

Planning & Development
Land Use Planning Division

MEMORANDUM

June 12, 2025

To: Zoning Adjustments Board

From: Nilu Karimzadegan, Senior Planner
Joshua Muller, Associate Planner

Subject: Revision to Conditions of Approval for Item 6C, #ZP2023-0163, 2100 & 2108
Milvia Street

Chair Gaffney and Members of the Zoning Adjustments Board,

The draft Conditions of Approval (Attachment two of the staff report) currently include Condition 9 for HARDHATS, which requires projects to comply with Berkeley Municipal Code (BMC) Section 13.107 “Establishing Healthcare and Apprenticeship Standards for Private Developments”. This ordinance went into effect on January 1, 2024.

As shown in Table 3: Project Chronology of the staff report, the vesting date¹ for the application is April 18, 2023, prior to the effective date of the HARD HATS ordinance. Additionally, the row for HARDHATS in Table 2: Special Characteristics in the staff report notes that the project vested under the Housing Crisis Act of 2019 (on April 18, 2023) prior to the January 1, 2024 effective date of the ordinance. Therefore, BMC Section 13.107 (HARDHATS) does not apply to the project and Condition 9 should be removed from the final permit Conditions.

Recommended Action:

Staff recommends that the ZAB remove Condition 9, HARD HATS (BMC Section 13.107) from the final permit Conditions prior to any action to approve the project.

¹ The vesting date refers to the submittal of an SB 330 complete Preliminary Housing Development Project Application
1947 Center St., 2nd Floor • Berkeley, CA 94704 • (510) 981-7400 • TDD: (510) 981-7474 • planning@berkeleyca.gov

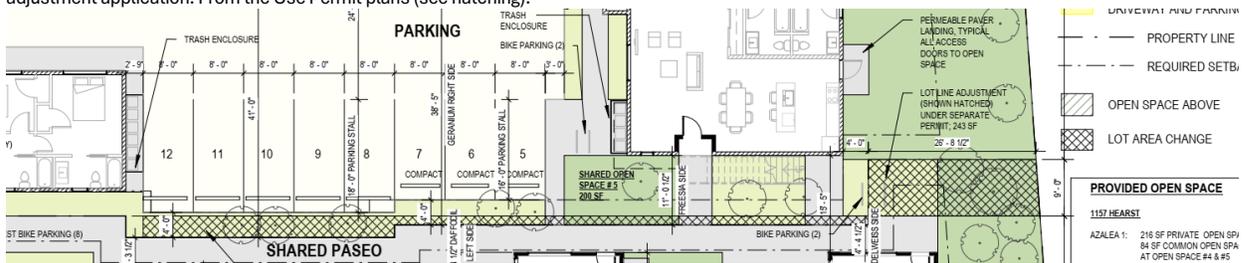
From: Lisa Gordon
To: Wayne Cory; Gong, Sharon; Zoning Adjustments Board (ZAB)
Cc: Jacob, Melinda
Subject: RE: [EXT] FW: Appeal Regarding ZP2024-0157
Date: Wednesday, June 11, 2025 9:27:58 AM
Attachments: [links]

Good Morning,

I am the project planner for Use Permit No. 2024-0157 and we received your additional comments regarding this project.

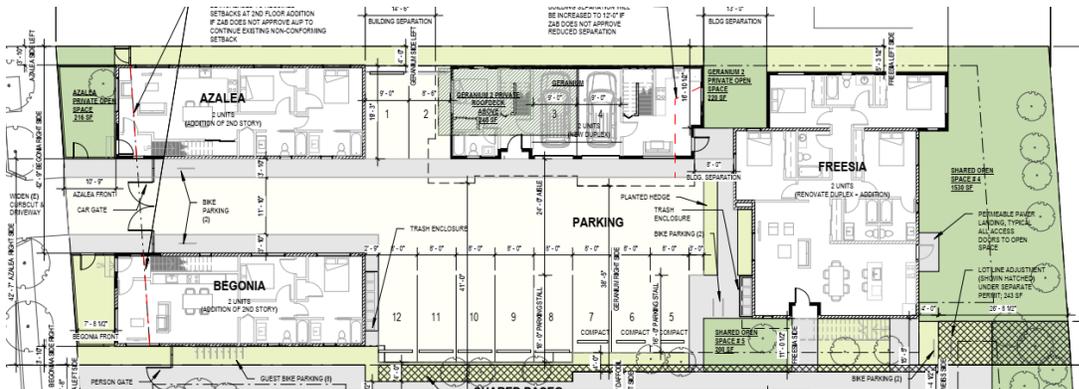
Regarding the lot line adjustment in the rear of the property –

