

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: URGENT SUBMISSION: Agenda Item 6-C (2128 Oxford Street) - For Supplemental Communications #2
Attachments: 4-9-2026-zab submission 4.pdf; 2025-06-03 Item 24 Referral Oxford for All.pdf

From: Steven Schuyler <tell.stevenj@gmail.com>
Sent: Thursday, April 9, 2026 10:24 AM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Cc: All Council <council@berkeleyca.gov>; Klein, Jordan <JKlein@berkeleyca.gov>; Muller, Joshua <JMuller@berkeleyca.gov>; Manager, C <CManager@berkeleyca.gov>; Brown, Farimah F. <FBrown@berkeleyca.gov>; ADAMailbox <ADA@berkeleyca.gov>; Gregory, Thomas <TGregory@berkeleyca.gov>; Public Works Sidewalk Program <pwsidewalks@berkeleyca.gov>; transportation <transportation@berkeleyca.gov>; ada.compliance.office@dot.ca.gov
Subject: URGENT SUBMISSION: Agenda Item 6-C (2128 Oxford Street) - For Supplemental Communications #2

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4-9-2026

Dear ZAB Secretary and Board Members,

Per ZAB public hearing rules, please accept the two attached documents into the official administrative record for **Supplemental Communications #2** regarding **Agenda Item 6-C (2128 Oxford Street)**.

Because this is submitted before today's 12:00 PM deadline, please ensure these attachments are distributed to all Board members in the official packet before tonight's hearing.

Thank you,

Steven Schuyler

Words I live by:

Every moment of your life, always do what is in your best interest
The things I avoid right now are only waiting for me down the line!
Relationships with customers last a lifetime; transactions are only temporary!

ADDENDOM #4 -

2128 Oxford Street FOR SUPPLEMENTAL COMMUNICATIONS #2

4-9-2026

TO Zoning Adjustments Board

CC Berkeley City Council, Planning Director Jordan Klein, Associate Planner Joshua Muller,
City Manager Paul Buddenhagen, ADA Coordinator Thomas Gregory

DATE April 9, 2026

SUBJECT AGENDA ITEM 6-C

2128 Oxford Street FOR SUPPLEMENTAL COMMUNICATIONS #2

Dear Chairperson Gaffney and Members of the Zoning Adjustments Board:

Please accept this formal submission into the administrative record for Agenda Item 6 C prior to your 12 PM deadline today. I request that this item be pulled from the Consent Calendar.

DECADES OF WILLFUL NEGLECT AND THE BURDEN OF PERSONAL LIABILITY

At the very top of this issue is the reality of decades of willful neglect of the public sidewalks by the City of Berkeley. The crumbling curbs, large unramped vertical lips, deep concrete fissures, and missing tree grates along Oxford Street and Center Street have been actively degrading for years. Some of the younger members of the Zoning Adjustments Board were likely not even born when these ADA violations first began to manifest on our streets. Yet today, city staff is expecting you, the individual ZAB members, to absorb the personal legal liability for these decades of the city's willful neglect. By asking you to approve a zero-foot setback waiver on a known non-compliant sidewalk, the city is exposing you to personal lawsuits and uncapped punitive damages.

I have formally submitted photographic exhibits and written documentation into the official administrative record, meaning every member of this Board, the Planning Director, and the Associate Planner now have advance legal notice of these severe ADA Title II violations. According to the Department of Justice Title VI Legal Manual, the Local Government Insurance Trust, and established civil rights case law, government officials lose their qualified immunity when their conduct amounts to intentional discrimination or deliberate indifference. A senior official who directs or pressures a board to approve a project knowing it will permanently lock in ADA violations can be named individually in civil rights claims. If you vote Yes today, you are choosing to make the public right of way unusable, committing an act of intentional discrimination, and volunteering your own personal financial assets to cover the city's decades of negligence. You are exposing yourselves to personal liabilities by your vote.

