

Jacob, Melinda

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW:

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**From:** Steven Schuyler <tell.stevenj@gmail.com>  
**Sent:** Friday, April 3, 2026 5:38 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>; All Council <council@berkeleyca.gov>  
**Cc:** Klein, Jordan <JKlein@berkeleyca.gov>; Brown, Farimah F. <FBrown@berkeleyca.gov>; Manager, C <CManager@berkeleyca.gov>; Tregub, Igor <ITregub@berkeleyca.gov>; Lunaparra, Cecilia <CLunaparra@berkeleyca.gov>; ADAMailbox <ADA@berkeleyca.gov>; Public Works Sidewalk Program <pwsidewalks@berkeleyca.gov>; transportation <transportation@berkeleyca.gov>; ada.compliance.office@dot.ca.gov  
**Subject:**

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4-3-2026

TO:

- ZAB Chairperson Kimberly Gaffney & Members of the Zoning Adjustments Board: [zab@berkeleyca.gov](mailto:zab@berkeleyca.gov)
- Berkeley City Council (all members): [council@berkeleyca.gov](mailto:council@berkeleyca.gov)

**RE:** ZAB April 9, 2026 – Agenda Item 6-C – Use Permit Modification #ZP2025-0113 – 2128 Oxford Street – URGENT ADA VIOLATIONS: REQUEST TO PULL FROM CONSENT CALENDAR AND IMPOSE ADDITIONAL CONDITIONS

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Dear Chairperson Gaffney, ZAB Members, and Members of the City Council:

I am writing in advance of the April 9, 2026 Zoning Adjustments Board meeting regarding **Agenda Item 6-C, Use Permit Modification #ZP2025-0113**, the proposed modification to the approved 26-story mixed-use development at 2128-30 Oxford Street / 2132-2168 Center Street, applicant Core Berkeley Oxford, LLC of Chicago, IL.

I respectfully request that this item be **pulled from the Consent Calendar** for a full public hearing. While I have serious concerns about the project's financial viability, historic preservation, and tenant displacement — addressed later in this letter — I am writing primarily to place the Board, the City Council, the Director of Planning, and the City Manager on **formal notice of existing and prospective ADA violations on Oxford Street between Center Street and Allston Way** that this project will dramatically and permanently worsen.

The ADA violations I am raising fall into two distinct, independently actionable categories: (1) the City's failure to perform any **program access analysis** of whether the Oxford Street sidewalk will remain

effectively usable by disabled pedestrians at the pedestrian volumes this project generates; and (2) **existing tree well hazards** on this block that violate multiple PROWAG and California Building Code requirements today, before one shovel of dirt is turned. I am also notifying the Board that I have filed or am filing formal complaints with the U.S. Department of Justice, the California Civil Rights Department, and the City of Berkeley's Disability Compliance Program, and have engaged Disability Rights Advocates and the Center for Independent Living regarding these conditions.

The City of Berkeley has an existing, documented, unresolved obligation under ADA Title II to remediate its public rights-of-way. Approving this modification without confronting that obligation is not a neutral act — it is an affirmative decision to make a known problem permanently worse on one of the highest-pedestrian-demand corridors in the East Bay.

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## I. THE PRIMARY VIOLATION: NO PROGRAM ACCESS ANALYSIS HAS BEEN PERFORMED

### A. The Sidewalk Today Is Wide Enough — The Question Is Whether It Will Remain Usable

I want to be precise about the existing physical conditions. The Oxford Street sidewalk on the block between Center Street and Allston Way measures **72 inches (6 feet) at its narrowest point** — at the tree locations — and up to **129 inches in its open sections**. These measurements meet current minimum width standards under PROWAG and the California Building Code.

This fact does not mean there is no ADA problem. It means the ADA problem is one of **effective usability at scale** — a standard that is more demanding than minimum dimensional compliance, and one that the City's approval record for this project has never addressed.

### B. The Governing Legal Standard: ADA Title II Program Access

The minimum width measurements in PROWAG and the California Building Code define a **floor** — the absolute minimum for a sidewalk carrying ordinary pedestrian loads. They do not define what is "sufficient" for a high-volume urban corridor serving a major mixed-use tower. The controlling legal standard is **ADA Title II's Program Access requirement** under 28 CFR §35.150, which mandates:

*"A public entity shall operate each service, program, or activity so that the request, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities."*

The operative word is **usable** — not merely dimensionally compliant in isolation. A 72-inch sidewalk carrying today's pedestrian load is one thing. That same 72-inch sidewalk absorbing the daily pedestrian output of a 433-unit residential tower plus 10,068 square feet of ground-floor commercial space is an entirely different condition — and one that has never been analyzed in any document before this Board.

### C. Pedestrian Level of Service and Effective Usability

Traffic engineers and federal pedestrian planning guidance recognize that sidewalk usability for disabled pedestrians degrades long before a path becomes physically impassable. The Federal Highway Administration's pedestrian planning framework uses **Pedestrian Level of Service (PLOS)** to measure this — at **LOS D, E, and F**, pedestrian flow becomes constrained, passing becomes difficult or impossible, and the unpredictable crowd dynamics of a dense pedestrian stream create conditions that effectively exclude people using wheelchairs, walkers, white canes, or guide dogs.

At those service levels, a disabled pedestrian cannot exercise the same freedom of movement as an able-bodied person — which is precisely what Title II prohibits. The sidewalk does not need to be physically blocked to constitute an ADA barrier. It needs only to be **effectively unusable** by a disabled person who cannot navigate dense, unpredictable foot traffic.

## **D. The Analysis Has Never Been Done — And the City Has No Basis to Approve Without It**

There is no Pedestrian Level of Service analysis in the ZAB staff report for ZP2022-0135. There is none in the proposed conditions for ZP2025-0113. There is no program access evaluation anywhere in the project's approval record examining whether the Oxford Street sidewalk, at the pedestrian volumes this project generates, will remain genuinely and equally usable by disabled pedestrians.

The City Council's own **June 2025 Oxford for All referral** — authored by Councilmembers Tregub and Lunaparra — explicitly found that Oxford Street already has sidewalks that "**do not reflect the significant demand generated by the campus and downtown**" and acknowledged that future developments would **increase pedestrian demand on an already stressed corridor**. Remediation improvements are not scheduled until the **2028 repaving cycle** — meaning for at least two years after this project begins generating demand, there will be no mitigation in place.

Approving this modification without requiring a program access analysis is asking this Board to certify — without any evidentiary basis — that a 72-inch sidewalk will remain effectively usable by disabled pedestrians under conditions the City's own planning documents have already identified as inadequate for the general public.

## **E. The 0-Foot Setback Permanently Forecloses the Only Available Remedy**

If the program access analysis shows — as the City's own documents strongly suggest it would — that the sidewalk is not effectively usable at project-generated volumes, the obvious remedy is widening. The project was granted a **waiver to build with a 0-foot setback on Oxford Street**. Once this building is constructed, widening the east side of the Oxford Street sidewalk on the project frontage is **physically impossible — forever**. Any future remediation must come entirely from the opposite side of Oxford, constrained by vehicle travel lanes.

This Board is being asked to approve a modification that permanently eliminates the primary remediation option for a condition it has never analyzed. That is an extraordinary and irreversible decision that deserves full public scrutiny — not consent calendar treatment.

## II. EXISTING TREE WELL VIOLATIONS: FOUR INDEPENDENT ADA VIOLATIONS TODAY

The second category of violations requires no density analysis. The open, unprotected tree wells on Oxford Street between Center Street and Allston Way violate four separate, independently actionable PROWAG and California Building Code requirements **right now**, under current conditions, regardless of pedestrian volumes.

