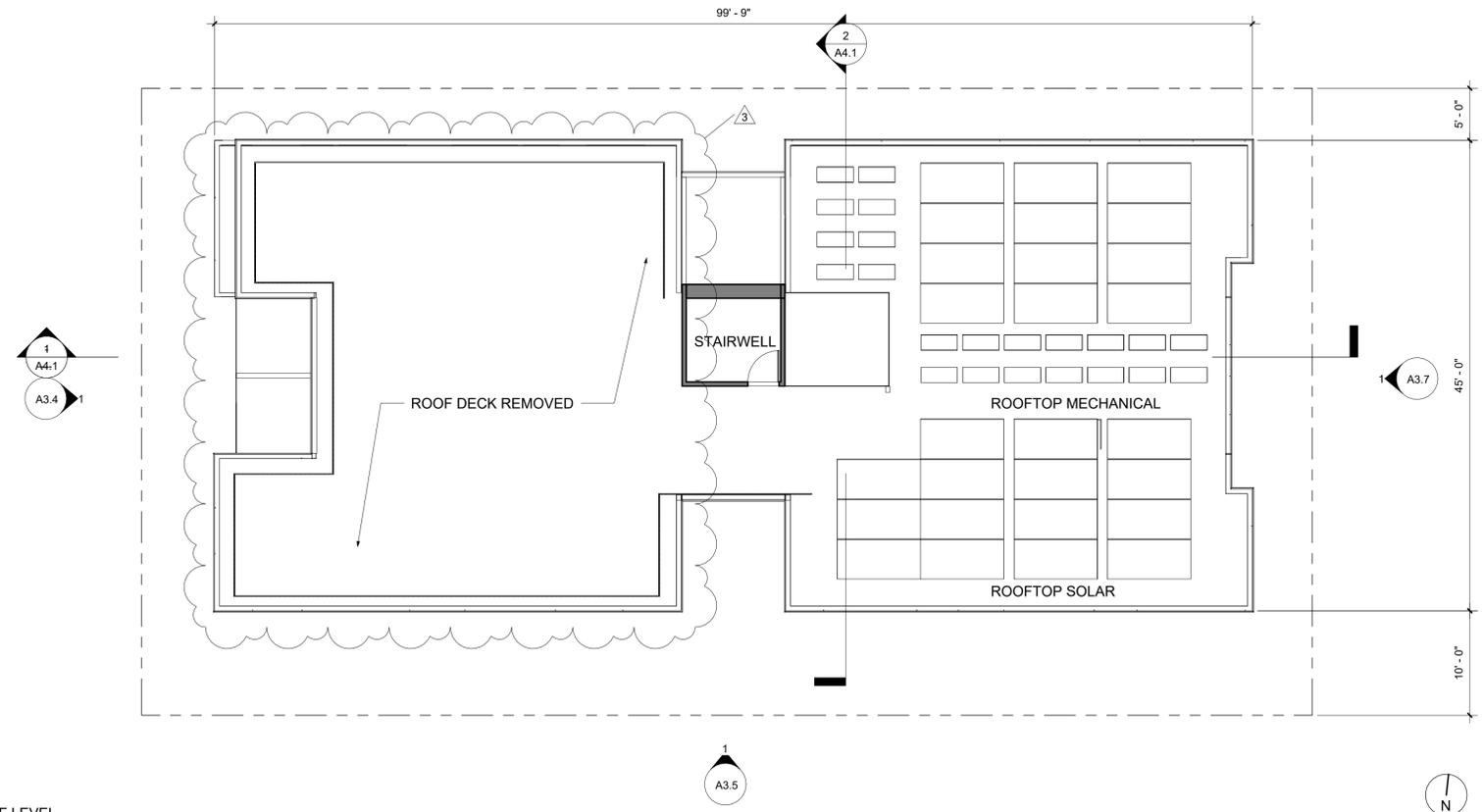
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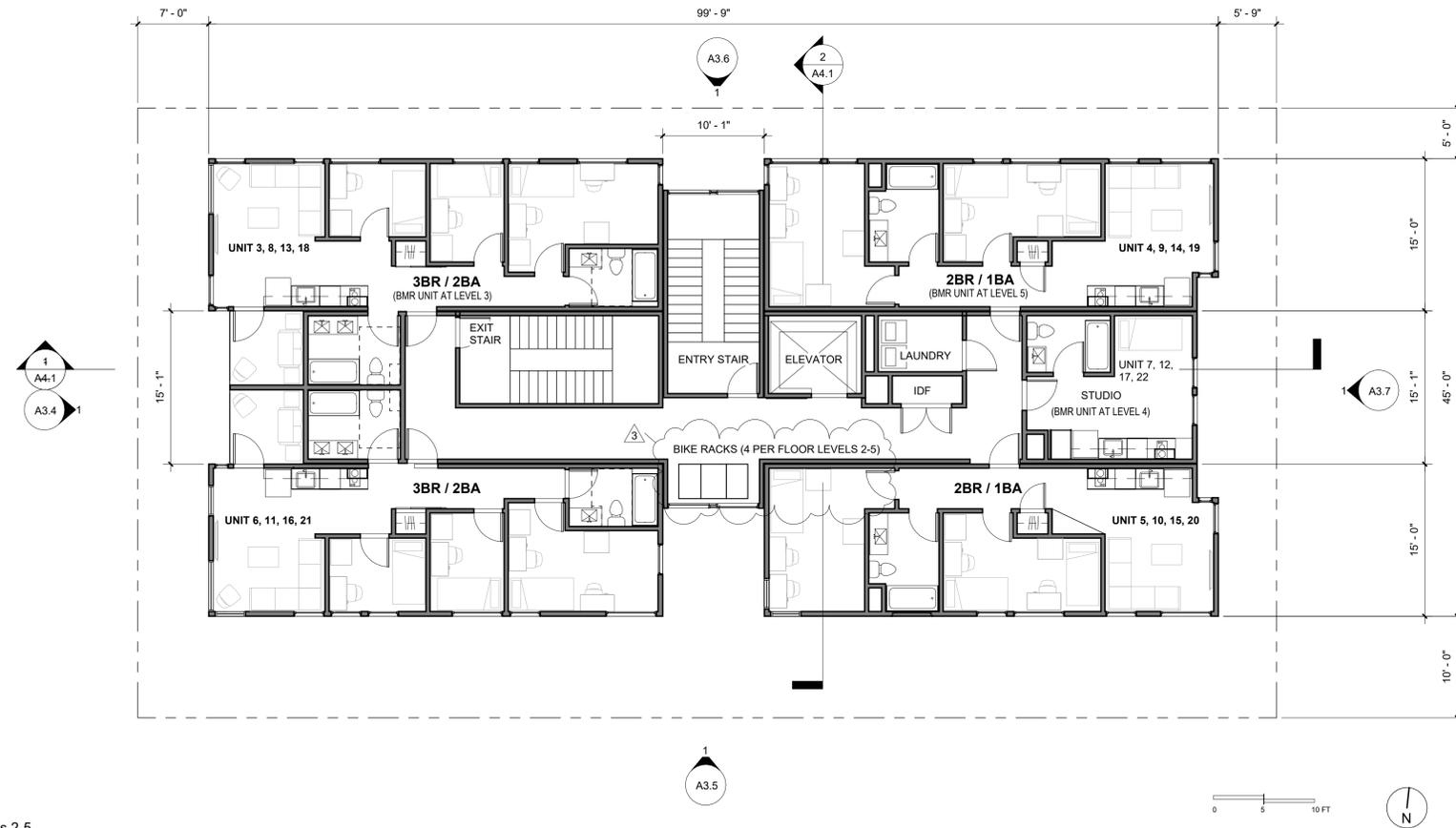
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2 ROOF LEVEL  
1/8" = 1'-0" @24 X 36 1/16" @11X17



