



**PROCLAMATION  
CALLING A SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Thursday, January 31, 2019**

**6:00 P.M.**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:**

**Public Comment - Limited to items on this agenda only**

**Action Calendar – Public Hearing**

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

## Action Calendar – Public Hearing

### 1. ZAB Appeal: 2190 Shattuck Avenue

**From:** City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0117 to redevelop a 19,967 square-foot (0.46-acre) site at the northwest corner of Shattuck Avenue and Allston Way with a proposed 18-story building with 274 residential units above approximately 10,000 square feet of ground floor retail space; and dismissing the appeal.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, 981-7400

## Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 24<sup>th</sup> day of January, 2019.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: January 24, 2019  
Mark Numainville, City Clerk

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6908 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

Agendas and agenda reports may be accessed via the Internet at <http://www.CityofBerkeley.info/CityCouncil> and may be read at reference desks at the following locations:

City Clerk Department  
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TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@CityofBerkeley.info](mailto:clerk@CityofBerkeley.info)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.*

### Item #1: ZAB Appeal: 2190 Shattuck Avenue

1. Susan Ellenbogen
2. Pam Valois
3. Lisa Titus
4. Nancy Litton
5. Tamia Marg
6. Terry Kochi
7. Eric Kotila
8. Tom Wenrich
9. Valerie Herr
10. Summer Brenner
11. Harry Delmer
12. Marianne Calame-Berger
13. R. Johnson
14. Virginia Warheit (4)
15. Ann Maria Celona

16. Cynthia Hanson
17. Brenda Shank
18. Ann May and Rodney Freeland
19. Tobey Wiebe
20. Bronwyn Hall
21. Holly Smith
22. Maggie Crowley
23. Karen Cilman
24. Nhu Miller
25. Jane Larson
26. Goetz Frank
27. Ilene Philipson
28. Roger Pritchard
29. Kathy Kahn
30. Laura Fujii
31. Jack Phillips
32. Jenny Harrison
33. Elaine Seed
34. Wendy Weikel
35. Lisa Bruce
36. Michael Yovino-Young
37. Matt Ogburn
38. Paul Newacheck
39. Carole Cool
40. Dean Metzger, on behalf of the Berkeley Neighborhoods Council
41. Warren and Lorna Byrne
42. Suzy Thompson
43. Susan Chainey
44. David Snippen
45. Harvey Helfand
46. William Peppin
47. Ingrid Crickmore
48. Emilie Strauss
49. Jonathan Beck
50. Judy Schwartz
51. Laurie May Trippett
52. Susan Felter
53. Betsy Thagard
54. Twenty-four "Reconsider ZAB approval" form letters



Office of the City Manager

PUBLIC HEARING

January 31, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Department of Planning & Development

Subject: ZAB Appeal: 2190 Shattuck Avenue

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0117 to redevelop a 19,967 square-foot (0.46-acre) site at the northwest corner of Shattuck Avenue and Allston Way with a proposed 18-story building with 274 residential units above approximately 10,000 square feet of ground floor retail space; and dismissing the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On October 25, 2018, the Zoning Adjustments Board (ZAB) held a public hearing and adopted CEQA-associated findings, a statement of overriding considerations and a mitigation monitoring and reporting program, and approved Use Permit #ZP2016-0117 by a vote of 6-2-0-0 (Yes: Clarke, Kahn, Kim, O'Keefe, Skjerpung, Wright; No: Selawsky, Sheahan; Abstain: None; Absent: None). On October 31, 2018, staff issued the notice of the ZAB decision. On November 14, 2018, Shirley Dean, Dean Metzger, Steve Finacom, and Kelly Hammargren ("Appellants") filed an appeal with the City Clerk. The Clerk set the matter for review by the Council on January 31, 2019.

BACKGROUND

The 19,967 square-foot (0.46-acre) project site, located at the northwest corner of Allston Way and Shattuck Avenue, is entirely covered by a two-story, approximately 38,700-square-foot retail and office building currently occupied by a Walgreens store on the ground floor. On June 13, 2016, Mill Creek Residential ("Applicant") submitted a Use Permit application to develop one of the three buildings allowed to exceed the 75-foot height limit (up to a 180-foot tall maximum) in the Downtown Mixed Use District Core.