ADDENDOM #4 -

2128 Oxford Street FOR SUPPLEMENTAL COMMUNICATIONS #2

THE OXFORD FOR ALL ADMISSION OF FAILING CAPACITY

You do not have to take my word that the sidewalks are inadequate. You only need to look at the city's own documents. In the June 2025 Oxford for All City Council Referral, authored by Councilmembers Igor Tregub and Cecilia Lunaparra, the city explicitly admitted in writing that on Oxford Street, pedestrians must use narrow sidewalks that do not reflect the significant demand generated by the campus and downtown or the increased demand that will be spurred by future developments. This document specifically named The Hub at Oxford and Center Street as one of the major developments triggering this pedestrian crisis. The city has already legally diagnosed this corridor as failing and too narrow. It is an act of deliberate indifference to acknowledge a pedestrian capacity crisis in a legislative referral and then vote to grant a zero-foot setback that permanently prevents the widening of that exact sidewalk.

A PROPOSED SOLUTION

I believe that if I come to bring a problem, I should bring a proposed solution. The solution here is straightforward and resolves the crisis for everyone involved. The city and the developer must work together to completely redo the sidewalk. The city should sacrifice all of the parking spaces on Oxford Street from Center Street all the way to Allston Way and widen the sidewalk by the width of those parking spaces to accommodate all the people. By doing this, you make the entire corridor ADA compliant. The bar can keep their stools, the developer can have their zero-foot setback, and the pedestrians get a safe, legally compliant right of way. All it costs the city and the developer is the cost of fixing the sidewalk and the loss of a few parking spaces.

FEDERAL STATUTE VIOLATIONS

Approving this modification with a zero-foot setback violates specific federal statutes. 42 United States Code Section 12132 and 28 Code of Federal Regulations Section 35.149 explicitly prohibit a public entity from subjecting individuals to discrimination because its facilities are inaccessible to or unusable by individuals with disabilities. Furthermore, 28 Code of Federal Regulations Section 35.151 mandates that any new facility constructed for the use of a public entity must be readily accessible. Be advised that under 42 United States Code Section 12188, a federal court has the authority to issue injunctive relief ordering the city and the developer to physically alter the facility to restore accessibility, regardless of the approved setbacks.

ADDENDOM #4 -

2128 Oxford Street FOR SUPPLEMENTAL COMMUNICATIONS #2

THE 1192 OXFORD STREET PRECEDENT

If the Planning Department claims the ZAB cannot legally force a developer to fix the municipal sidewalk, I direct your attention to the June 2023 ZAB Staff Report for 1192 Oxford Street. For a minor project enclosing a front porch on a single-family home, this exact Board explicitly attached Condition of Approval 16, which mandated that plans submitted for a 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. The ZAB forced a local homeowner to replace their sidewalk to ADA standards just to remodel a porch. Failing to apply the exact same Condition of Approval to a corporate developer building a 433-unit high rise is a clear double standard.

MEASURE FF FUNDING DEFEATS FINANCIAL BURDEN CLAIMS

The city cannot claim financial hardship. In a November 2024 email exchange, Thomas Gregory, the City ADA Program Coordinator, explicitly confirmed that Measure FF provided a lot of funding specifically for physical accessibility in the public right of way. The funds exist. The refusal to use them to fix the crumbling yellow curbs and unramped vertical lips outside this proposed tower is a choice of political will, not financial constraint.

PLANNING DIRECTOR CEQA HYPOCRISY AND SYSTEMIC NEGLECT

Planning Director Jordan Klein knows exactly how stressed this corridor is. In an April 2021 City Council report, he heavily scrutinized the UC Berkeley Long Range Development Plan Environmental Impact Report due to the significant impact of adding tens of thousands of students to the campus perimeter, even hiring outside legal experts to review it. Yet today, his department attempts to hide a zero-foot setback waiver for a private high rise on the exact same corridor on the Consent Calendar without requiring a Pedestrian Level of Service analysis. This is willful negligence. Furthermore, my photographic evidence of Shattuck Avenue at Kittredge Street proves this is a systemic failure. As a 17-year resident of Kittredge Street, I can testify that identical ADA Title II violations have existed unmitigated for nearly two decades.