1 Levels 2-5  
1/8" = 1'-0" @24 X 36 1/16" @11X17

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SHEET TITLE  
FLOORPLANS  
LEVELS  
2-5 +  
ROOF  
**A2.2**



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22201	12/07/2022

SHEET TITLE

### RENDERINGS

# A3.1



VIEW LOOKING NORTH UP OXFORD STREET



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VIEW LOOKING AT SOUTH ENTRY PORCH

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SHEET TITLE

### RENDERINGS

# A3.2



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22201	12/07/2022

SHEET TITLE  
**RENDERINGS**

# A3.3



VIEW LOOKING NORTH FROM OXFORD STREET



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- PENTHOUSE 70' - 9"
- ROOF 60' - 9"
- Level 5 48' - 9"
- Level 4 36' - 9"
- Level 3 24' - 9"
- Level 2 12' - 9"
- Level 1 0' - 0"
- AVERAGE GRADE PLANE 0' - 0"
- Level Entry -4' - 3"

ISSUED FOR	DATE
ZONING UPDATE	12/02/2022

REVISIONS	DATE
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4	

JOB NUMBER	RELEASE DATE
22201	12/07/2022

SHEET TITLE

**ELEVATION WEST**

**A3.4**

1 West  
3/16" = 1'-0" @24 X 36 3/32" @11X17



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JOB NUMBER	RELEASE DATE
22201	12/07/2022

SHEET TITLE

**ELEVATION SOUTH**

**A3.5**



PENTHOUSE  
70' - 9"

ROOF  
60' - 9"

Level 5  
48' - 9"

Level 4  
36' - 9"

Level 3  
24' - 9"

Level 2  
12' - 9"

Level 1  
AVERAGE GRADE PLANE  
0' - 0"

Level Entry  
4' - 3"



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PENTHOUSE  
70' - 9"

ROOF  
60' - 9"

Level 5  
48' - 9"

Level 4  
36' - 9"

Level 3  
24' - 9"

Level 2  
12' - 9"

Level 1  
AVERAGE GRADE PLANE  
0' - 0"

Level Entry  
-4' - 3"

