



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

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FOR BOARD ACTION  
APRIL 28, 2022

## 2972-2974 Adeline Street

Use Permit #ZP2021-0140 to convert second floor commercial space to two dwelling units, on a 3,760 square-foot lot with an existing commercial building.

### I. Background

#### A. Land Use Designations:

- General Plan: Avenue Commercial
- Zoning: C-AC- Adeline Corridor Commercial District

#### B. Zoning Permits Required:

- Use Permit, under Berkeley Municipal Code<sup>1</sup> (BMC) 23E.70.030 to add two dwelling units; and
- Administrative Use Permit, under BMC Section 23C.04.080 to convert a building that is non-conforming for maximum lot coverage.

**C. CEQA Recommendation:** It is staff's recommendation to ZAB that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 ("New Construction or Conversion of Small Structures"). The determination is made by ZAB.

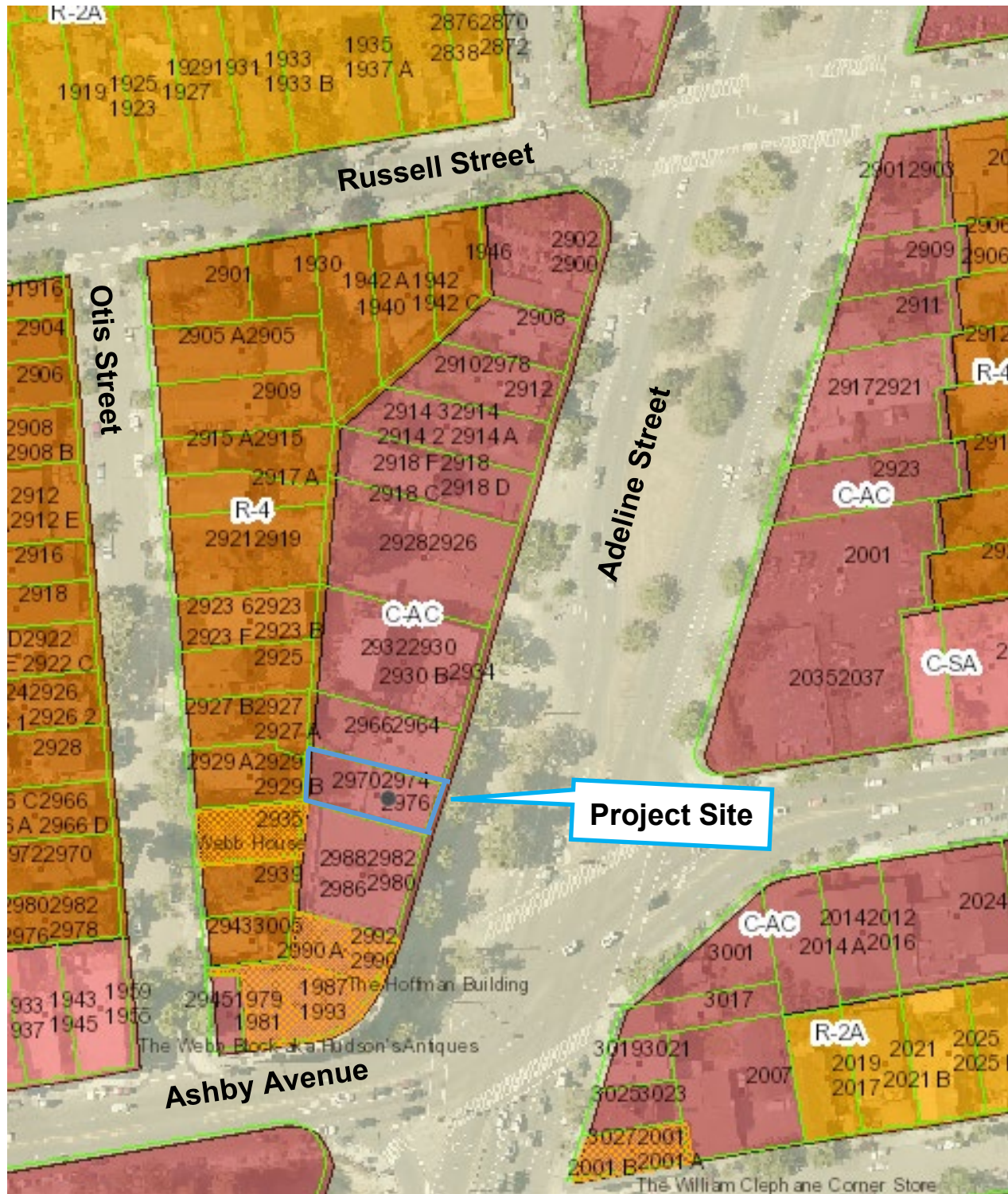
#### D. Parties Involved:

- Applicant Serena Lim, 1203 Willamette Street, Ste 210, Eugene, OR
- Owner HKL Family LLC, c/o Jessie Zechnowitz, 2974 Adeline Street, Berkeley

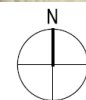
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<sup>1</sup> The prior Zoning Ordinance was in effect at the time this application was deemed complete. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online: [https://www.cityofberkeley.info/Planning\\_and\\_Development/Land\\_Use\\_Division/Zoning\\_Ordinance\\_Revision\\_Project\\_\(ZOR\\_P\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZOR_P).aspx)

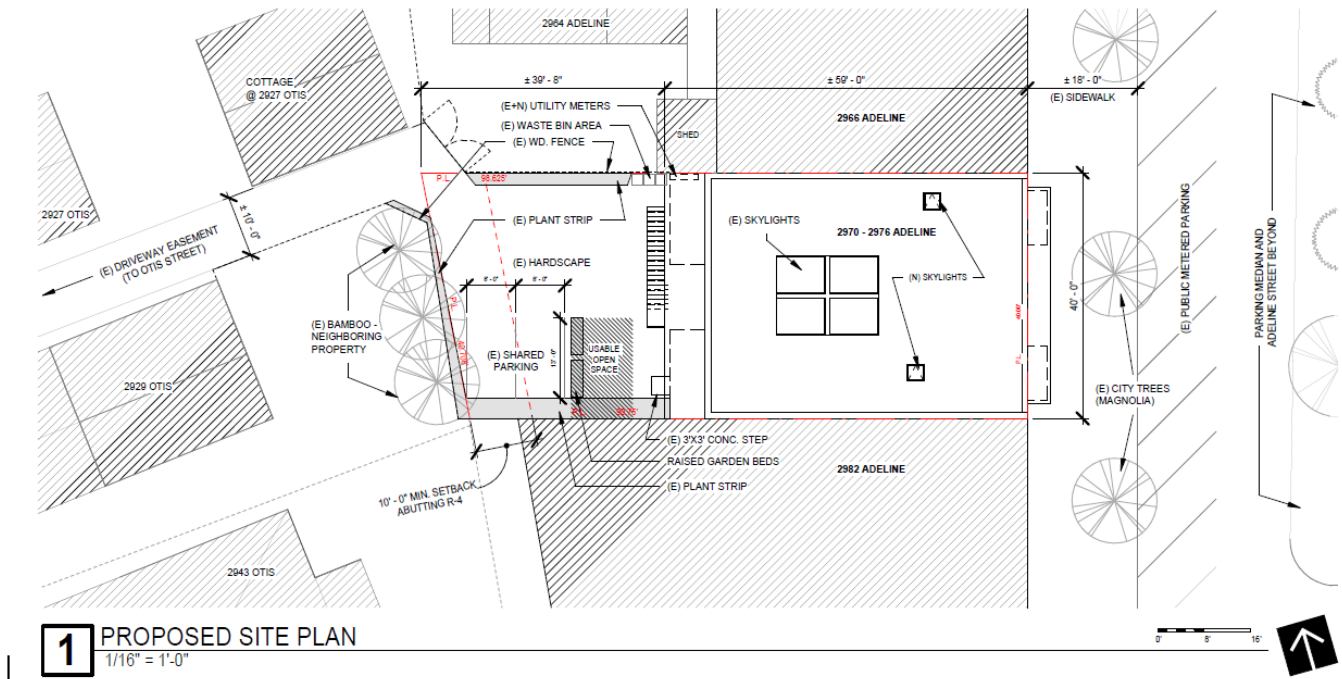
**Figure 1: Vicinity Map**



- Legend**
- C-AC Adeline Corridor Commercial District
  - R-4 Multi-Family Residential District
  - R-2A: Restricted Multiple-Family Residential District
  - C-SA: South Area Commercial District



**Figure 2: Proposed Site Plan**



**1** PROPOSED SITE PLAN  
 1/16" = 1'-0"

**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Commercial	C-AC – Adeline Corridor Commercial	Avenue Commercial
Surrounding Properties	North	Commercial		
	South	Commercial		
	East	Commercial		
West	Residential	R-4 –Multi-Family Residential	High Density Residential	

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project is not subject to BMC Section 22.20.065 Affordable Housing Mitigation Fee (AHMF) or BMC Section 23.328 Inclusionary Housing, because less than five rental units would be added. If the units are condominiums the fee applies (Condition of Approval 37).
Creeks	No	The project site is not within a creek buffer zone.
Density Bonus	No	The project is not requesting a Density Bonus.