This seems to have been conceptually approved as part of the original use permit (Use Permit No. 2024-0057) and formally approved via a lot line adjustment application. From the Use Permit plans (see hatching):



Regarding Parking –

The project proposes 13 parking spaces once the entire project is completed. The staff report for the original use permit indicated that the existing lease agreements require one space per unit. During construction, the parking spaces may be unavailable, but there was a condition of approval (which you mentioned) about providing alternative parking or stipend. More parking should be available once the Geranium building is completed – there are 2 spaces under the building and two spaces to the side. The parking space sizes are generally 8 feet in width, 18 feet in depth (3 compact are 16 feet) and these are standard sizes for parking spaces. The City’s Traffic Engineering Department reviews project for the layout and size of off-street parking during the entitlement review.



During Construction:

32. Tenant Parking. During any construction related to this Use Permit, the applicant/property owner shall ensure that parking is provided to existing tenants per their lease agreement either on-site or in an alternative location within the area bounded by San Pablo Avenue to the west, Francisco Street to the north, Chestnut Street to the east, and University Avenue to the south. If parking cannot be found within the boundary then the applicant/property owner shall provide tenants with \$100/month as a parking stipend.¹

This project did not receive and does not include any density bonuses, waivers or concessions related to state or local density bonus law.

Please let me know if you have any additional questions.

Thank you,
 Lisa



Lisa Gordon
Senior Planner
lgordon@rinconconsultants.com
805-644-4455 Main | 951-202-9230 Mobile | 805-324-7207 Direct

From: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Sent: Tuesday, June 10, 2025 11:19 AM
To: Gong, Sharon <sgong@berkeleyca.gov>
Cc: Lisa Gordon <lgordon@rinconconsultants.com>; Jacob, Melinda <MJacob@berkeleyca.gov>
Subject: [EXT] FW: Appeal Regarding ZP2024-0157

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Hi Sharon and Lisa,

Here is the last one of 3 communications on this subject from the ZAB mailbox. More may arrive.

David

David M. Sanford

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Remote Days: Friday 7:30 am-4pm

The [Permit Service Center \(PSC\)](#), including the zoning counter, is open *between 8:30 am – 2:30 pm (final check in at 2:00 pm) Monday through Thursday.*

All permit-related and Zoning services are available online. Please visit us [online](#) for more information.

From: Wayne Cory <cory888@gmail.com>
Sent: Wednesday, June 4, 2025 3:40 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Subject: Appeal Regarding ZP2024-0157

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June 4, 2025

Zoning Adjustments Board Secretary
Land Use Planning Division
City of Berkeley
zab@berkeleyca.gov

Subject: Appeal Regarding ZP2024-0157

Attn: **ZAB Secretary**

I am submitting this letter as a formal appeal concerning Zoning Permit ZP2024-0157, based on the loss of economically valuable land and the removal of tenant parking at the subject property.

This appeal addresses two primary concerns:

1. Unlawful Appropriation of Economically Valuable Land:

Portions of the backyard land historically associated with Unit 1159 #B Hearst Avenue have been appropriated through the construction of a new fence. This fence has effectively removed access to land previously used by the tenant, and transferred it to the adjacent parcel at 1169 #B Hearst Avenue. It is my understanding that the Zoning Adjustments Board (ZAB) had previously indicated that these two parcels could not be legally merged. The reallocation of this land appears to have enabled additional construction and bonus density allowances on the adjacent parcel, which otherwise may not have

been permissible. The loss of this land directly impacts the tenant's use and enjoyment of the property, and constitutes a significant reduction in the economic utility of the leasehold.