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4	

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SHEET TITLE

**ELEVATION NORTH**

**A3.6**

1 NORTH  
3/16" = 1'-0" @24 X 36 3/32" @11X17



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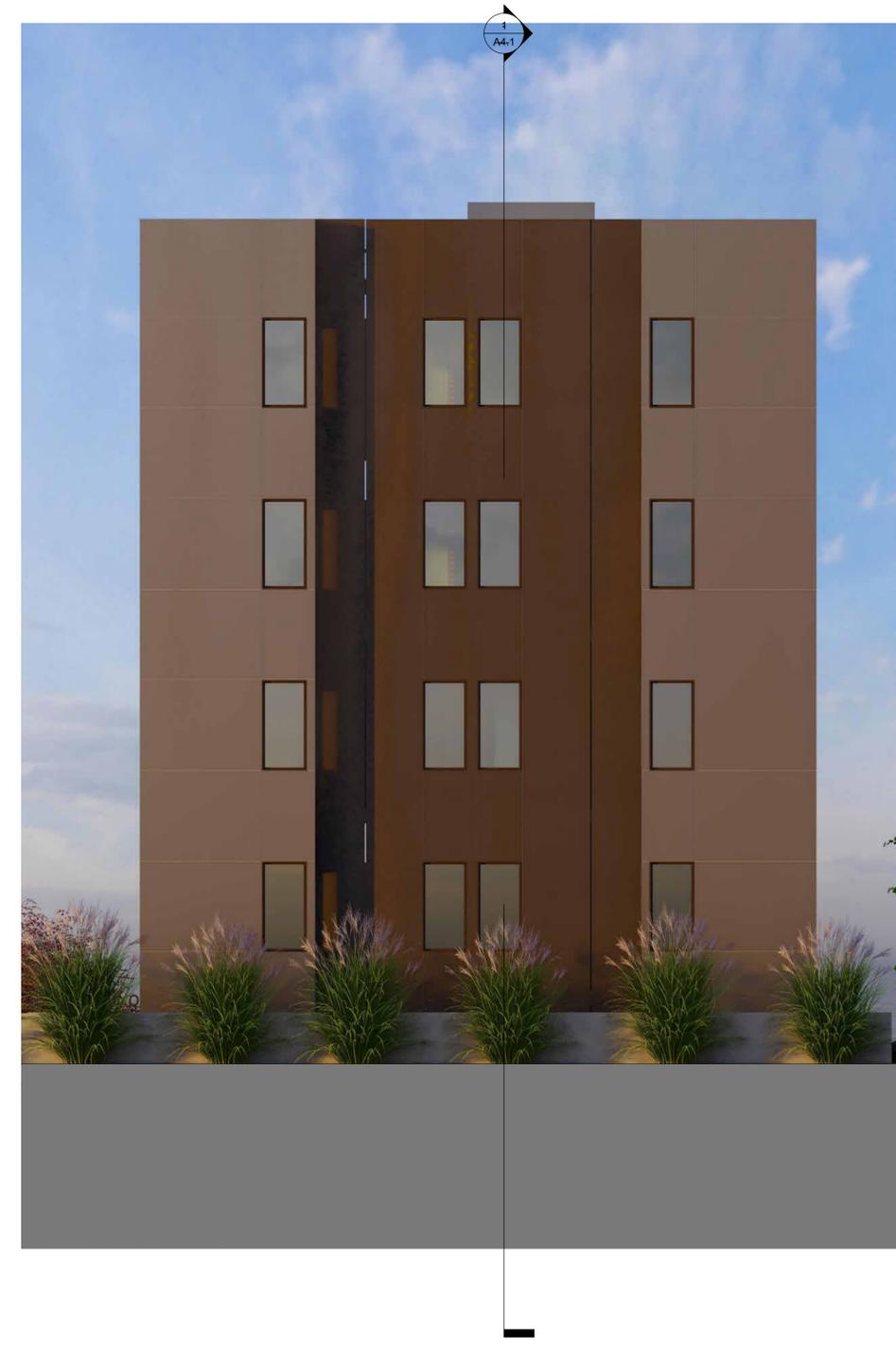
ISSUED FOR	DATE
ZONING UPDATE	12/02/2022

REVISIONS	DATE
1 ZONING COMPLETENESS	06/24/2022
2 ZONING COMPLETENESS	08/12/2022
3 ZONING UPDATE	12/02/2022
4	

JOB NUMBER	RELEASE DATE
22201	12/07/2022

SHEET TITLE  
**ELEVATION  
EAST**

**A3.7**



- ROOF  
60' - 9"
- Level 5  
48' - 9"
- Level 4  
36' - 9"
- Level 3  
24' - 9"
- Level 2  
12' - 9"
- Level 1  
0' - 0"  
AVERAGE GRADE PLANE
- Level Entry  
-4' - 3"

① EAST  
3/16" = 1'-0" @24 X 36 3/32" @11X17



YES DUFFY ARCHITECTS

yesduffyarchitects.com  
835 Hearst Ave  
Berkeley CA 94710  
510-214-3676  
yes@yesduffy.com