I note for the record: the sidewalk on this block is 72 to 129 inches wide. The City cannot claim lack of space as a justification for failing to install compliant tree well covers and detectable warning surfaces. There is ample room. The failure is one of maintenance and will, not physical constraint.

### **Violation 1 — Horizontal Opening / Gap (PROWAG R302.6.3):**

Horizontal openings in any accessible route surface shall not allow passage of a sphere larger than **½ inch (13 mm) in diameter**. The open, unprotected dirt tree wells on this block have no gap control whatsoever. Wheelchair caster wheels — typically 4 to 6 inches in diameter — can drop directly into an unprotected tree well, causing the chair to tip forward or become completely stuck. This violation creates a physical entrapment hazard on every pass, on a block that is otherwise wide enough to be fully compliant.

### **Violation 2 — Firm, Stable, and Slip-Resistant Surface (PROWAG R302.7 / CBC §11B-402.1):**

The accessible route must be firm, stable, and slip-resistant along its entire width. Exposed soil around a tree base is none of these — it is soft when wet, crumbling when dry, and unpredictably unstable at its edge. The exposed soil in these tree wells does not meet the firm and stable surface requirement regardless of how wide the surrounding sidewalk is.

### **Violation 3 — No Detectable Warning for Blind Pedestrians (CBC §11B-705 / PROWAG planning guidance):**

A person who is blind or has low vision and uses a white cane — without a guide dog — will receive **zero tactile advance warning** of an open tree well. A cane tip drops silently into soft soil with no resistance, and the person follows. The U.S. Access Board's PROWAG planning guide explicitly states: "*Keep tree grates clear of PAR*" (the Pedestrian Access Route) and requires that hazards adjacent to the accessible route be detectable. There is no detectable warning surface, no edge treatment, no physical barrier, and no tactile indicator on any Oxford Street tree well on this block. For a blind pedestrian without a guide dog, these open wells are invisible traps on a sidewalk that is otherwise generous in width.

### **Violation 4 — Change in Level (PROWAG R302.6.2 / CBC §11B-303):**

Any vertical change in level greater than **¼ inch (6.4 mm)** on an accessible route is a violation. Changes between ¼ inch and ½ inch must be beveled at 1:2. Where soil has settled or where the concrete edge around a tree base has heaved — a near-universal condition on aging urban tree wells — the vertical drop at the concrete-to-soil transition far exceeds ½ inch, requiring a full ramped treatment that does not exist on any tree well on this block.

The remediation for all four violations is straightforward, inexpensive, and well-established: **flush-mounted, load-bearing tree grates with openings no larger than ½ inch diameter, with detectable**

**warning edge treatment.** The Access Board specifically recommends this solution. The sidewalk is wide enough. The only obstacle is the City's failure to require it.

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### III. THE CONSTRUCTION PHASE: COMPOUNDING EXISTING CONDITIONS

Approving this modification triggers a **multi-year, high-rise construction project** on a block where tree well violations already exist and program access has never been analyzed. During construction, Oxford Street between Center and Allston will be the primary pedestrian bypass route. Berkeley Standard Plan §315 requires:

- A **nominal 72-inch pedestrian corridor** during construction, wherever feasible
- An **absolute minimum of 48 inches** at any single point of obstruction
- All signposts, scaffolding supports, and fencing legs **entirely outside the pedestrian path**
- An **80-inch vertical clearance** maintained at all times

On a block where the narrowest point is already 72 inches — at the tree wells — any construction barrier, equipment leg, or temporary signpost placed near a tree reduces the effective clear path immediately. The existing tree well violations become **compounded** by construction activity. There is currently **no Temporary Pedestrian Access Plan on record** in the conditions for ZP2022-0135 or the proposed conditions for ZP2025-0113. This must be corrected before any approval is granted.

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### IV. SECONDARY CONCERNS: PROJECT VIABILITY, CEQA, AND DISPLACEMENT

#### A. A Project That Has Never Penciled Out

The modification is itself evidence of financial distress: three scope changes in five years — 17 stories/285 units (2021), 26 stories/485 units (2022), 456 units approved (2024), 433 units now proposed. The developer pulled demolition permits in September 2025 solely to prevent entitlement lapse under BMC §23.404.060 — no construction has commenced. The project was publicly reported as stalled by October 2025. The project's own planning consultant told CoStar News in June 2025 that steel tariffs had pushed high-rise construction into "the **impossible realm**" and forecast "two to three years" before comparable towers break ground. At least 19 downtown Berkeley projects are currently stalled.

**Request:** Require the applicant to submit an updated pro forma demonstrating financial feasibility before the modification takes effect.

#### B. CEQA and Historic Preservation

The Final EIR (SCH #2023080040, certified September 2024) found demolition of the **Thomas Block** (2132-2168 Center Street, 1904, architect William H. Wharff) to be a **significant and unavoidable adverse impact** under CEQA — the highest level of acknowledged harm. The building is eligible for the National Register of Historic Places, the California Register, and local landmark designation. The Landmarks Preservation Commission took no protective action. The modification reduces VLI affordable units from 34 to 30, raising questions about the 16-unit rent-controlled replacement obligation.

**Request:** Confirm on the record that all MMRP conditions survive the modification unchanged and that the replacement housing obligation for the 16 demolished rent-controlled units is unaffected by the VLI reduction.

## C. Commercial Tenant Displacement

The modification reduces replacement commercial space from 14,961 sq ft to 10,068 sq ft — a 33% reduction from what displaced tenants were told would be available. Storefronts are already boarded up.

**Request:** Require the applicant to confirm in writing the right-of-return terms offered to displaced commercial tenants.

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## V. SPECIFIC CONDITIONS REQUESTED

### ADA / Pedestrian Access (Primary):

1. **Pedestrian Level of Service Analysis:** Require the applicant to commission and submit a PLOS analysis of the Oxford Street sidewalk between Center Street and Allston Way, modeled at projected occupancy at peak hours, demonstrating LOS C or better for disabled pedestrians. If the analysis shows LOS D or worse, require the developer to fund widened pedestrian nodes, passing bays, or equivalent mitigation as a condition of certificate of occupancy.
2. **Tree Well Remediation:** As a condition of building permit issuance, require installation of flush-mounted, load-bearing tree grates with openings no larger than ½ inch diameter on all Oxford Street tree wells on the Center-to-Allston block, with detectable edge warning treatment per CBC §11B-705.
3. **Compliant Temporary Pedestrian Access Plan:** Per Berkeley Standard Plan §315, require submission and approval before demolition permit activation, guaranteeing a continuous minimum 48-inch clear, firm, stable, slip-resistant path at all times during construction, with no construction elements within the pedestrian zone.
4. **Cross-Slope Survey and Correction:** Require survey and correction of any cross-slope exceeding 2% (1:50) along the full Oxford Street sidewalk disturbed by construction.
5. **Formal ADA Finding on 0-Foot Setback:** Require a written Planning Director finding entered into the public record confirming the 0-foot Oxford Street setback was evaluated against the City's ADA Title II program access obligations and the June 2025 Oxford for All referral.
6. **Developer Contribution to Oxford for All Improvements:** Condition the TDM plan on developer funding for Oxford Street pedestrian improvements authorized by the June 2025 City Council referral — advancing 2028-scheduled improvements to before construction begins.

**Other Conditions:**

1. Updated pro forma demonstrating financial feasibility before modification takes effect.
2. On-the-record confirmation that all MMRP conditions and rent-controlled replacement housing obligations survive the modification unchanged.
3. Written confirmation of right-of-return terms offered to displaced commercial tenants.