2. Permanent Loss of Tenant Parking:

Tenant parking spaces were initially removed with the understanding that this would be a temporary disruption during the construction period. The property owner agreed to provide tenants a monthly credit of \$100 until the parking spaces were restored. However, some parking spaces have now been permanently removed, and no compensation or alternative has been adequately provided. While the owner claims new parking will be added, the proposed spaces are undersized and impractical—failing to meet functional standards for maneuverability and access. To date, tenants have not received the promised reimbursement for the ongoing loss of this essential amenity. The permanent reduction in parking availability represents a substantial economic loss and impairs the livability of the property.

Given these impacts, I respectfully request that ZAB review the circumstances under which the land reallocation and parking space removal occurred, and assess whether they comply with applicable zoning regulations, tenant protections, and prior conditions of approval.

Thank you for your attention to this matter.

See attached file

From: [Lisa Gordon](#)
To: [Wayne Cory](#); [Zoning Adjustments Board \(ZAB\)](#)
Cc: [Gong, Sharon](#)
Subject: RE: [EXT] Opposition of Use Permit Modification ZP2024-0157
Date: Wednesday, June 11, 2025 7:30:04 AM
Attachments: [image.png](#)

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Good Morning,

I am the project planner for this project, working on behalf of the City of Berkeley. Your comment letter regarding Use Permit Modification No. 2024-0157 has been received and it will be provided to the ZAB.

I wanted to reach out to clarify a few items.

- The Use Permit Modification will not approve the condominium conversion, it only eliminates/modifies the conditions of approval that prevented the applicant from applying for a condominium conversion. The applicant will need to submit a condominium conversion map that will go through a public hearing process.
- The conditions of approval, and Berkeley Municipal Code, protect the rent controlled status of the existing units until the existing tenants chose to move out of the unit.
- Revised condition –
Rent Control. The existing six dwelling units may be permitted to be converted to condominiums and all existing tenants who occupied the existing rental units as of October 24, 2024, the filing date of #ZP2024-0157 (the application to modify #ZP2016-0028), shall be allowed to remain in their dwelling units until they choose to vacate their unit(s). Each of the three existing rental units that are currently occupied shall continue to be subject to rent control under the Rent Stabilization Ordinance (BMC Chapter 13.76), and will not be sold separately from the other unit in the duplex even if a unit is converted to condominiums, until such times as those units are vacated by the existing residents and then sold. No work that would require a new Certificate of Occupancy shall be performed on any one of the two occupied duplexes until that building is vacant. Conversion of the existing rental units to condominium units shall be processed consistent with BMC Chapter 21.28 “Condominiums and Other Common Interest Subdivisions”, Chapter 23.326 “Demolition and Dwelling Unit Controls” and Chapter 13.76 “Rent Stabilization and Eviction for Just Cause Ordinance”.

I hope this addresses some of your concerns. Please call or email if you have any additional questions.

Thank you,
Lisa

Lisa Gordon
Senior Planner
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From: Wayne Cory <cory888@gmail.com>
Sent: Friday, June 6, 2025 10:00 AM
To: zab@berkeleyca.gov
Cc: Gong, Sharon <sgong@berkeleyca.gov>; Lisa Gordon <lgordon@rinconconsultants.com>
Subject: [EXT] Opposition of Use Permit Modification ZP2024-0157

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June 6, 2025

Attn: Zoning Adjustments Board Secretary
City of Berkeley, Land Use Division
zab@berkeleyca.gov

Re: Opposition to Use Permit Modification ZP2024-0157 – Condominium Conversion of Rent-Controlled Units

Dear ZAB Members,

I am writing to express my strong opposition to Use Permit Modification ZP2024-0157, which would allow the conversion of rent-controlled apartments into for-sale condominiums.