The project involves demolition of the existing retail and office building and construction of an 18-story, approximately 211,590 square-foot mixed-use building. On the ground floor, the proposed building would have commercial retail space with a floor area of

approximately 10,000 square feet, a residential lobby, and an adjacent 677 square-foot community art space that would be available for community events. On the upper floors, the building would have 274 apartment units, ranging in size from studio units to two-bedroom units. Motor vehicle parking would be provided in a two-level underground garage with 103 parking spaces, including five car share spaces. Ninety-nine (99) bicycle parking spaces would be provided, including 94 spaces for residents and five for commercial users, along with a bicycle repair shop on the ground floor. The project would also include 21,952 square feet of residential open space on rooftop terraces and gardens and private balconies for residents, 449 square feet of public open space on the site's Allston Way frontage adjacent to the driveway and residential lobby, and 252 square feet of private commercial open space at the retail entrance.

Pursuant to BMC Section 23E.68.090.E and consistent with Option B of the July 14, 2015 City Council Resolution (Resolution #67,172-N.S.) for determining significant community benefits in order to exceed the 75-foot height limit, the Applicant submitted a community benefit proposal summarized below:

- **Project Labor Agreement.** An agreement with all twenty-eight member trades of the Alameda County Building Trades Council, without any trade or work exclusions. Value: \$5,547,020. Based on 5% of estimated construction costs, as per the City Council Resolution.
- **Community Space.** A 677 square-foot community art space next to the residential lobby that would be available for community events.

Planning staff prepared an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act. The ZAB certified the Final EIR on January 25, 2018. A certified Final EIR identifies any significant environmental impacts that would result from implementation of a project and, where feasible, recommends mitigation measures to reduce impacts to a less-than-significant level. The EIR for 2190 Shattuck Avenue identifies one significant and unavoidable impact from construction activity that would intermittently expose nearby residences and businesses to elevated noise levels. This impact is consistent with the Downtown Area Plan EIR's determination that new development in the Downtown Area as a whole would have a significant and unavoidable impact from construction noise. Mitigation measures include conditions of approval to implement a project-specific noise reduction program, which requires time limits for constructions, the use of available control technology (e.g. equipment mufflers), locating stationary noise-generating equipment as far as possible from sensitive receptors, and other measures.

At the August 23, 2018 meeting, the ZAB adopted CEQA-associated findings, a statement of overriding considerations and a mitigation monitoring and reporting program, which is designed to implement measures that substantially lessen or avoid any significant effect the project would have on the environment, and approved the project.

ENVIRONMENTAL SUSTAINABILITY

The project approved by ZAB is in compliance with all state and local environmental requirements.

RATIONALE FOR RECOMMENDATION

The issues raised in the Appellant’s letter, and staff’s responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety; refer to the appeal letter (Attachment 2) for full text.

Issue 1: “Impact of the Proposed Project at 2190 Shattuck Avenue Regarding the Historic Resource Campanile Way and its View Have Not Been Adequately Considered due to Misleading and Confusing Information.” [p. 1 of attached appeal letter]

Response 1: The Appellants list a series of statements from staff reports, appeals, and public hearings. The first six of the seven are related to the Landmark Preservation Commission (LPC) and the City Council in regards to decisions and appeals of the decisions of the LPC; some of which occurred prior to the June 13, 2016 submittal date of the subject application [p. 2-5 of the appeal letter].

The Zoning Adjustments Board (ZAB), however, is the governing body that has the authority to review, scope, and certify the project EIR, as well as adopt CEQA-associated findings, a statement of overriding considerations and a mitigation monitoring and reporting program, and it is the ZAB that grants project Use Permit approval.