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The City's own Oxford for All study found this sidewalk already fails to meet the demand placed on it today. The City Council has already ordered a fix — for 2028. This modification, if approved without the conditions above, will add hundreds of residents and commercial visitors to a corridor where program access has never been analyzed, where tree well hazards injure and endanger disabled pedestrians today, and where the 0-foot setback will make east-side widening physically impossible forever. That is not a neutral approval. It is an affirmative decision to permanently worsen a known civil rights obligation on a public right-of-way.

I urge the Board to pull this item from the Consent Calendar, hold a full public hearing, and impose all conditions listed above.

Respectfully submitted,

**Steven Schuyler**

2175 Kittredge Street, #318  
Berkeley, CA 94704

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C: 510-345-345-7866

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**CC:**

- Jordan Klein, Director of Planning & Development: [JKlein@cityofberkeley.info](mailto:JKlein@cityofberkeley.info)
- Farimah Brown, City Attorney: [fbrown@cityofberkeley.info](mailto:fbrown@cityofberkeley.info)
- Joshua Muller, Associate Planner (ZP2025-0113): [JMuller@berkeleyca.gov](mailto:JMuller@berkeleyca.gov)
- Paul Buddenhagen, City Manager: [CManager@berkeleyca.gov](mailto:CManager@berkeleyca.gov)
- Sharon Gong, ZAB Secretary: [zab@berkeleyca.gov](mailto:zab@berkeleyca.gov)
- Councilmember Igor Tregub (Oxford for All Author): [itregub@berkeleyca.gov](mailto:itregub@berkeleyca.gov)
- Councilmember Cecilia Lunaparra (Oxford for All Co-Author): [clunaparra@berkeleyca.gov](mailto:clunaparra@berkeleyca.gov)
- City of Berkeley ADA Coordinator: [ADA@berkeleyca.gov](mailto:ADA@berkeleyca.gov)
- Public Works – Sidewalk Division: [PWSidewalks@berkeleyca.gov](mailto:PWSidewalks@berkeleyca.gov)
- Transportation Division: [transportation@berkeleyca.gov](mailto:transportation@berkeleyca.gov)
- Caltrans District 4 ADA Coordinator: [dot.ca.gov/programs/civil-rights/ada-access-request](https://dot.ca.gov/programs/civil-rights/ada-access-request)

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**Key Supporting References:**

- ZAB Draft Agenda, April 9, 2026 – Item 6-C: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2026-04-09\\_ZAB\\_Agenda\\_Draft.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2026-04-09_ZAB_Agenda_Draft.pdf)
- City of Berkeley Project Page: <https://berkeleyca.gov/construction-development/land-use-development/zoning-projects/2128-oxford-2132-2154-center>
- CEQAnet – EIR SCH #2023080040: <https://ceqanet.lci.ca.gov/2023080040>
- ZAB Staff Report, September 12, 2024: [https://berkeleyca.gov/sites/default/files/documents/2024-09-12\\_ZAB\\_Item%205\\_2128-2130%20Oxford\\_Staff%20Report%20and%20Attachments.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-09-12_ZAB_Item%205_2128-2130%20Oxford_Staff%20Report%20and%20Attachments.pdf)
- DRC Staff Report, July 18, 2024: [https://berkeleyca.gov/sites/default/files/documents/2024-07-18\\_DRC\\_Item%20IV.I\\_2128%20Oxford\\_Staff%20Report%20and%20Attachments.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-07-18_DRC_Item%20IV.I_2128%20Oxford_Staff%20Report%20and%20Attachments.pdf)
- Oxford for All City Council Referral, June 2025: <https://berkeleyca.gov/sites/default/files/documents/2025-06-03%20Item%2024%20Referral%20Oxford%20for%20All.pdf>
- Oxford Street Complete Streets Study (UC Berkeley, 2023): <https://escholarship.org/uc/item/53g9g83t>
- U.S. Access Board – PROWAG Technical Requirements: <https://www.access-board.gov/prowag/technical.html>
- U.S. Access Board – PROWAG Planning & Design for Alterations: <https://www.access-board.gov/files/prowag/planning-and-design-for-alterations.pdf>
- Berkeley Standard Plan §315: <https://berkeleyca.gov/sites/default/files/documents/315%20-%20Pedestrian%20Access%20During%20Construction%20Projects.pdf>
- City of Berkeley ADA Self-Evaluation & Transition Plan: <https://berkeleyca.gov/sites/default/files/documents/City%20of%20Berkeley%20-%20ADA%20Self-Evaluation%20&%20Transition%20Plan.pdf>
- BAHA – Thomas Block History: [http://berkeleyheritage.com/eastbay\\_then-now/thomas\\_block.html](http://berkeleyheritage.com/eastbay_then-now/thomas_block.html)
- CoStar News – "May Not Get Built" (June 2025): <https://www.costar.com/article/1261899566/berkeley-officials-approve-largest-housing-tower-that-may-not-get-built-developers-say>
- SFYIMBY – Demolition Permits Pulled (September 2025): <https://sfyimby.com/2025/09/demolition-permits-for-2128-oxford-street-in-downtown-berkeley.html>
- Disability Rights Advocates – Fisher v. City of Berkeley: <https://dralegal.org/case/fisher-v-city-of-berkeley/>

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!**

**Jacob, Melinda**

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Thank you all for your time, your public service, and your understanding!  
Steven Schuyler

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### **Violation 2 — Firm, Stable, and Slip-Resistant Surface (PROWAG R302.7 / CBC §11B-402.1):**

The accessible route must be firm, stable, and slip-resistant along its entire width. Exposed soil around a tree base is none of these — it is soft when wet, crumbling when dry, and unpredictably unstable at its edge. The exposed soil in these tree wells does not meet the firm and stable surface requirement regardless of how wide the surrounding sidewalk is.

### **Violation 3 — No Detectable Warning for Blind Pedestrians (CBC §11B-705 / PROWAG planning guidance):**

A person who is blind or has low vision and uses a white cane — without a guide dog — will receive **zero tactile advance warning** of an open tree well. A cane tip drops silently into soft soil with no resistance,

and the person follows. The U.S. Access Board's PROWAG planning guide explicitly states: "*Keep tree grates clear of PAR*" (the Pedestrian Access Route) and requires that hazards adjacent to the accessible route be detectable. There is no detectable warning surface, no edge treatment, no physical barrier, and no tactile indicator on any Oxford Street tree well on this block. For a blind pedestrian without a guide dog, these open wells are invisible traps on a sidewalk that is otherwise generous in width.

**Violation 4 — Change in Level (PROWAG R302.6.2 / CBC §11B-303):**

Any vertical change in level greater than **¼ inch (6.4 mm)** on an accessible route is a violation. Changes between ¼ inch and ½ inch must be beveled at 1:2. Where soil has settled or where the concrete edge around a tree base has heaved — a near-universal condition on aging urban tree wells — the vertical drop at the concrete-to-soil transition far exceeds ½ inch, requiring a full ramped treatment that does not exist on any tree well on this block.

The remediation for all four violations is straightforward, inexpensive, and well-established: **flush-mounted, load-bearing tree grates with openings no larger than ½ inch diameter, with detectable warning edge treatment**. The Access Board specifically recommends this solution. The sidewalk is wide enough. The only obstacle is the City's failure to require it.

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### III. THE CONSTRUCTION PHASE: COMPOUNDING EXISTING CONDITIONS

Approving this modification triggers a **multi-year, high-rise construction project** on a block where tree well violations already exist and program access has never been analyzed. During construction, Oxford Street between Center and Allston will be the primary pedestrian bypass route. Berkeley Standard Plan §315 requires:

- A **nominal 72-inch pedestrian corridor** during construction, wherever feasible
- An **absolute minimum of 48 inches** at any single point of obstruction
- All signposts, scaffolding supports, and fencing legs **entirely outside the pedestrian path**
- An **80-inch vertical clearance** maintained at all times

On a block where the narrowest point is already 72 inches — at the tree wells — any construction barrier, equipment leg, or temporary signpost placed near a tree reduces the effective clear path immediately. The existing tree well violations become **compounded** by construction activity. There is currently **no Temporary Pedestrian Access Plan on record** in the conditions for ZP2022-0135 or the proposed conditions for ZP2025-0113. This must be corrected before any approval is granted.