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1773 OXFORD HOUSING

BERKELEY CA 94709

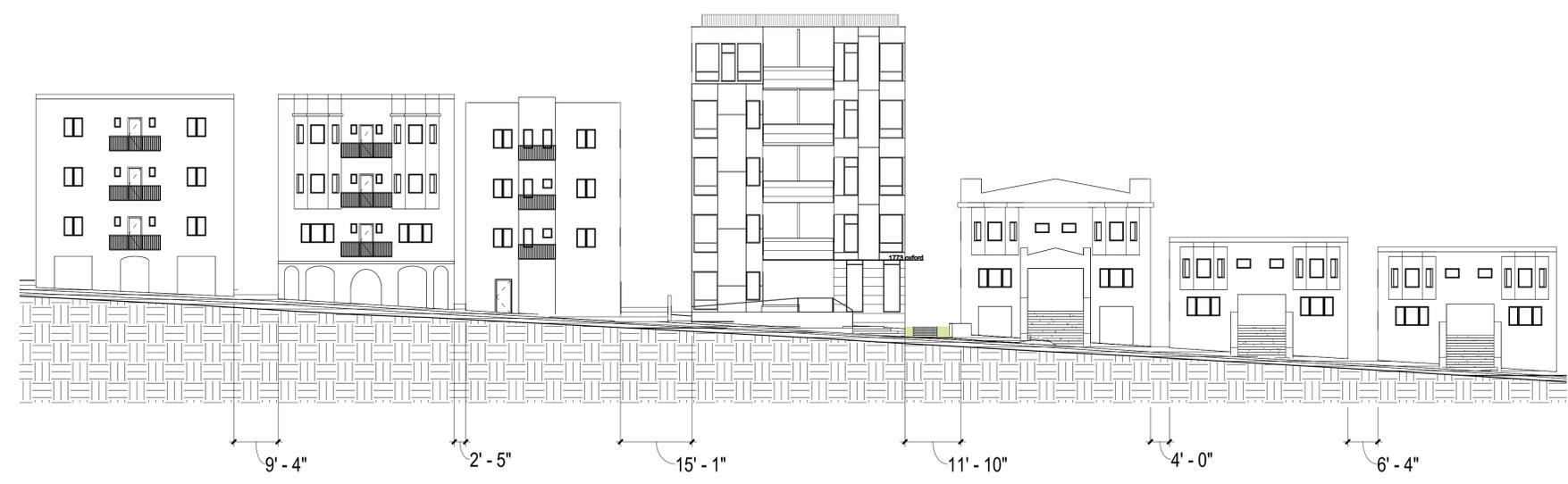
ISSUED FOR	DATE
ZONING UPDATE	12/02/2022

REVISIONS	DATE
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2. ZONING COMPLETENESS	08/12/2022
3. ZONING UPDATE	12/02/2022
4.	

JOB NUMBER	RELEASE DATE
22201	12/02/2022

SHEET TITLE  
STREET STRIP ELEVATIONS

A3.8



① street strip  
1/16" = 1'-0" when printed at 24x36 1/32"=1'-0" when printed on 11x17



VIEW FROM OXFORD ST



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yes@yesduffy.com



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### 1773 OXFORD HOUSING

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PROPOSED VIEW LOOKING NORTH UP OXFORD STREET



EXISTING VIEW LOOKING NORTH UP OXFORD STREET

ISSUED FOR	DATE
ZONING UPDATE	12/02/2022

REVISIONS	DATE
1 ZONING COMPLETENESS	06/24/2022
2 ZONING COMPLETENESS	08/12/2022
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22201	12/07/2022