I am particularly concerned about the potential impact this conversion will have on current tenants, especially regarding increased housing costs and potential displacement. Conditions #16 and #58, as previously adopted by the Board, were intended to ensure tenant protections — not only through preserving rent control but also by mitigating the indirect consequences of substantial capital improvements required for condominium conversion. These include relocating major systems such as the HVAC (currently shared between units 1159A and 1159B), as well as upgrading outdated electrical and plumbing infrastructure, replacing a roof that is decades past its lifespan, separating water meters, obtaining permits, and more.

These necessary upgrades carry significant costs, which owners may attempt to pass on to tenants — through legal rent increases, attrition, or new HOA fees — making the units unaffordable for many and likely forcing long-term tenants out. Approving this conversion sets a dangerous precedent that could be used by other property owners to circumvent rent control and displace both protected and unprotected tenants across the city.

Importantly, this does not mean the owners cannot sell the property. They are fully entitled to sell

the units as a multi-unit rental property, preserving tenant protections and the affordability of Berkeley's rental housing stock. Conversion to condominiums is not the only path forward — it is simply one that poses greater harm to tenants.

The City of Berkeley has long been a leader in defending affordable housing and tenant rights. This proposed permit modification undermines that legacy and opens the door to further erosion of rent-controlled housing in our community.

I respectfully urge the Zoning Adjustments Board to reject this proposal.

Please vote NO on Use Permit Modification ZP2024-0157.

Thank you,

From: [Wayne Cory](#)
To: [Zoning Adjustments Board \(ZAB\)](#)
Subject: Request for Clarification and City Response Regarding Use Permit #ZP2024-0157 and Condo Conversion
Date: Wednesday, June 11, 2025 10:31:10 AM

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To: ZAB Secretary
At the Land Use Division
zab@berkeleyca.gov

I am writing to request clarification regarding the approval process for Use Permit #ZP2024-0157. Conditions #16 and #58 of the previously approved Use Permit #ZP2016-0028 were adopted by the City and the Zoning Adjustments Board (ZAB) specifically to protect tenants — not only by preserving rent control but also by minimizing the indirect impacts of significant capital improvements typically associated with condominium conversions.

It is deeply concerning that the City is now recommending approval of a condominium conversion, which appears to contradict the original intent and assurances embedded in these conditions. This shift raises serious questions about the City's commitment to upholding the protections that were promised to tenants and established through public process.

I have several important questions that I would like the City — not the developer — to address. While I appreciate that my concerns have been forwarded to the developer, I believe the City is best positioned to provide accurate responses based on its laws and regulations. Here are my specific questions:

1. Under the City's tenant protection laws, can a new buyer request that protected renters vacate the unit so the buyer can occupy it?
2. How can a property be approved for condo conversion if the two units currently share utilities?
3. If the units are converted to condominiums and HOA fees are introduced, is it legally permissible to pass those costs onto existing renters?
4. During the process of converting to condominiums or preparing the units for sale, can any of those related costs be transferred to the tenants?
 5. I understand that under state law, newly constructed condominiums may be exempt from local rent control for the first 10 years. Does this exemption also apply to units that are converted to condominiums, rather than newly built?

Additionally, I am deeply concerned about the developer's request to assign new addresses to the units. This change would cause significant financial and emotional stress for the current renters, including:

- The cost of updating passports and driver's licenses
- The time and expense of changing addresses on all essential accounts such as utilities, banks, credit cards, subscriptions, and legal/trust documents
- The confusion and potential disruption caused by appearing to have moved when in fact they have not

While this change may be of minimal consequence to the property owners, it would place a disproportionate burden on the renters. I strongly urge the City to preserve the existing addresses and to deny the request for any address changes.

Please let me know if you can provide answers to the above questions or direct me to someone who can. I appreciate your time and attention to these important matters.

Thank you,