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### IV. SECONDARY CONCERNS: PROJECT VIABILITY, CEQA, AND DISPLACEMENT

#### A. A Project That Has Never Penciled Out

The modification is itself evidence of financial distress: three scope changes in five years — 17 stories/285 units (2021), 26 stories/485 units (2022), 456 units approved (2024), 433 units now proposed. The developer pulled demolition permits in September 2025 solely to prevent entitlement lapse under BMC §23.404.060 — no construction has commenced. The project was publicly reported as stalled by October 2025. The project's own planning consultant told CoStar News in June 2025 that steel tariffs had pushed high-rise construction into "the **impossible realm**" and forecast "two to three years" before comparable towers break ground. At least 19 downtown Berkeley projects are currently stalled.

**Request:** Require the applicant to submit an updated pro forma demonstrating financial feasibility before the modification takes effect.

## B. CEQA and Historic Preservation

The Final EIR (SCH #2023080040, certified September 2024) found demolition of the **Thomas Block** (2132-2168 Center Street, 1904, architect William H. Wharff) to be a **significant and unavoidable adverse impact** under CEQA — the highest level of acknowledged harm. The building is eligible for the National Register of Historic Places, the California Register, and local landmark designation. The Landmarks Preservation Commission took no protective action. The modification reduces VLI affordable units from 34 to 30, raising questions about the 16-unit rent-controlled replacement obligation.

**Request:** Confirm on the record that all MMRP conditions survive the modification unchanged and that the replacement housing obligation for the 16 demolished rent-controlled units is unaffected by the VLI reduction.

## C. Commercial Tenant Displacement

The modification reduces replacement commercial space from 14,961 sq ft to 10,068 sq ft — a 33% reduction from what displaced tenants were told would be available. Storefronts are already boarded up.

**Request:** Require the applicant to confirm in writing the right-of-return terms offered to displaced commercial tenants.

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## V. SPECIFIC CONDITIONS REQUESTED

### ADA / Pedestrian Access (Primary):

1. **Pedestrian Level of Service Analysis:** Require the applicant to commission and submit a PLOS analysis of the Oxford Street sidewalk between Center Street and Allston Way, modeled at projected occupancy at peak hours, demonstrating LOS C or better for disabled pedestrians. If the analysis shows LOS D or worse, require the developer to fund widened pedestrian nodes, passing bays, or equivalent mitigation as a condition of certificate of occupancy.
2. **Tree Well Remediation:** As a condition of building permit issuance, require installation of flush-mounted, load-bearing tree grates with openings no larger than ½ inch diameter on all Oxford

Street tree wells on the Center-to-Allston block, with detectable edge warning treatment per CBC §11B-705.

3. **Compliant Temporary Pedestrian Access Plan:** Per Berkeley Standard Plan §315, require submission and approval before demolition permit activation, guaranteeing a continuous minimum 48-inch clear, firm, stable, slip-resistant path at all times during construction, with no construction elements within the pedestrian zone.
4. **Cross-Slope Survey and Correction:** Require survey and correction of any cross-slope exceeding 2% (1:50) along the full Oxford Street sidewalk disturbed by construction.
5. **Formal ADA Finding on 0-Foot Setback:** Require a written Planning Director finding entered into the public record confirming the 0-foot Oxford Street setback was evaluated against the City's ADA Title II program access obligations and the June 2025 Oxford for All referral.
6. **Developer Contribution to Oxford for All Improvements:** Condition the TDM plan on developer funding for Oxford Street pedestrian improvements authorized by the June 2025 City Council referral — advancing 2028-scheduled improvements to before construction begins.

**Other Conditions:**

1. Updated pro forma demonstrating financial feasibility before modification takes effect.
2. On-the-record confirmation that all MMRP conditions and rent-controlled replacement housing obligations survive the modification unchanged.
3. Written confirmation of right-of-return terms offered to displaced commercial tenants.

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The City's own Oxford for All study found this sidewalk already fails to meet the demand placed on it today. The City Council has already ordered a fix — for 2028. This modification, if approved without the conditions above, will add hundreds of residents and commercial visitors to a corridor where program access has never been analyzed, where tree well hazards injure and endanger disabled pedestrians today, and where the 0-foot setback will make east-side widening physically impossible forever. That is not a neutral approval. It is an affirmative decision to permanently worsen a known civil rights obligation on a public right-of-way.

I urge the Board to pull this item from the Consent Calendar, hold a full public hearing, and impose all conditions listed above.

Respectfully submitted,

**Steven Schuyler**  
2175 Kittredge Street, #318  
Berkeley, CA 94704

E: [tell.stevenj@gmail.com](mailto:tell.stevenj@gmail.com)  
C: 510-345-345-7866

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**CC:**

- Jordan Klein, Director of Planning & Development: [JKlein@cityofberkeley.info](mailto:JKlein@cityofberkeley.info)
- Farimah Brown, City Attorney: [fbrown@cityofberkeley.info](mailto:fbrown@cityofberkeley.info)
- Joshua Muller, Associate Planner (ZP2025-0113): [JMuller@berkeleyca.gov](mailto:JMuller@berkeleyca.gov)
- Paul Buddenhagen, City Manager: [CManager@berkeleyca.gov](mailto:CManager@berkeleyca.gov)
- Sharon Gong, ZAB Secretary: [zab@berkeleyca.gov](mailto:zab@berkeleyca.gov)
- Councilmember Igor Tregub (Oxford for All Author): [itregub@berkeleyca.gov](mailto:itregub@berkeleyca.gov)
- Councilmember Cecilia Lunaparra (Oxford for All Co-Author): [clunaparra@berkeleyca.gov](mailto:clunaparra@berkeleyca.gov)
- City of Berkeley ADA Coordinator: [ADA@berkeleyca.gov](mailto:ADA@berkeleyca.gov)
- Public Works – Sidewalk Division: [PWSidewalks@berkeleyca.gov](mailto:PWSidewalks@berkeleyca.gov)
- Transportation Division: [transportation@berkeleyca.gov](mailto:transportation@berkeleyca.gov)
- Caltrans District 4 ADA Coordinator: [dot.ca.gov/programs/civil-rights/ada-access-request](https://dot.ca.gov/programs/civil-rights/ada-access-request)

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### Key Supporting References:

- ZAB Draft Agenda, April 9, 2026 – Item 6-C: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2026-04-09\\_ZAB\\_Agenda\\_Draft.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2026-04-09_ZAB_Agenda_Draft.pdf)
- City of Berkeley Project Page: <https://berkeleyca.gov/construction-development/land-use-development/zoning-projects/2128-oxford-2132-2154-center>
- CEQAnet – EIR SCH #2023080040: <https://ceqanet.lci.ca.gov/2023080040>
- ZAB Staff Report, September 12, 2024: [https://berkeleyca.gov/sites/default/files/documents/2024-09-12\\_ZAB\\_Item%205\\_2128-2130%20Oxford\\_Staff%20Report%20and%20Attachments.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-09-12_ZAB_Item%205_2128-2130%20Oxford_Staff%20Report%20and%20Attachments.pdf)
- DRC Staff Report, July 18, 2024: [https://berkeleyca.gov/sites/default/files/documents/2024-07-18\\_DRC\\_Item%20IV.I\\_2128%20Oxford\\_Staff%20Report%20and%20Attachments.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-07-18_DRC_Item%20IV.I_2128%20Oxford_Staff%20Report%20and%20Attachments.pdf)
- Oxford for All City Council Referral, June 2025: <https://berkeleyca.gov/sites/default/files/documents/2025-06-03%20Item%2024%20Referral%20Oxford%20for%20All.pdf>
- Oxford Street Complete Streets Study (UC Berkeley, 2023): <https://escholarship.org/uc/item/53g9g83t>
- U.S. Access Board – PROWAG Technical Requirements: <https://www.access-board.gov/prowag/technical.html>
- U.S. Access Board – PROWAG Planning & Design for Alterations: <https://www.access-board.gov/files/prowag/planning-and-design-for-alterations.pdf>
- Berkeley Standard Plan §315: <https://berkeleyca.gov/sites/default/files/documents/315%20-%20Pedestrian%20Access%20During%20Construction%20Projects.pdf>
- City of Berkeley ADA Self-Evaluation & Transition Plan: <https://berkeleyca.gov/sites/default/files/documents/City%20of%20Berkeley%20-%20ADA%20Self-Evaluation%20&%20Transition%20Plan.pdf>
- BAHA – Thomas Block History: [http://berkeleyheritage.com/eastbay\\_then-now/thomas\\_block.html](http://berkeleyheritage.com/eastbay_then-now/thomas_block.html)
- CoStar News – "May Not Get Built" (June 2025): <https://www.costar.com/article/1261899566/berkeley-officials-approve-largest-housing-tower-that-may-not-get-built-developers-say>
- SFYIMBY – Demolition Permits Pulled (September 2025): <https://sfyimby.com/2025/09/demolition-permits-for-2128-oxford-street-in-downtown-berkeley.html>

- Disability Rights Advocates – Fisher v. City of Berkeley: <https://dralegal.org/case/fisher-v-city-of-berkeley/>

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!**

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: PICTURES-formal submission for the public record-RE: 2128 Oxford Street ADA Complaint  
**Attachments:** PICUTES-Suppliment-2128 Oxford Street.pdf

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**From:** Steven Schuyler <tell.stevenj@gmail.com>  
**Sent:** Saturday, April 4, 2026 10:24 AM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>  
**Cc:** Klein, Jordan <JKlein@berkeleyca.gov>; Brown, Farimah F. <FBrown@berkeleyca.gov>; ADAMailbox <ADA@berkeleyca.gov>; Manager, C <CManager@berkeleyca.gov>  
**Subject:** PICTURES-formal submission for the public record-RE: 2128 Oxford Street ADA Complaint

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4-4-2026

Hi:

I want to also formally submit these pictures of the sidewalk between Oxford Ln and Alson Way. This area is already problematic, but it will be severely impacted if the building at 2128 Oxford Street is constructed, unless the city takes drastic action to mitigate this sidewalk portion.

Steven Schuyler

Words I live by:

**Every moment of your life, always do what is in your best interest**  
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**Relationships with customers last a lifetime; transactions are only temporary!**

These pictures are of the trees on the sidewalk on Oxford Street between Oxford Lane and Alston Way. As you can see, the tree wells are open with no covers and regardless of technical compliance of ADA measurements of the sidewalks, disabled people especially blind people either with or without guide dogs as well as those in wheelchairs can very easily get stuck or injured by stepping into these wells which if not mitigated can expose the city to litigation by anyone who gets injured at any one of these tree wells.

In addition, aside from technical compliance with ADA measurements, when there are large crowds of people, at some point, 'reasonable usability' becomes an issue.









This picture shows just around the corner of Alston Way and you can clearly see that despite ADA measurement compliance, that does not account for a high-rise building being put at or very near a sidewalk of this narrow size!



Jacob, Melinda

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: URGENT ADDENDUM: ZAB April 9 – Agenda Item 6-C (2128 Oxford Street) – Unpermitted Sidewalk Obstructions at 72-Inch Bottleneck

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**From:** Steven Schuyler <tell.stevenj@gmail.com>  
**Sent:** Monday, April 6, 2026 3:05 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>  
**Subject:** URGENT ADDENDUM: ZAB April 9 – Agenda Item 6-C (2128 Oxford Street) – Unpermitted Sidewalk Obstructions at 72-Inch Bottleneck

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4-6-2026

4-6-2026

Dear Chairperson Gaffney, ZAB Members, and Members of the City Council:

I am submitting this urgent formal addendum to my April 3 Notice of ADA Violations and my April 4 photographic supplement regarding the 2128 Oxford Street project.

Today, April 6, I spoke directly with Associate Planner Joshua Muller regarding the current status of Use Permit Modification #ZP2025-0113 and the physical conditions on the Oxford Street frontage. Mr. Muller confirmed two critical facts that make approving this project on the consent calendar legally indefensible:

- 1. The 0-Foot Setback Remains:** The project still seeks a 0-foot setback, which, as previously noted, permanently forecloses the ability to widen this sidewalk to remediate the existing, documented lack of capacity.
  - 2. The City is Failing to Enforce the Existing Right-of-Way Against an Illegal Encroachment:** The newly opened bar (East Bay Spice) at 2142 Oxford Street—the dead center of the Oxford Street block between Allston Way and Oxford Lane—is operating an operable storefront window and an exterior protruding ledge, and placing patron seating directly in the public right-of-way. **Mr. Muller confirmed today that while the bar requested an encroachment permit, they did not wait for approval. They went ahead and built the outside ledge and began placing stools on the sidewalk anyway, prior to receiving any authorization. Therefore, both the construction of the outside ledge and the use of the stools are currently illegal.**
- Furthermore, during my visit, Mr. Muller, another planning associate, and I collectively observed an image on Google Maps together of the bar with the stools in place, verifying this unpermitted barrier.

Because the bar requested an encroachment permit but blatantly disregarded the City's authority by building the ledge and operating the seating area without waiting for approval, and because this illegal encroachment creates a severe ADA bottleneck in a 72-inch corridor that will cause massive accessibility failures once the 26-story building is built, **the pending encroachment permit for the stools and ledge must be denied.**

The City is currently allowing an illegal, unapproved architectural feature and commercial operation to effectively block the narrowest 72-inch choke point of this sidewalk, sitting immediately adjacent to the open, hazardous dirt tree wells. As clearly visible in the photographic evidence I already submitted to this Board on Saturday, April 4 (showing the brick facade, black-framed operable window, and protruding ledge), the City is failing to enforce its own codes to clear an unpermitted barrier today.

Under ADA Title II, the City has an affirmative obligation to maintain accessible routes. Approving a 26-story tower that will force thousands of new pedestrians into a bottleneck that the City is actively failing to manage is an intentional, knowing violation of Title II Program Access requirements.

I reiterate my demand that this item be pulled from the consent calendar, that the City deny the bar's pending encroachment permit and immediately enforce the right-of-way at this location, and that no approval be granted for the tower modification without a Pedestrian Level of Service (PLOS) analysis and mandatory, load-bearing tree grates for the entire block.