SHEET TITLE

### PHOTO CONTEXT VIEWS

# A3.9



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yes@yesduffy.com



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### 1773 OXFORD HOUSING

BERKELEY CA 94709



PROPOSED VIEW LOOKING SOUTHEAST DOWN OXFORD STREET



EXISTING VIEW LOOKING SOUTHEAST DOWN OXFORD STREET

ISSUED FOR	DATE
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SHEET TITLE

### PHOTO CONTEXT VIEWS

# A3.10



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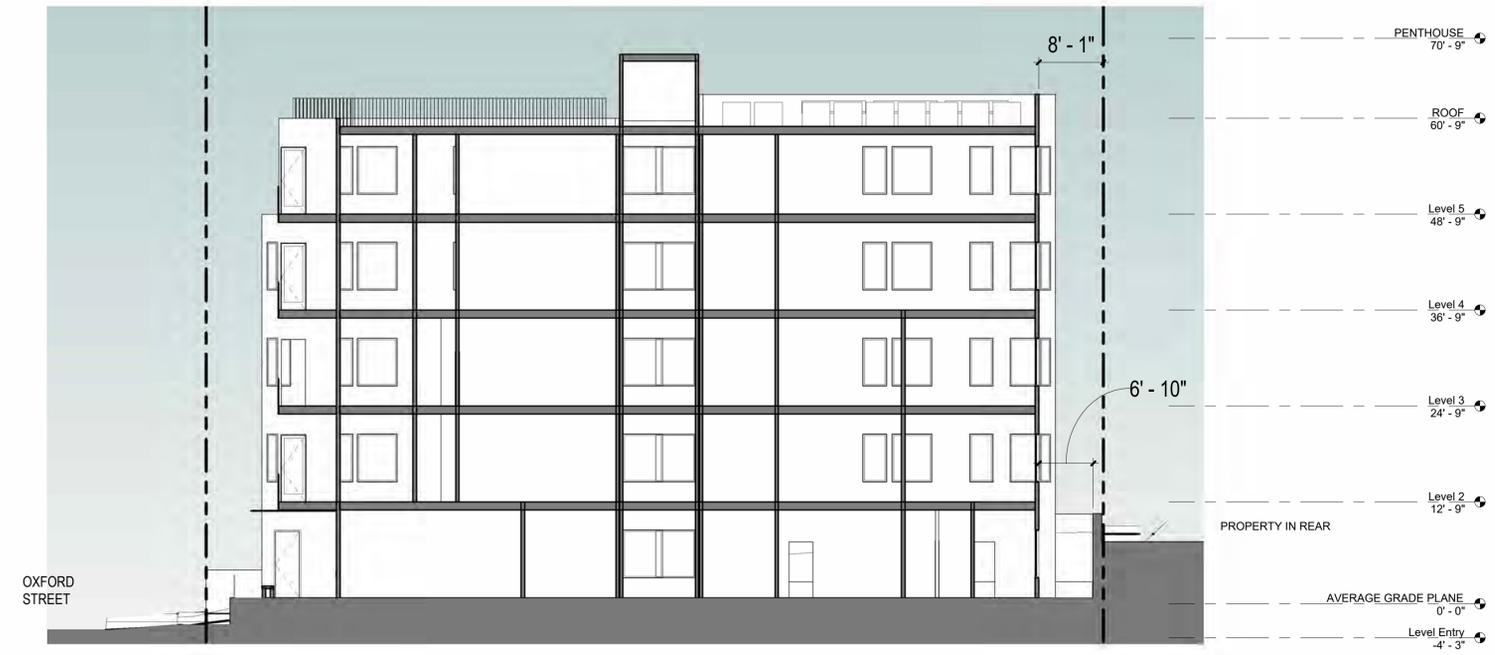
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835 Hearst Ave  
Berkeley CA 94710  
510-214-3676  
yes@yesduffy.com



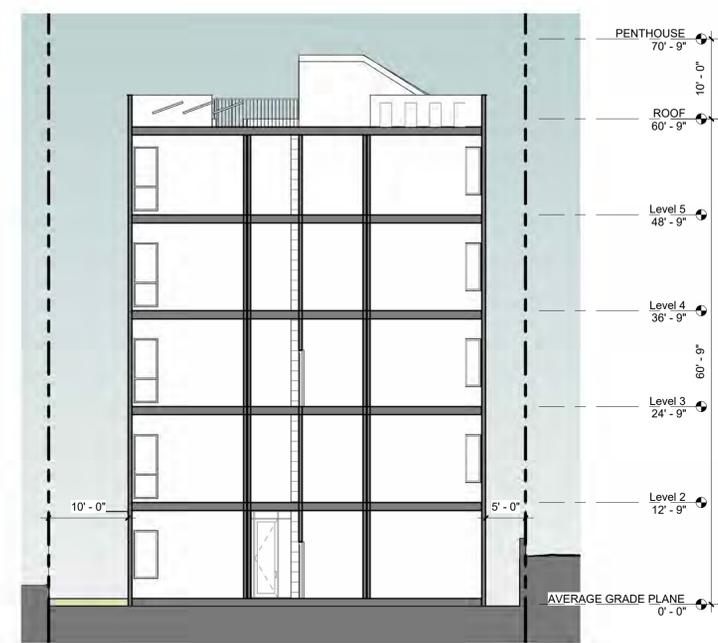
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**1773 OXFORD HOUSING**

BERKELEY CA 94709



① SECTION LOOKING NORTH  
3/32" = 1'-0" @24 X 36 3/64" @11X17



② SECTION LOOKING WEST  
3/32" = 1'-0" @24 X 36 3/64" @11X17

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4	

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SHEET TITLE

**BUILDING SECTIONS**

**A4.1**



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**1773 OXFORD HOUSING**

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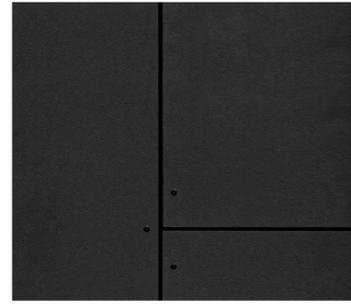
- GLASS WIND BREAK PANELS
- DARK FIBER CEMENT PANEL
- LIGHT FIBER CEMENT PANEL
- HORIZONTAL FSC WOOD
- BLACK ANNODIZED ALUMINUM WINDOW FRAMES
- BLACK PAINTED STEEL SHADE ENTRY CANOPY



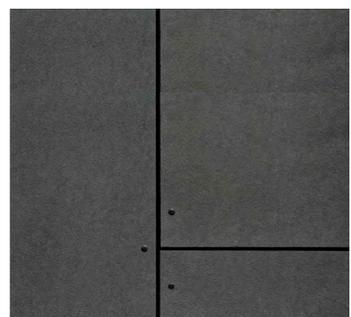
HORIZONTAL FSC WOOD SIDING  
MACHICHE OR SIMILAR: GROUND LEVEL, RAILINGS  
AND ROOF DECK