Historic Resources	No	The project does not propose the demolition or substantial alteration of a building over 40 years old.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	Project is a "housing development project" consisting of dwelling units only. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is all residential. See Section V.A of this report for additional discussion on the sections of SB330 that apply to the project.
Oak Trees	No	There are no Coast Live Oak trees on the site.
Rent Controlled Units	No	No rent-controlled units would be affected, nor would the new unit be subject to rent control restrictions, until 20 years has passed (BMC Section 13.76.050(l)).
Residential Preferred Parking (RPP)	No	The project site is within City of Berkeley Residential Preferred Parking Zone J. Per Condition of Approval 42 and BMC Section 14.72.080(C), no new permits may be issued to residents in newly-constructed units.
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites), however it is located within the City's Environmental Management Area. A Phase I report does not apply since the project would not require work five or more feet below grade. Standard Toxics Conditions of Approval apply.
Transit	Yes	The project is served by AC Transit Route F on Adeline Street, and 18 on Shattuck Avenue, and is a 0.2 mile walk from the Ashby BART Station.

**Table 3: Project Chronology**

Date	Action
July 27, 2021	Application submitted
August 26, 2021	Application deemed incomplete
October 15, 2021	Revised application materials submitted
November 7, 2021	Application deemed complete
April 14, 2022	Public hearing notices mailed/posted
April 28, 2022	ZAB hearing
May 26, 2022	Second ZAB hearing



**Table 4: Development Standards**

Standards BMC Sections 23.E.70.070-080		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		3,760	No change	n/a
Gross Floor Area (sq. ft.)		4,527	No change	n/a
Floor Area Ratio		1.19	No change	2
Dwelling Units	Total	0	2	n/a
Building Height	Average (ft.)	28'	No change	35' max.
	Stories	2	No change	3 max.
Building Setbacks (ft.)	Front	0	No change	n/a
	Rear	32'	No change'	10' min (abuts residential)
	Left Side	0	No change	n/a
	Right Side	0	No change	n/a
Lot Coverage (%)		64	No change	60% max
Usable Open Space (sq. ft.)		0	100	80 sq. ft. min.
Parking	Automobile	3	2	0 min <sup>2</sup>

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located on the west side of Adeline Street between Russell Street and Ashby Avenue in South Berkeley, in the Le Conte neighborhood. The neighborhood is characterized by one- to three-story commercial buildings along Adeline Street and Ashby Avenue, many with residential uses on the upper floors.

**B. Site Conditions:** The lot is trapezoidal, 98.625 feet deep at the north property, and 90.75 feet deep at the south property line, 40 feet wide along Adeline Street, and 40.708 feet wide at the rear. There are zero setbacks at all sides, except at the rear. There is a driveway easement at the rear of the property that provides access to Otis Street. There are three parking spaces at the back of the lot. The site contains an existing two-story commercial building, with two commercial spaces on the first floor, and two commercial spaces on the second floor. There is access to the second floor from doors off Adeline Street (one for 2972 Adeline and one for 2974 Adeline), and a staircase and deck at the rear leads to separate rear entry doors. There were previously two apartments on the upper floor, but they were legally converted to commercial spaces in 1979.

## III. Project Description

<sup>2</sup> No new parking required for residential uses.

The project would involve the interior conversion of the existing 2,363 square-foot second floor from two commercial spaces to two dwelling units. New interior walls would be added to formally separate the two units, and a kitchen and a full bath would be added to both units. 2972 Adeline would have one bedroom, and 2974 Adeline would have two bedrooms. In the rear yard, one parking space would be removed to provide the required useable open space, and new landscaping would be added.