VERIFICATION OF WILLFUL NEGLECT REGARDING UNPERMITTED BAR STOOLS

Under Berkeley Standard Plan Section 315, the city must maintain strict clearances. Yet on Monday, Associate Planner Joshua Muller admitted to me that the exterior ledge and bar stools at East Bay Spice Company were installed without an approved encroachment permit, illegally blocking a 72-inch bottleneck. I formally notified the ZAB, the Planning Director, and the City Council. When I physically verified the site at 4 PM on Wednesday, the unpermitted bar stools and A frame signs were still there. If the city cannot or will not remove five illegal metal bar stools after 48 hours of formal written notice, it is legally incapable of managing the daily pedestrian impact of this towering complex.

ADDENDOM #4 -
2128 Oxford Street FOR SUPPLEMENTAL COMMUNICATIONS #2

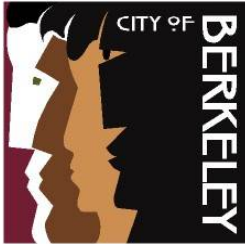
CONCLUSION

You have absolute proof of the hazards, your authority to mandate repairs under Berkeley Municipal Code Section 23.406.040 regarding findings of non-detriment, the available funding, and the City Council own admissions in the Oxford for All document. Unless this Board is willing and able to implement my proposed solution to widen the sidewalk into the parking lane and make it fully ADA compliant, you have absolutely no business voting to approve this project today until you can. If you vote Yes today, I am giving you formal notice that I intend to appeal your decision to the City Council and force the City Council to vote on the public record. If they deny my request, then they too individually become personally liable for any ADA lawsuits, which will hold ALL city government officials personally liable for the outcome of your decisions.

Sincerely

A handwritten signature in black ink, appearing to read "Steven Schuyler". The signature is fluid and cursive, written over a white background.

Steven Schuyler 4-9-2026



CONSENT CALENDAR
June 3, 2025

Igor Tregub, Councilmember District 4

Cecilia Lunaparra, Councilmember District 7

To: Honorable Mayor and Members of the City Council

From: Councilmembers Igor Tregub (Author) and Cecilia Lunaparra (Co-Sponsor)

Subject: Referral: Oxford for All

RECOMMENDATION

1. Refer to the City Manager to design and construct a quick-build class IV bicycle facility on the east side of Oxford Street and Fulton Street between Bancroft Way and Hearst Avenue and implement pedestrian safety improvements on the corridor, potentially through quick-build planning and construction methods.
2. Refer \$400,000 to the June budget process (FY26 Mid-Biennial Update) to provide the City of Berkeley Public Works Department with necessary funds to support design, engineering, and construction costs for the project.
3. Refer to the City Manager and to The City/UC/Student Relations “4x6” Committee to explore opportunities to leverage existing and establish new financial partnerships with UC Berkeley on safety projects along Oxford Street and adjacent areas, including the Oxford and Bancroft volleyball courts project and similar initiatives.

POLICY COMMITTEE RECOMMENDATION:

On May 7, 2025, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee adopted the following action:
M/S/C (Humbert/Lunaparra) to send the item to City Council with a positive recommendation¹.

FINANCIAL IMPLICATIONS

\$400,000 in the June budget process (FY26 Mid-Biennial Update)

¹ <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-05-07%20Annotated%20Agenda%20-%20%20Facilities.pdf>

CURRENT SITUATION AND ITS EFFECTS

Oxford and Fulton Streets mark the western boundary of the UC Berkeley campus. The corridor's current configuration reflects antiquated traffic engineering conventions that prioritize vehicular throughput over pedestrian and bicycle safety. Oxford Street serves as the primary pedestrian gateway to the campus from Downtown Berkeley, yet it lacks a distinct ground-level identity.

Just as if not more importantly, the Oxford/Fulton Street corridor is unsafe for many bicyclists, pedestrians, and micro-mobility users, as traffic throughput has been prioritized over safety and comfort.