ANNODIZED ALUMINUM: WINDOWS  
METAL PAINTED TO MATCH AT AWNINGS



DARK FIBER CEMENT PANEL SIDING: BUILDING  
NOTCHES, BALCONIES, UPPER UNIT



LIGHT GREY FIBER CEMENT PANEL SIDING: REAR  
MASSING



WARM WHITE FIBER CEMENT PANEL SIDING:  
FRONT MASSING

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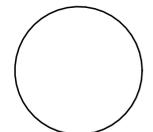
**MATERIAL BOARD**

**A4.3**



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yes@yesduffy.com



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1773 OXFORD HOUSING

BERKELEY CA 94709

OXFORD ST



1 LANDSCAPE PLAN  
1/8" = 1'-0"

LANDSCAPE KEY

- DEER GRASS (MULENBERGIA RIGENS)
- BLUE FESCUE (FESTUCA GLAUCA)
- CALIFORNIA LILAC (CEANUTHUS SPP)
- REEDGRASS (CALAMAGROSTIS FOLIOSA)
- SAGEBRUSH (SALVIA SPP)

SHRUB PALETTE

<p>CALIFORNIA LILAC CEANOTHUS SPP</p>	<p>COFFEEBERRY RHAMNUS CALIFORNICA</p>
<p>SAGEBRUSH SALVIA SPP</p>	<p>SAGEBRUSH SALVIA SPP</p>

GRASS PALETTE

<p>REED GRASS CALAMAGROSTIS FOLIOSA</p>	<p>DEER GRASS MULENBERGIA RIGENS</p>
<p>BLUE FESCUE FESTUCA GLAUCA</p>	<p>CALIFORNIA OATGRASS DANTHONIA CALIFORNICA</p>

PLANTING NOTES

1. PLANT SPECIES SELECTED FOR DROUGHT TOLERANCE, ECOLOGICAL BENEFIT AND SITE SUITABILITY IN TERMS OF SIZE, SHADE/SUN TOLERANCE AND MAINTENANCE NEEDS. PLANT MATERIAL FROM VARIOUS CALIFORNIA HABITATS HAS BEEN EMPHASIZED.
2. BAY FRIENDLY BEST PRACTICES REGARDING MULCHING AND SOIL HEALTH WILL BE IMPLEMENTED TO FACILITATE PLANT GROWTH, INCLUDING SPECIFICATION OF ORGANIC SOIL AMENDMENTS AND COMPOST.
3. THE PLANTING DESIGN WILL GROUP PLANTS WITH SIMILAR EVAPOTRANSPIRATION FACTORS WITHIN LEGIBLE ZONES.
4. THE LANDSCAPE ARCHITECT WILL PROVIDE PLANT AND SOIL MAINTENANCE RECOMMENDATIONS AS PART OF THE PROJECT SPECIFICATIONS.
5. LAWN AND TURF AREAS WILL NOT BE INCLUDED IN THE PROJECT.

IRRIGATION NOTES

1. THE IRRIGATION SYSTEM WILL BE DESIGNED BY A LICENSED IRRIGATION PROFESSIONAL.
2. A MANUAL SHUTOFF VALVE, REDUCED PRESSURE BACKFLOW PREVENTER AND FLOW SENSOR WITH MASTER SHUTOFF VALVE WILL BE PROVIDED AT THE POINT OF CONNECTION.
3. WATER PRESSURE AND FLOW RATES WILL BE PROVIDED AFTER THE POINT OF CONNECTION.
4. IRRIGATION PLANS WILL SHOW SCHEMATIC LOCATION FOR ALL MAINLINES, LATERALS, SLEEVES AND REMOTE CONTROL VALVES.
5. REMOTE CONTROL VALVES WILL BE OPERATED BY A SMART WEATHER-BASED IRRIGATION CONTROLLER WITH RAIN SENSOR MOUNTED IN AN APPROPRIATE LOCATION.
6. ALL PLANTED AREAS WILL BE WATERED USING HIGH EFFICIENCY IRRIGATION TECHNOLOGY, SUCH AS DRIP LINES AND BUBBLERS WITH FLUSH AND AIR RELIEF VALVES WHERE REQUIRED. ALL COMPONENTS SHALL HAVE FIXED FLOW RATES.
7. IRRIGATION ZONES WILL BE GROUPED BY WATER DEMAND AND THE OVERALL PLANTING PLAN WILL COMPLY WITH WATER USE LIMITATIONS OUTLINED IN THE LATEST WATER EFFICIENT LANDSCAPE ORDINANCE.

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SHEET TITLE

LANDSCAPE PLAN

L1



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
NOTICE OF PUBLIC HEARING

## 1773 Oxford Street

**Use Permit #ZP2022-0062 to demolish a six-unit multifamily building and construct a five-story, 21,048 square-foot multifamily building with 24 units (three Very-Low Income), utilizing State Density Bonus.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on January 12, 2023, **conducted via Zoom, see the Agenda for details at: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-01-12\\_ZAB\\_Agenda.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-01-12_ZAB_Agenda.pdf)**. The meeting starts at 7:00 p.m.