Respectfully,  
-Steven Schuyler

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**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: URGENT: 3rd Addendum – Photographic Evidence of Active ADA Violations – Pull Item 6-C (2128 Oxford St) from Consent Calendar  
**Attachments:** 3rd Addendum-2128 Oxford Street.pdf

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**From:** Steven Schuyler <tell.stevenj@gmail.com>  
**Sent:** Tuesday, April 7, 2026 4:26 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>  
**Cc:** All Council <council@berkeleyca.gov>; Klein, Jordan <JKlein@berkeleyca.gov>; Muller, Joshua <JMuller@berkeleyca.gov>; Brown, Farimah F. <FBrown@berkeleyca.gov>; Manager, C <CManager@berkeleyca.gov>; ADAMailbox <ADA@berkeleyca.gov>; Public Works Sidewalk Program <pwsidewalks@berkeleyca.gov>; transportation <transportation@berkeleyca.gov>; ada.compliance.office@dot.ca.gov  
**Subject:** URGENT: 3rd Addendum – Photographic Evidence of Active ADA Violations – Pull Item 6-C (2128 Oxford St) from Consent Calendar

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4-7-2026

**To:** Chairperson Gaffney, Members of the Zoning Adjustments Board, and Berkeley City Council  
**CC:** Jordan Klein (Director of Planning), Joshua Muller (Associate Planner), Farimah Brown (City Attorney), Paul Buddenhagen (City Manager), City of Berkeley ADA Coordinator, Public Works, Transportation Division

**Dear Chairperson Gaffney, ZAB Members, and City Officials:**

Please find attached my 3rd Addendum – Photographic Evidence regarding Agenda Item 6-C (Use Permit Modification #ZP2025-0113 for 2128 Oxford Street). I am submitting this before the 5:00 PM deadline today, April 7, 2026, and legally require it to be bound into Supplemental Communications #1 for the April 9 public hearing.

During the original approval process, the project's architect, Janet Tam, explicitly claimed to the Board, "We are confident the sidewalks can handle the load". The attached 39-exhibit photographic record proves this claim to be factually and dangerously false.

The attached visual evidence establishes two undeniable pillars of systemic, block-wide ADA Title II failure along the exact perimeter where this developer is requesting a permanent 0-foot setback waiver:

**1. Urban Bottlenecks (Oxford Street Frontage)** The pedestrian right-of-way along Oxford Street is physically choked to as narrow as 68 inches, failing the City's own 72-inch minimum nominal corridor standard. This path is permanently constrained

by massive concrete municipal planters and dynamic, unpermitted commercial encroachments. Approving a 0-foot setback waiver permanently locks this unmitigable bottleneck in place. The City cannot safely funnel thousands of new daily pedestrian trips from this 433-unit tower—plus the cumulative overflow from other adjacent high-rises—through a path that is already failing.

**2. Infrastructure Integrity (Center Street Frontage)** While the physical width of the Center Street sidewalk is greater, the attached evidence proves that adequate width means nothing when the City has abandoned the maintenance of the walking surface. The Center Street perimeter is an active tripping and entrapment hazard zone. The photographs document:

- **Active Surface Decay:** Missing, broken, and completely misaligned heavy metal tree grates leaving massive gaps of sunken, exposed dirt directly adjacent to the travel path.
- **Code Violations:** Deep concrete fissures, actively crumbling curbs, and deteriorating "5x5" asphalt trench patches creating jagged, unramped vertical lips that vastly exceed the maximum allowable ¼-inch limit.

These hazards blatantly violate the strict Change in Level limitations of PROWAG R302.6.2 and California Building Code Section 11B-303, as well as the fundamental requirement that an accessible route be "firm, stable, and slip-resistant" (PROWAG R302.7 and CBC Section 11B-402.1).

**Proof of Willful Municipal Neglect** As documented in the attached Exhibits, the City has installed expensive, heavy green metal decorative bollards directly next to unprotected, actively failing tree wells. This proves the City has the resources to install heavy infrastructure on this block, but deliberately chooses to ignore its ADA civil rights obligations to maintain compliant pedestrian grating.

**Demand for Action:** I formally request that Agenda Item 6-C be pulled from the Consent Calendar for a full public hearing. Approving a 433-unit high-rise on a perimeter that is actively violating federal and state civil rights codes—without first mandating a comprehensive Pedestrian Level of Service (PLOS) analysis, a Cumulative Impact Assessment, and full perimeter surface remediation—is a deliberate dereliction of the City's ADA Title II obligations and exposes the City to undeniable liability.

Please confirm receipt of this email and its inclusion in Supplemental Communications #1.

Respectfully submitted,  
Steven Schuyler 2175 Kittredge Street, #318 Berkeley, CA 94704 E:  
[tell.stevenj@gmail.com](mailto:tell.stevenj@gmail.com)

Words I live by:

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2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibit 1: Northbound view of Oxford Street starting at Oxford Lane, heading towards Center Street directly along the proposed 2128 Oxford Street job site frontage. Permanent concrete structures and municipal infrastructure already severely constrict this baseline pedestrian right-of-way. Furthermore, the blue rolling bin currently resting in the street illustrates the constant threat of unpredictable, dynamic urban obstacles. If placed on the sidewalk—as these bins routinely are—it instantly chokes the path below the legal minimum for a wheelchair. This image proves why granting a permanent 0-foot setback directly along this specific frontage, without first conducting a Pedestrian Level of Service (PLOS) analysis, is legally indefensible.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



**Exhibits 2 and 3:** Close-up views of the first tree well heading north along the proposed 2128 Oxford Street job site frontage. I physically measured the distance between this specific tree well and the existing building's 0-foot setback, and it is a mere 68 inches. This is narrower than the 72-inch nominal corridor required during construction under Berkeley Standard Plan §315. Approving Use Permit Modification #ZP2025-0113 with a permanent 0-foot setback eliminates the City's ability to ever widen this failing 68-inch choke point.

Furthermore, these images document severe, active hazards within this narrow path. The heavy metal grate is improperly fitted and severely lifted above the concrete, creating a sheer vertical lip that directly violates the "Change in Level" restrictions of PROWAG R302.6.2 and California Building Code (CBC) §11B-303 (which strictly prohibit unramped vertical shifts exceeding  $\frac{1}{4}$  inch). Additionally, the missing grate section exposes a patch of grass and dirt directly adjacent to the walking path, violating the requirement for a "firm, stable, and slip-resistant" surface under CBC §11B-402.1. This creates a severe tripping and tipping hazard for wheelchair users and blind pedestrians forced to navigate this exact 68-inch bottleneck.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibit 4: Northbound view directly along the existing building at 2128 Oxford Street (the exact site of the proposed 26-story tower). The pedestrian path here is choked by a massive, permanent concrete seating structure and heavy municipal hardscape that juts deep into the right-of-way, forcing pedestrians into a dangerously narrow channel against the building line. Approving a 0-foot setback waiver for the new tower permanently locks this unmitigable bottleneck in place. It is physically impossible to safely funnel thousands of new pedestrian trips through this severely compromised corridor without first conducting a comprehensive Pedestrian Level of Service (PLOS) analysis."