The outdated current design for Oxford Street/Fulton Street — focused on maximizing car speeds and throughput — is dangerous for all road users, including drivers. On Oxford Street and Fulton Street from Hearst Ave. to Bancroft Way since 2017, there have been 19 total car driver and passenger injuries, including 2 severe injuries; 8 total pedestrian injuries; and 5 total cyclist injuries, including 1 severe injury. Prior to 2017, Shlomo Bentin, a guest lecturer at UC Berkeley, was killed by a truck driver while cycling at Fulton St. and Bancroft Way in 2012.² In 2016, Berkeley resident Megan Schwarzman came minutes from death after being struck by a driver at Fulton St. and Bancroft Way and suffered severe injuries.³

From Bancroft Way to Hearst Avenue., Oxford Street and Fulton Street resemble a suburban arterial with four travel lanes, two parking lanes, and a median with turn lanes at intersections. Cyclists must use Class II bike lanes that put them at risk of getting "doored" if they feel confident enough to ride on Oxford Street, and pedestrians must use narrow sidewalks that do not reflect the significant demand generated by the campus and downtown or the increased demand that will be spurred by future developments. Not only is the current Class II bike lane on Oxford dangerous for getting "doored," but also cars frequently use the southbound bike lane as a temporary parking spot and loading zone for Anchor House, placing users at risk. While the solutions to some of these challenges—including sidewalk widening—may require longer-term projects, there are short-term, quick-build solutions that would significantly improve safety along the Oxford-Fulton corridor.

Improving safety on Oxford Street and Fulton Street is especially important at this moment. In the next decade, many significant developments are planned along the Oxford corridor that could dramatically affect transportation, development, urban design,

² <https://www.berkeleyside.org/2012/07/16/neuroscientist-shlomo-bentin-killed-in-bike-accident>

³ <https://www.berkeleyside.org/2016/02/05/hope-gratitude-after-near-deadly-collision-in-berkeley>

housing, potentially land values/affordability and more! The University of California is planning to redevelop and expand University Hall at Oxford and University and is planning a student housing project at Fulton and Bancroft that will contain an estimated 1625 beds.⁴ Anchor House, between University and Hearst on Oxford has already come online with 772 new beds for transfer students.⁵ Additionally, a 17-story, 283-unit private mixed use development called The Hub will be built at the intersection of Oxford Street and Center Street⁶. Nearby on Hearst Avenue, the entirely new College of Data and Society Gateway building is currently under construction.⁷ Beyond these projects, many substantial projects are planned on adjacent streets. These new developments will spur new transportation demand for safe bicycle and pedestrian infrastructure.

There is a long history of interest in redesigning Oxford Street to better serve all street users. The 2017 Berkeley Bicycle Plan identifies the Oxford-Fulton corridor as an ideal candidate for a Class IV cycle track facility. Oxford serves as a crucial connection between the north and south sides of campus and downtown for people riding bikes. Additionally, Oxford is on the City of Berkeley's High-Injury Network identified in the City's 2019 Vision Zero Action Plan,⁸ meaning that it is one of the small number of streets in the city that account for the most traffic injuries and deaths.

In 2021, UC Berkeley completed an Oxford St./Fulton St. Multimodal Mobility and Urban Design Study, authored by Sasaki and Fehr & Peers⁹. This comprehensive study included data analysis of vehicle, bicycle, and pedestrian counts and the evaluation of many different alternatives. The study identified the need for improved bicycle and pedestrian safety infrastructure on Oxford Street and recommended the construction of a two-way Class IV cycle track on the east side of Oxford Street. Fehr & Peers found that a cycle track on the east side of Oxford Street, as proposed in this referral, would have "minimal impact on vehicular operations" and would not require removing the median.