ZAB held four separate duly noticed public hearings regarding the Project: an EIR scoping session on January 26, 2017; a Draft EIR comment hearing on September 14, 2017; a Final EIR certification hearing on January 25, 2018; and the Use Permit hearing on October 25, 2018. Potential impacts of the project on view corridors that contribute to the historical significance of surrounding development is included in the EIR discussion of cultural resources. Due to the importance of the view for the Berkeley community, staff specifically included an informational aesthetic discussion regarding the project’s effect on scenic vistas, which included numerous photo-simulations of the proposed projects as seen from various vantage points along the base of the Campanile and along Campanile Way (see Appendix 2 EIR). As noted by the Appellants, a summary of the EIR’s detailed view analysis is also included in the Use Permit staff report:

*“[T]he project would partially block views of the Bay, Alcatraz Island, and the Golden Gate Bridge from various points at the*

*base of the Campanile and along Campanile Way. Although the view would not be completely blocked from any viewpoint, obstruction would range from zero to approximately 75 percent of the view depending on the viewpoint location. Obstruction of views would be greatest from the upper portion of Campanile Way to the steps of the Campanile tower.*

*The westward view that would be altered is a character-defining feature of a historic resource (Campanile Way) that has been identified as a contributing element to the historic cultural landscape of the Classical Core of the UC Berkeley campus. Although the project would partially obstruct this view, it would not materially impair Campanile Way or the Classical Core of the UC Berkeley campus itself. Therefore, the obstruction of views would not significantly degrade the historic cultural landscape.”*

The ZAB discussed project impacts to the viewshed from Campanile Way at each of the four hearings related to the project. Prior to granting Use Permit approval, ZAB deliberated and balanced the Project’s impacts on views with other competing and sometimes conflicting goals and policies of the General Plan, the Downtown Specific Plan, and the Climate Action Plan and cast their vote accordingly.

Issue 2: “The import of these letters from acknowledged experts [who have written letters contrary to the City’s position] seem to have been largely ignored [...], they have not been included in Staff Reports.” [Page 8]

Response 2: During the review of an application to grant City Landmark status to Campanile Way (#LMIN 2017-0006), on September 20, 2018, the City maintained its established practice of studying and protecting scenic views as aesthetic resources rather than as historic resources, due to the indefinite size and broad scope of viewsheds. This occurred during an appeal of LPC decision in front of City Council, which was unrelated to ZAB’s review of Use Permit #ZP2016-0117 and adoption of the EIR.

The Appellants provide excerpts from several letters written about how the View from Campanile Way is cherished by the community. The majority of the letters referenced however, were not submitted to the City in response to the subject application but to other discretionary permits: the Use Permit for 2211 Harold Way and the Landmark Application of the Campanile Way. Staff, therefore, had no opportunity to consider them during the processing of this application. Additionally, none of the



excerpts presented dispute the City's practice of regulating scenic views as an aesthetic resource.

Contrary to the Appellants' assertion, staff included all comments received during the DEIR comment period, whether submitted in written form or delivered verbally at public hearings, and included and responded to the comments in the Response to Comments (RTC) document. A list of commenters to the DEIR is provided on page 3 of the Final EIR RTC document, followed by detailed responses to the comments (pages 5 - 610 of the RTC). The Final EIR also included some changes to the text of the DEIR, based on the consideration of the comments (pages 611- 681). A hard copy of the RTC Document was provided to the ZAB members in conjunction with the January 25, 2018 staff report. Due to the volume of the materials, staff included a link to the document within the staff report. Staff also included correspondence received outside of the comment period as an attachment to the ZAB staff report. The allegation of the Appellants that staff ignored any correspondence submitted during the processing of the Project is, therefore, not true. Staff concludes that this appeal point is without merit and recommends that Council dismiss it.

Issue 3: The Appellants disagree with the statement that, "The Landmarks Preservation Ordinance (LPO), Berkeley Municipal Code 3.24.060, doesn't allow landmarking of either Campanile Way or its View." [page 9]

Response 3: This appeal point relates to the LPO and whether the action taken by the LPC to landmark the Campanile was "legal and appropriate;" it does not concern the activities or purview of ZAB or its action to approve Use Permit #ZP2016-0117. The Landmark Preservation Commission decision is not subject to this appeal, but was subject to a separate appeal before Council, who overturned the Landmark designation of Campanile Way on September 20, 2018. This issue is, therefore, without merit.