"Exhibit 5: Close-up of the tree well located directly adjacent to the concrete barrier in Exhibit 4. The heavy metal grate is severely lifted above the surrounding concrete, creating a sheer, unramped vertical lip that blatantly violates the 'Change in Level' restrictions of PROWAG R302.6.2 and California Building Code (CBC) §11B-303 (which prohibit unramped vertical shifts exceeding ¼ inch). Furthermore, half of the tree well is left as exposed grass and soil, failing the requirement for a 'firm, stable, and slip-resistant' accessible route (CBC §11B-402.1). In a tight choke point where wheelchair users have no room to maneuver around obstacles, this raised metal lip acts as a direct, unavoidable tripping and tipping trap.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibits 6 and 7: Northbound view and close-up of the final tree well on the proposed 2128 Oxford Street job site frontage, located exactly at the Center Street intersection. While a metal grate is technically present here, it is severely overgrown with thick weeds and accumulated trash, demonstrating the City's systemic failure to maintain its existing pedestrian infrastructure. Allowing this path to degrade into an unkempt catch-basin directly violates the requirement to maintain a 'firm, stable, and slip-resistant' accessible route (PROWAG R302.7 and CBC §11B-402.1). If the City cannot manage basic ADA maintenance on the existing frontage today, it is legally unjustifiable to grant a permanent 0-foot setback that locks in these physical constraints while dumping hundreds of new pedestrian trips into this already neglected corridor.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibits 8 and 9: Wide view and close-up of the severe curb degradation directly along the proposed 2128 Oxford Street job site. As clearly visible, the yellow-painted curb edge is actively crumbling, deeply cracked, and features a massive, unramped vertical drop-off that vastly exceeds the maximum allowable ¼-inch change in level dictated by PROWAG R302.6.2 and California Building Code (CBC) §11B-303. Furthermore, the broken concrete and encroaching weeds destroy the integrity of the path, directly violating the requirement for a 'firm, stable, and slip-resistant' surface (CBC §11B-402.1). This hazardous, crumbling edge presents a severe and immediate danger to wheelchair users and blind pedestrians navigating this perimeter. Relying on this actively failing municipal infrastructure to safely absorb thousands of new daily pedestrian trips from a 26-story tower—without first conducting a Pedestrian Level of Service (PLOS) analysis and mandating comprehensive repairs—is a blatant dereliction of the City's ADA Title II obligations.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibits 10 and 11: Ground-level and overhead top-down views of the degraded right-of-way continuing along the project's perimeter. Exhibit 11, taken from directly above, explicitly captures the severity of a massive, debris-filled fissure where the concrete sections have completely separated. This deep, unmitigated gap creates a hazardous trap for wheelchair casters and white canes, blatantly violating the fundamental ADA Title II requirement for a 'firm, stable, and slip-resistant' accessible route (PROWAG R302.7 and California Building Code §11B-402.1). Dumping hundreds of new daily pedestrian trips directly onto this actively failing municipal hardscape—without first requiring a comprehensive Pedestrian Level of Service (PLOS) analysis and full infrastructure replacement—is legally indefensible.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



**Exhibit 12: Southbound view along the Oxford Street frontage of the proposed development site, looking back toward the southern half of the block (the direction of the bar). The pedestrian path here is severely choked by a massive, permanent concrete municipal structure (labeled 'Public Parklet'), which forces pedestrians into an extremely narrow channel against the property line. Granting the developer a permanent 0-foot setback waiver completely eliminates the City's ability to ever widen the sidewalk around this unyielding concrete obstacle, actively funneling thousands of new pedestrian trips directly into the downstream 72-inch bottlenecks."**

**Exhibit 13: Close-up of the tree well shown in Exhibit 12. The heavy metal grate is completely dislodged, askew, and lifted out of its frame, creating a massive, sheer vertical lip that blatantly violates the 'Change in Level' restrictions of PROWAG R302.6.2 and California Building Code (CBC) §11B-303 (which strictly prohibit unramped vertical shifts exceeding ¼ inch). Combined with the exposed dirt and severe concrete fissures, this neglected municipal infrastructure acts as a direct, unavoidable tripping and tipping trap precisely at the narrowest point of the corridor.**

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibit 14: Close-up of the Oxford Street pedestrian corridor documenting severe structural failure of the concrete path. The concrete slabs have separated into deep, wide, debris-filled fissures. This structural decay blatantly violates the fundamental ADA Title II requirement that accessible routes be firm, stable, and slip-resistant (PROWAG R302.7 and California Building Code Section 11B-402.1). Unmitigated gaps of this width pose an immediate entrapment hazard for wheelchair caster wheels and blind pedestrians navigating with white canes.

2128 Oxford Street -Supplemental Submission-Photographic Evidence  
Steven Schuyler



Exhibit 15: Northbound view along the Oxford Street corridor approaching the Center Street intersection and crosswalk. The pedestrian right-of-way is heavily congested with fixed municipal infrastructure, including a large trash receptacle, a fire hydrant, bike racks, and an open tree well. The City's failure to maintain safe, clear, and compliant surfaces on the existing block proves that dumping hundreds of new daily pedestrian trips from a 433-unit tower into this exact corridor—without mandating comprehensive infrastructure replacement and a Pedestrian Level of Service (PLOS) analysis—is legally unjustifiable.

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**Exhibit 18:** Close-up of another severely degraded tree well along the Center Street frontage of the proposed 2128 Oxford Street development. While the overall sidewalk width on Center Street is generally wider than on Oxford Street, these open, unprotected tree wells remain a direct and actionable ADA violation. The metal grate is missing or improperly fitted, leaving a large area of exposed, unstable dirt. This directly violates the requirement for a firm, stable, and slip-resistant accessible route (PROWAG R302.7 and California Building Code Section 11B-402.1). Regardless of sidewalk width, this neglected infrastructure creates a severe tripping, tipping, and entrapment hazard for blind pedestrians and wheelchair users.

**Exhibit 19:** Wide view along Center Street, looking across toward the BAMPFA building, showing the context of the degraded tree well in Exhibit 18. Although this specific pedestrian path does not suffer from the extreme 68-inch and 72-inch physical choke points found on Oxford Street, the consistent pattern of broken, missing, and unmaintained tree grates proves the City's ongoing failure to provide safe, ADA-compliant pedestrian infrastructure. The developer proposes to funnel hundreds of new daily pedestrian trips around this corner. Approving Use Permit Modification #ZP2025-0113 without mandating comprehensive tree well remediation—specifically requiring flush-mounted, load-bearing grates along this entire perimeter—leaves these active hazards in place and exposes the City to deliberate civil rights liability.

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Exhibit 20: Close-up of another severely degraded tree well continuing along the Center Street pedestrian corridor. The municipal infrastructure is actively failing, with the metal grate only partially covering the well and leaving a large section of exposed, unstable dirt directly adjacent to the walking path. This ongoing neglect violates the fundamental ADA Title II requirement that accessible routes must be firm, stable, and slip-resistant (PROWAG R302.7 and California Building Code Section 11B-402.1). Allowing this basic infrastructure to decay into an active tripping and entrapment hazard visually demonstrates that the City is currently failing to maintain safe program access on this block today. Dumping thousands of new daily pedestrian trips from a 433-unit tower into this environment without first mandating comprehensive, block-wide tree well remediation is legally indefensible.

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Exhibits 21 and 22: Continuing westbound along the Center Street frontage of the proposed 2128 Oxford Street development. These images provide further undeniable evidence of a systemic, block-wide failure to maintain basic ADA compliance along the project's perimeter. The tree wells here continue to exhibit missing, degraded, or improperly fitted metal grates, exposing unramped vertical lips and unstable dirt right at the edge of the pedestrian travel path. This persistent decay directly violates the firm, stable, and slip-resistant surface requirements of PROWAG R302.7 and California Building Code Section 11B-402.1. The City cannot legally grant a Use Permit Modification for a massive 433-unit high-rise without mandating a comprehensive perimeter remediation plan—specifically requiring flush-mounted, load-bearing grates for every tree well—to resolve these active, documented civil rights violations.

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Exhibits 23 and 24: Wide view and close-up of a grated tree well located along the pedestrian corridor. While the City has installed a flush-mounted metal grate here—visually proving they possess the exact physical hardware required to maintain a compliant surface—they have allowed it to fall into severe disrepair. As explicitly detailed in Exhibit 24, the grate is actively degrading, and the inner protective rings are broken or missing entirely, creating a hazardous, unmitigated gap. This proves that the City’s ADA Title II failures are both systemic and willful; even when the correct infrastructure is installed, the City refuses to maintain it in a firm, stable, and slip-resistant condition (PROWAG R302.7 and California Building Code Section 11B-402.1). Approving a 433-unit high-rise without mandating strict, block-wide infrastructure replacement and ongoing maintenance is legally indefensible.