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Zoning Adjustments Board (ZAB) will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.**

### A. Land Use Designations:

- General Plan: High Density Residential
- Zoning: R-3 Multiple-Family Residential

### B. Zoning Permits Required:

- Use Permit to demolish a building with two or more dwelling units constructed before June 1980, under BMC Section 23.326.030
- Use Permit to construct a multifamily dwelling building, under BMC Section 23.202.020(A)
- Use Permit to construct a building up to 65 feet in height, under BMC Section 23.202.110(E)
- Administrative Use Permit to construct rooftop allowed projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district, under BMC Section 23.304.050

**C. CEQA Recommendation:** Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“Infill Development”).

**D. Parties Involved:**

- Applicant                   Isaiah Stackhouse (Trachtenberg Architects), Berkeley, CA
- Property Owner           Donald Lawson Jr., Emeryville, CA

**Further Information:**

All application materials are available online at:

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

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

Questions about the project should be directed to the project planner, Katrina Lapira, at (510) 981-7488 or [klapira@cityofberkeley.info](mailto:klapira@cityofberkeley.info).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

**Communication Disclaimer:**

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

**Communications and Reports:**

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

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

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

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

- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.



**Accessibility Information / ADA Disclaimer:**

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

**SB 343 Disclaimer:**

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

**Notice Concerning Your Legal Rights:**

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

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that 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:
  - 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.



# 1773 Oxford Community Meeting

The applicant team held a community meeting via Zoom on June 20<sup>th</sup>, 2022 from 5:30pm to 6:30pm to discuss the proposed project at 1773 Oxford. There were 6-7 attendees from the neighborhood. The applicant team gave a 15-minute presentation about the project, followed by a Q & A portion. The following attachments are included:

- I. Attendance Sheet
- II. Notes from Community Meeting
- III. Copy of Follow-up Email to Attendees
- IV. Copy of Meeting Notices invoice for everyone within 300 feet of the project.

The presentation slides and Zoom recording are available on request.

## Attendance Sheet

Per the City of Berkeley's Instructions Regarding Community Outreach, the project team requested the name, address, and contact information from each participant in the meeting. Please do not share the following Personal Identifying Information (PII) publicly, aside from the neighbor's names. If this document is uploaded to the City of Berkeley website, please redact the sensitive PII below.

1. Doug Andres
  - 1742 Spruce Street Apt. 33, Berkeley, CA, 94709
  - [Doug\\_Andres@yahoo.com](mailto:Doug_Andres@yahoo.com)
  - 1 (925)389-6237
2. Vic Wong
  - 1777 Oxford
  - [vicwong@berkeley.edu](mailto:vicwong@berkeley.edu)
3. Carol Stone
  - 1730 Spruce, Apt. A
  - [seastone11@gmail.com](mailto:seastone11@gmail.com)
4. Jeff Lipton
5. Megan Micco
6. Ray
  - Owner of 1777 Oxford
7. Debra Duffaut (did not attend, but requested the recording)
  - [duffaut2002@yahoo.com](mailto:duffaut2002@yahoo.com)

## Community Meeting Notes

June 20, 2022, at 5:30pm via Zoom

### I. Project Presentation

- a. Location
- b. Project Data
- c. Project Design
- d. Construction Plans - Likely Modular
- e. Timeline for approval and construction
- f. Contact info for project team for each phase

### II. Questions and Comments from the Community

- a. Carol S.
  - i. Will trees get removed?
    1. There is one street tree along Oxford, which will be preserved. If this is infeasible, the street tree will be replaced.
  - ii. Will the demolished building be recycled?
    1. Yes, the project will comply with California Green Building Title 24 Requirements
    2. City of Berkeley Green Building Requirements
- b. Megan M.
  - i. Will the demolished building be recycled? At Urban Ore, for example? Beyond recycling, will the demolished building materials be re-used?
    1. The building materials will be recycled in accordance with the CA Title 24 requirements and the City of Berkeley Green Building Requirements.
      - a. Berkeley Municipal Code §19.37 and CALGreen require projects to recycle and/or salvage for reuse a minimum 65% of the nonhazardous construction and demolition waste or meet a local construction and demolition waste management ordinance, whichever is more stringent.
  - ii. Can the façades of the building be preserved?
    1. Though the building is decades old, the Historic Resource consultant determined in the Historic Resource Evaluation (HRE) that the building does not meet the threshold of a historic landmark or structure of merit. The project's HRE concludes, "In conclusion, the existing apartment building at 1773 Oxford St. in Berkeley lacks any potential historical significance per the California Register criteria."
- c. Jeff L.
  - i. How will the high density of this building affect the density of the neighborhood?
    1. This project will have 22 units with a total of 49 bedrooms. This level of density is appropriate for this site located in the R-4 zone. This is the

highest residential density designation outside of the Cal campus (which has R-5) because of its proximity to downtown Berkeley, public transit, and goods and services.