#### IV. Community Discussion

- A. Neighbor/Community Concerns:** A pre-application yellow poster was erected by the applicant in September 2021. On April 14, 2021, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations within 300 feet of the project site, and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any communications regarding the project.
- B. Committee Review:** This project is not subject to review by the Design Review Committee or the Landmarks Preservation Commission because no exterior changes are proposed, and the project does not involve the demolition of a non-residential building.

#### V. Issues and Analysis

**A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

The May 26, 2022, ZAB hearing represents the second public hearing for the proposed project since the project was deemed complete. The City can hold up to three additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

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

This project would not affect a potential historic building since no exterior changes are proposed. Standard conditions of approval have been included to halt work in case of any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on November 7, 2021. Should ZAB determine the application is categorically exempt from CEQA at the May 26, 2022, public hearing, the application must be approved or disapproved by July 25, 2022.

**B. Housing Accountability Act Analysis:** The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

As described in Table 4 above, the project complies with applicable, objective general plan and zoning standards. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), above. Staff is not aware of specific adverse impacts that could occur with the construction of the project.

**C. Conversion of a building on a lot that is non-conforming for lot coverage:** The existing lot has a coverage of 64 percent, where 60 percent is the maximum allowed for a building in the North Adeline Subarea with no on-site affordable housing. Per BMC Section 23C.04.080.A, conversion of a structure that is lawfully used for non-residential uses and is non-conforming for maximum lot coverage may be authorized with an Administrative Use Permit if the existing use of the property is conforming. The existing commercial use of the property is conforming. The lot coverage will not change with the interior conversion.

**D. Findings for Use Permit Approval in the C-AC District:** Pursuant to BMC Section 23E.70.090, new dwelling units are allowed in the C-AC District with a Use Permit, provided that applicable development standards are met, the non-detriment finding is met, the use is compatible with the purposes of the District, the use is compatible in design and character with the District and adjacent residential neighborhoods, and the use encourages utilization of public transit and off-street parking facilities in the area.

The project complies with all applicable development standards, except for lot coverage. The project would implement the policies of the Adeline Corridor Specific Plan and support the purposes of the Adeline Corridor Commercial District by repurposing part of an existing building for dwelling units (adaptive reuse). The conversion from commercial to residential is compatible in design and character with the District and adjacent residential neighborhoods because residential uses are often found at upper floors along transit corridors, such as Adeline Street and Ashby Avenue. Two off-street parking spaces will be retained for use by occupants of the building (commercial or residential), and the site is easily accessible by transit.

Per BMC Section 23E.70.090.C, for a Use Permit for new residential development the proposed use or structure must facilitate the construction of affordable housing. The proposed project is not necessarily a new residential development because an addition or a new building is not required to add the new dwelling units; only modifications are needed to the interior of the second floor. The cost of the conversion is less than the cost to add a new building or an addition, and thus converting the existing building will lead to units that are less expensive than new units in a new building or an addition.

Staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in the area because it would be consistent with the development pattern in the area. The project only involves an interior conversion and there would be no exterior changes to the existing building. Staff believes that the proposed project would not unreasonably obstruct sunlight, privacy, air, or views as analyzed below.

1. Sunlight/Shadow: Shadow studies were not required because an addition is not proposed, and thus there will be no changes to existing shadows.
2. Privacy: No new windows or decks are proposed, so there would be no change to existing privacy.
3. Air: There would be no changes to the footprint, and the existing building complies with the required setbacks.
4. Views: Existing views would not be affected because the height of the building is not changing.

## VI. Other Considerations



The 2002 General Plan goals and policies are provided for information purposes only, to provide context; they do not require findings of conformance because the proposed project is HAA-compliant.

**A. General Plan Consistency:** The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
5. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

Staff Analysis: The proposed project would add two dwelling units on a parcel in the C-AC District near transit, without altering the exterior of the existing building. As described in the Issues and Analysis Section above, the proposed conversion is consistent with the character of the neighborhood and the project will meet most of the zoning standards for the C-AC District. The project would be compatible with the parcels in the immediate neighborhood and the development pattern for the broader area that is characterized by mixed-use buildings, commercial buildings, and dwelling units.

6. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The proposed project would increase the number of dwelling units on the property and help the City meet housing production goals established by ABAG’s Regional Housing Needs Determination.

## VII. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board APPROVE Use Permit #ZP2021-0140 pursuant to BMC Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, received October 15, 2021
3. Notice of Public Hearing

### Staff Planner:

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