⁴ <https://capitalstrategies.berkeley.edu/Bancroft-Fulton>

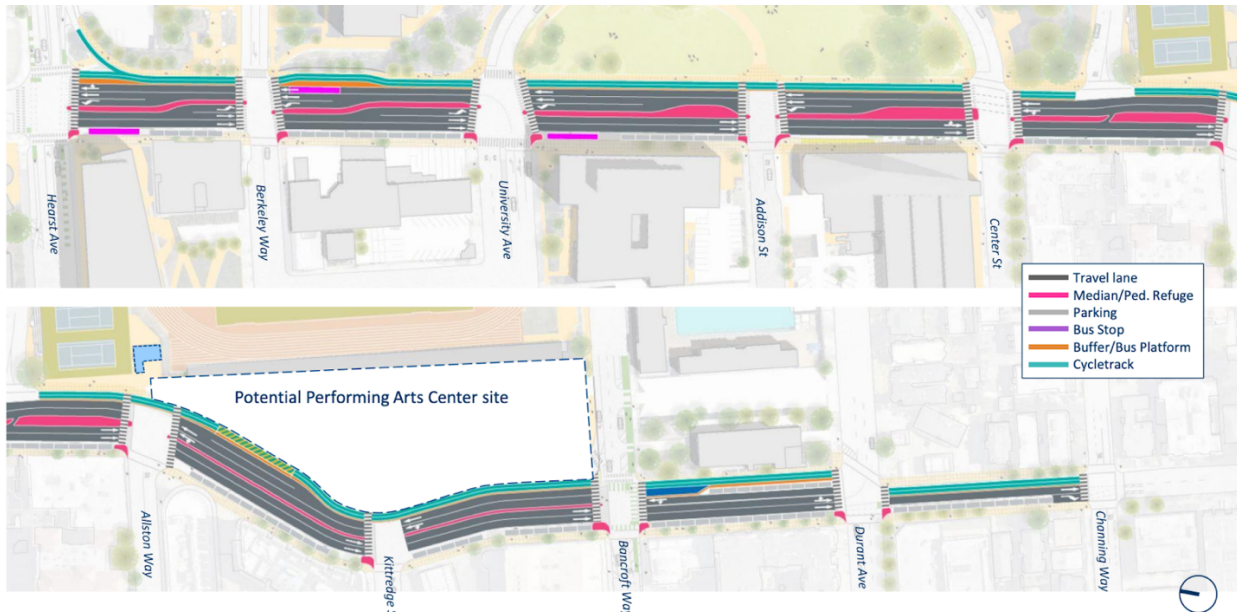
⁵ <https://studenthousingbusiness.com/uc-berkeley-completes-772-bed-residence-hall-for-transfer-students/>

⁶ <https://berkeleyca.gov/sites/default/files/2022-04/4-The-HUB-Applicant-Statement-01-20-22-2128-Oxford.pdf>

⁷ <https://capitalstrategies.berkeley.edu/gateway>

⁸ <https://berkeleyca.gov/sites/default/files/2022-02/Berkeley-Vision-Zero-Action-Plan.pdf>

⁹ http://www.preservenet.com/20211130_OxfordCorridorStudy.pdf



Preferred Alternative from UC Berkeley Oxford St./Fulton St. Multimodal Mobility and Urban Design Study between Hearst Ave. and Channing Way. Construction has been completed for the blocks between Bancroft Way and Channing Way as part of the Southside Complete Streets Project (Fehr & Peers).

In 2023, students in UC Berkeley's Master of City Planning program at the College of Environmental Design studied the existing conditions and needs for safety improvements on Oxford Street as part of an intensive transportation studio. This team reviewed previous plans and documents, collected average pedestrian and bicycle intersection counts, conducted on-site community engagement, and authored a comprehensive 71-page report.¹⁰ Among other recommendations, this report recommended implementing protected bicycle lanes connected to existing facilities and installing traffic calming measures including bollard curb extensions and painted crossings.

¹⁰ <https://ideas.repec.org/p/cdl/itsrrp/qt53g9g83t.html>



*Illustration of what a Class IV bicycle facility on Oxford Street could look like.
Katie Heuser*

On September 12, 2023, City Council approved a referral titled 51B BRT + University/Shattuck Corridor Mobility Improvements,¹¹ that, among other recommendations, included a \$150,000 budget referral to conduct corridor studies — including on Oxford Street and Fulton Street — to identify appropriate road safety improvements that advance city-adopted safety, transportation, and climate goals. While \$150,000 was allocated in the FY 2025 budget,¹² to the best of our knowledge, these funds have not been expended, and no study has commenced.