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Exhibits 25 and 26: Continuing along the Center Street pedestrian corridor, these images document yet another actively failing tree grate. This specific hazard is geographically undeniable and well-known to City officials, as it is located precisely at the prominent silver construction plate and asphalt patchwork. While the outer frame of the metal grate is present, the inner sections are severely degraded or missing entirely, exposing a wide, uneven dirt gap directly adjacent to the walking path. This creates an unramped vertical lip and an unstable surface that blatantly violates the firm, stable, and slip-resistant requirements of PROWAG R302.7 and California Building Code Section 11B-402.1. This repeating, inescapable pattern of broken and neglected municipal infrastructure proves that the entire perimeter of the proposed 2128 Oxford Street development is an active ADA hazard zone. The City is currently failing to manage the existing pedestrian right-of-way and cannot legally absorb hundreds of new daily pedestrian trips without first mandating a comprehensive Pedestrian Level of Service (PLOS) analysis and full infrastructure remediation.

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Exhibit 27: Wide view continuing along the Center Street pedestrian corridor of the proposed 2128 Oxford Street development. While this specific frontage benefits from a wider overall sidewalk than Oxford Street, this image provides critical context for the City's systemic failure to maintain the actual walking surface. Rather than a lack of physical space, the ADA violations here stem from severe, ongoing infrastructure neglect. The City has allowed the walking surfaces and tree wells to actively decay, proving that adequate sidewalk width means nothing if the surface itself is hazardous and non-compliant.

Exhibit 28: Close-up of the tree well shown in Exhibit 27. Even where the City has attempted to install a metal grate, the hardware is improperly sized and fails to safely cover the opening. A large section of exposed, uneven dirt remains entirely unprotected around the base of the tree, creating an immediate tripping and entrapment hazard right at the edge of the travel path. Regardless of the surrounding sidewalk width, this ongoing failure to maintain a continuous, firm, stable, and slip-resistant surface blatantly violates PROWAG R302.7 and California Building Code Section 11B-402.1. The City cannot legally justify adding hundreds of new daily pedestrian trips to this perimeter without mandating a full, block-wide remediation of these active surface hazards.

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Exhibit 29: Wide view looking along the Center Street pedestrian corridor. This image further demonstrates that while the physical width of this specific sidewalk is adequate, the City has completely abandoned the maintenance of the actual walking surface

The continuous, visible presence of degraded municipal infrastructure proves that adequate sidewalk width means nothing if the surface itself is hazardous. Adding hundreds of new daily pedestrian trips to this perimeter is unsafe and legally indefensible until a comprehensive surface remediation plan is mandated

Exhibit 30: Close-up of the actively failing tree grate shown in Exhibit 29. The heavy metal grate sections are completely misaligned and fail to interlock, creating a severe, unramped vertical lip directly adjacent to the pedestrian travel path

Additionally, the inner protective sections are entirely missing, exposing a hazardous dirt gap around the tree base

This structural decay blatantly violates the strict Change in Level limitations of PROWAG R302.6.2 and California Building Code Section 11B-303, which strictly prohibit unramped vertical shifts exceeding  $\frac{1}{4}$  inch. Furthermore, it violates the fundamental requirement for a firm, stable, and slip-resistant surface (PROWAG R302.7 and CBC Section 11B-402.1). The City has allowed this heavy metal hardware to become a direct, unmitigated tripping trap.

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Exhibit 32: Wide view continuing along the Center Street pedestrian corridor. This image captures two green municipal bollards installed directly next to a severely neglected tree well. While the City clearly has the resources to install these heavy metal bollards, it has simultaneously failed to maintain or install the necessary metal grating to cover the exposed dirt at the tree base. This visual evidence proves that the failure of infrastructure integrity on this block is a result of deliberate municipal neglect. The City is actively prioritizing other installations while ignoring its ADA Title II obligations to maintain a firm, stable, and slip-resistant pedestrian surface, making the approval of a massive 433-unit tower without mandatory perimeter remediation legally unjustifiable.

Exhibit 33: Close-up of the tree well and metal grate shown in Exhibit 32. The heavy metal grate abruptly ends, leaving a massive, unmitigated gap of exposed dirt around the tree trunk. The sudden transition from the metal grate to the sunken dirt creates a severe, unramped vertical drop-off that blatantly violates the strict Change in Level limitations of PROWAG R302.6.2 and California Building Code Section 11B-303. Furthermore, the exposed, unstable soil completely fails the fundamental ADA requirement that an accessible route be firm, stable, and slip-resistant (PROWAG R302.7 and CBC Section 11B-402.1). Forcing disabled pedestrians to navigate next to these continuous, unmitigated tripping traps proves that the entire project perimeter is structurally compromised.

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Exhibit 34: View along the Center Street pedestrian corridor. While this specific section of the sidewalk is physically wide, the City continues to fail in its fundamental obligation to provide a safe, compliant walking surface. The tree well visible here completely lacks a protective metal grate, leaving a large, sunken area of exposed dirt directly adjacent to the pedestrian travel path. This ongoing failure to install and maintain basic surface infrastructure creates an active tripping and entrapment hazard that violates the firm, stable, and slip-resistant requirements of PROWAG R302.7 and California Building Code Section 11B-402.1. The City's willingness to let these structural hazards persist across the entire block proves that the perimeter is not prepared to safely absorb the massive pedestrian impact of a 433-unit high-rise without a mandatory remediation plan.

Exhibit 35: Close-up of the Center Street pedestrian corridor revealing a massive, degrading asphalt patch directly in the public right-of-way. Marked with municipal construction spray paint reading 5x5, this haphazard repair replaces the concrete sidewalk with a severely uneven, sunken surface. The jagged, deteriorating transitions between the broken concrete and the temporary asphalt create unramped vertical lips that blatantly violate the strict Change in Level limitations of PROWAG R302.6.2 and California Building Code Section 11B-303. Furthermore, this actively crumbling surface fails the fundamental ADA Title II requirement for an accessible route to be firm, stable, and slip-resistant (PROWAG R302.7 and CBC Section 11B-402.1). The City's reliance on deteriorating, unmaintained asphalt patches to serve as the permanent pedestrian hardscape proves systematic infrastructure neglect. Approving a 433-unit high-rise that will force thousands of new daily pedestrian trips over these structural hazards without mandating a comprehensive surface remediation plan exposes the City to deliberate civil rights liability.

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Exhibit 38: Wide view of the Center Street pedestrian corridor revealing a massive, dark asphalt trench patch running directly through the center of the concrete walking path

This sprawling, haphazard repair creates an uneven, unstable surface that blatantly violates the firm, stable, and slip-resistant requirements of PROWAG R302.7 and California Building Code Section 11B-402.1. It provides undeniable visual evidence that the City relies on degrading, non-compliant asphalt patches rather than properly maintaining the permanent pedestrian hardscape. Approving a 433-unit high-rise without mandating the complete removal and concrete replacement of these hazard zones is a deliberate failure to provide safe program access.

Exhibit 39: Close-up of the adjacent walking surface and metal tree grate shown in Exhibit 38. The concrete is visibly cracked, and a wide, unmitigated gap exists between the heavy metal grate and the surrounding hardscape

This creates yet another severe tripping and entrapment hazard directly on the accessible route, further violating the strict Change in Level limitations of PROWAG R302.6.2 and CBC Section 11B-303. This final image cements the undeniable reality of this corridor: the entire block is an active ADA hazard zone suffering from systemic municipal neglect.

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This creates yet another severe tripping and entrapment hazard directly on the accessible route, further violating the strict Change in Level limitations of PROWAG R302.6.2 and CBC Section 11B-303. This final image cements the undeniable reality of this corridor: the entire block is an active ADA hazard zone suffering from systemic municipal neglect.