- ii. How will availability of street parking be impacted by this project once residents move in?
  - 1. Residential Parking Permit (RPP): this neighborhood requires an RPP for on-street parking. The future residents of this building are eligible to purchase an RPP for Area F.
  - 2. Most residents will use active transportation such as walking or biking and are expected to have low vehicle ownership rates.
- d. Vic W.
  - i. Demolition of building? Timeline, logistics, impact on building next door?
  - ii. Structural issues created for building next door?
  - iii. Noise schedule? Especially on noisy days since many people work from home now?
    - 1. The project will try to post notice for days when particularly noisy construction is planned. There is contact information posted onsite at all times for how to reach the construction liaison if neighbors want to contact the project at any point to voice questions or comments.
- e. Carol S.
  - i. Shouldn't we have more than 16 bicycle parking spaces? Recommend putting in a bike share on the block, like on Spruce Street.
    - 1. Because the site is so close to the Cal campus and downtown, many people will choose walking as their primary mode of transportation. Many people also use bike shares and scooter shares instead of owning their own.
    - 2. The project is providing bicycle parking in accordance with the City of Berkeley's municipal code (1 space per 3 bedrooms). In the architect's experience, bike parking spaces are often underutilized.
  - ii. Will the project provide storage?
    - 1. Yes, the project will provide rentable storage spaces for residents
  - iii. What is the height of the building?
    - 1. Height of the building is 60 feet, with the rooftop equipment less than 70 feet.
  - iv. Will it be LEED certified?
    - 1. The project will be constructed according to CA Green Building Code, Title 24 requirements, and will be GreenPoint rated. If feasible, the project will seek LEED Platinum certification.
- f. Ray
  - i. As owner of the building next door (1777 Oxford), there are structural concerns about surrounding buildings during the demolition and construction process.
    - 1. The existing building will be deconstructed piece by piece. There will not be any explosives used or any other methods of demolition that would affect the structures of the surrounding buildings.

**From:** [Geneva Hesner](#)  
**To:** [Geneva Hesner](#)  
**Cc:** [Yes Duffy](#)  
**Bcc:** [Doug\\_Andres@yahoo.com](#); [Debra Duffaut](#); [seastone11@gmail.com](#); [vicwong@berkeley.edu](#)  
**Subject:** 1773 Oxford Project - Community Meeting follow-up  
**Date:** Thursday, July 7, 2022 4:07:00 PM  
**Attachments:** [1773 Oxford St Community Meeting Notes.pdf](#)  
[1773 Oxford Housing Community Meeting Presentation.pdf](#)

---

Hello All,

Thank you for joining the 1773 Oxford community meeting or requesting information about the project. Please find attached the following items:

- Community Meeting notes
- Presentation slides
- [Link](#) to Zoom recording of the meeting.

Please do not hesitate to reach out with any additional comments or questions.

Thank you,  
1773 Oxford Project Team

Geneva Hesner  
Associate Planner/Project Manager  
Rhoades Planning Group  
[geneva@rhoadesplanninggroup.com](mailto:geneva@rhoadesplanninggroup.com)  
(510) 545-4341



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1773 Oxford Street Community Meeting							
Print 4x6 back to back VDP - onto postcards & stamp	2		4x6	496			
Deliver to post office (Total 496)							

Rhoades Planning Group  
2140 Shattuck Avenue, Suite 705  
Berkeley, CA 94704

OCCUPANT  
1743 SPRUCE ST  
BERKELEY, CA 94709

# Community Meeting: 1773 Oxford Street Project

Monday, June 20, 2022, at 5:30PM

Location: The meeting will be held exclusively via Zoom  
Meeting ID: 853 7293 2576, Passcode: 001773

Please join the project team for an update regarding the progress of the proposed project at 1773 Oxford Street. Due to Covid-19 restrictions, the meeting will be virtual on Zoom. Please go to www.zoom.com and use the following: Meeting ID: 853 7293 2576, Passcode: 001773. The meeting can also be accessed with the following phone numbers: 1-408-638-0968 or 1-669-900-6833 and then enter the meeting ID and passcode above. We look forward to speaking with you on June 20th.

Sincerely,  
iREAM Asset Management, Inc.  
510-545-4341; info@rhoadesplanninggroup.com

Paper stock: 20lb 24lb 60lb 67lb 80lb  
Paper size: 8.5x11 8.5x14 11x17 Other  
Color:  White Other  
 Tabbing  
 Collating  
 Stapling Saddle stitch  
 Cutting 1/2 1/3 1/4 other:  
 Folding 1/2 ltr Z other:  
 Binding sp velo wire tape coil  
Clear Vinyl Card Color:  
f/c b/c

Additional notes/comments:

have read and authorized this order	Web/email	6/1/22	Tax
Customer Signature		Date	Total
have received this order	Drop off @ post office	6/10/22	Less Deposit Paid
Customer Signature		Date	Balance Due

Cash  Check #  Account  Bill to  Credit Card  
Taken by: Done by: Checked by: Cashier:

Date In 6/1/22  
Time In 3:00 pm  
Date Due 6/10/22  
Time Due 1:00 pm  
files/ filetype Mac PC  
PDF  
Name/ Geneva Hesner ZAB 01-12-2023  
Company Name Rhoades Planning Group  
Address 2140 Shattuck Avenue, Suite 705  
City Berkeley State CA Zip 94704  
Tel# 510-545-4341 Fax#  
Account #  Email  
 Customer Pickup  Delivery  Drop Ship/ Method: Mail out-UPS  
Proof  N Due 6/6/22 @ : am/pm