RATIONALE FOR RECOMMENDATION

This referral builds on prior work and recognizes the urgent need to address traffic safety on Oxford Street with proven infrastructural solutions. In particular, quick-build solutions have become widely utilized to improve traffic safety rapidly at a low cost and could be effective, inexpensive, and quick to implement on the Oxford-Fulton corridor. In fact, quick-build safety improvements were previously successfully implemented on Fulton Street just one block south of this item's project area.

In 2016, Berkeley resident Megan Schwarzman was struck by a driver while riding her bike on Fulton Street just south of Bancroft Way and dragged under a car for 60 feet.

¹¹ [https://berkeleyca.gov/sites/default/files/documents/2023-09-12 Item 29 51B BRT %2B University-Shattuck.pdf](https://berkeleyca.gov/sites/default/files/documents/2023-09-12%20Item%2029%2051B%20BRT%20-%20University-Shattuck.pdf)

¹² [https://berkeleyca.gov/sites/default/files/documents/2024-06-25 Item 53 Fiscal Years 2025 2026 Biennial Budget Adoption - Supp %28Budget%29.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-06-25%20Item%2053%20Fiscal%20Years%202025%20-%202026%20Biennial%20Budget%20Adoption%20-%20Supp%20-%20Budget%29.pdf)

She suffered severe injuries, including “a lacerated liver, collapsed lung, broken ribs, multiple pelvic fractures, a broken collarbone and broken facial bones, along with extreme blood loss” and was minutes from losing her life.¹³

After a significant push by advocates to prevent more traumatic crashes like the one that almost took Megan’s life, the City of Berkeley rapidly approved and built a cycle track from Bancroft Way to Channing Way with only paint and plastic delineators, or flex posts. This quick-build facility was recently removed, as the permanent cycle track constructed with the Southside Complete Streets Project replaced it. While this quick-build improvement was implemented in response to a serious crash that almost took a Berkeleyan’s life, it is in our best interest to identify streets in need of quick-build improvements and prevent future tragedies *before* they occur. We must be proactive, not just reactive.



Before-and-after comparison showing the quick-build bicycle facility constructed on Fulton St. in 2016 (Google Street View).

Quick-build improvements can be implemented without precluding future changes to revise or improve a street’s design and can be built at a low cost and on a quick timeline. While the quick-build bicycle facility constructed on Fulton St. in 2016 is one example, quick-build projects have been implemented across the United States and across the world to great success, especially in the last 10-15 years.¹⁴

While quick-build improvements would be an excellent option for this corridor, this referral in no way intends to preclude staff from planning and constructing more permanent facilities. When planning and designing this project, staff may wish to consult the Transportation and Infrastructure Commission to receive input. Staff should

¹³ <https://www.berkeleyscanner.com/2024/08/06/traffic-safety/berkeley-street-trauma-prevention-program-mike-wilson-meg-schwarzman/>

¹⁴ https://nacto.org/wp-content/uploads/2016PeoplefoBikes_Quick-Builds-for-Better-Streets.pdf

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CONSENT CALENDAR
June 3, 2025

additionally consult with AC Transit regarding AC Transit's current Line 6 terminus on Oxford Street at Addison Street to discuss options to accommodate it in the proposed quick-build design, move it back to its previous location on the 2100 block of Addison St, or otherwise address impacts to this terminus.

ENVIRONMENTAL SUSTAINABILITY

Berkeley's 2019 Greenhouse Gas Inventory found that 60 percent of emissions in the City come from transportation sources, predominantly private vehicles. Building connected, safe active transportation facilities is one of the most effective ways Berkeley can reduce its largest source of greenhouse gas emissions. Oxford St. and Fulton St. next to campus are highly interconnected to other nearby streets that have already received bicycle and pedestrian safety improvements, such as Bancroft Way, Oxford Street, and Fulton Street south of Bancroft Way. Because this project would close a key gap in Berkeley's bicycle network, its impacts in reducing greenhouse gas emissions would be particularly high.

CONTACT PERSON

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