Issue 4: The Appellants disagree with staff's position that historic preservation is not a proper mechanism for view protection and questions the City's action to protect certain views and not others. [page 9]

Response 4: The Appellants feel that City Council's actions at the September 20, 2018 meeting—one reversing the approval of the Campanile Way City Landmark designation and the other supporting a decision by ZAB to reduce the size of a proposed addition to an existing single-family dwelling to reduce view impacts to an uphill neighboring home—are contradictory or arbitrary. Although neither decision by Council is subject

to the current appeal, staff notes that the Appellants are conflating two separate issues. In recommending the reversal of the Landmark designation of the Campanile Way, staff supported the appellant's assertion that historic preservation is not a proper mechanism for view protection. In reducing the size of an addition of a downhill dwelling to lessen view impacts of an uphill neighbor, the ZAB evaluated the benefits of the project (extra bedrooms in an existing dwelling) with the proposed impacts (partial impediment towards view of the Bay). Similarly and as previously stated in Response 1 above, during the hearing for Use Permit approval for the project, the ZAB deliberated and balanced the Project's impacts on views with Project benefits that includes the creation of 274 dwelling units in transit oriented development and the provision of significant community benefits.

Issue 5: The Appellants are stating that a transit oriented development could be built on the Project site or on another site in the Downtown that would have less impact on the view toward the Bay from Campanile Way. [page 10-11]

Response 5: The appellants argue that there may be other potential development sites in the Downtown, and that they would prefer that the City consider those sites for high-density, transit-oriented development instead of the subject site at 2190 Shattuck because those sites are not directly within the view corridor of the Golden Gate from the base of the Campanile, or alternatively, the City should approve construction of a shorter building at the subject site.

BMC 23E.68.070.B.2 expressly authorizes the construction of three buildings of up to 180 feet in the Downtown Core area, around where the project is located. Further, the ZAB made Findings that the project is both compatible with the purposes of the Downtown District and with the surrounding uses and buildings and that the project is consistent with myriad Downtown Area Goals in areas of Environmental Sustainability, Land Use, Access, Historic Preservation and Urban Design, Streets and Open Space, and Economic Development. The ZAB also found that the project would provide significant community benefits—including a project labor agreement—beyond what would otherwise be required by the City to permit a building of this height in this location. The Appellants have presented no evidence or new information to suggest that these findings are incorrect. Appellants' preference for development at a different location or development of a shorter building cannot substitute for Findings that establish compliance with the standards set forth in the Downtown Plan.

For all of these reasons, staff concludes that Appeal Point #5 is without merit and that Council should dismiss it.

Issue 6: ZAB decision to approve the project at 2190 Shattuck and adopt the EIR was based on an incorrect assumption that the City had no discretionary authority to consider certain aesthetic impacts of the project.

Response 6: This appeal point appears to be based on prior statements in a 2015 EIR for a previously approved and unrelated entitlement for construction of a development at 2211 Harold Way. Appellants cite no evidence to support their contention that the ZAB misunderstood the extent of its discretionary authority with respect to this project, and in any event, ZAB was within its established authority to approve the project. Therefore, staff concludes that this appeal point is without merit, and recommends that Council dismiss it.

Issue 7: The proposed project barely meets the requirements to achieve a LEED Gold rating. [page 11]

Response 7: Pursuant to BMC Section 23E.68.085.A, construction of new buildings in the C-DMU are required to attain a LEED Gold rating or higher, or attain a building performance equivalent to this rating. The project is designed to achieve 61 points on the LEED checklist for New Construction and Major Renovations. Projects scoring between 60 and 110 point achieve a LEED Gold rating. Accordingly, the project meets the required certification level. The Appellants do not dispute this fact, and therefore this appeal point is without merit.

Additionally, as discussed by the ZAB, the project will be in compliance with Title 24 of California's Building Standards Code. The project's sustainability features include: roof gardens to reduce the heat island effect and delay stormwater runoff; solar shading for residential units; low emissivity glass to minimize need for building cooling; hot water generated by solar thermal power; and Transportation Demand Management features including AC Transit passes for each residential household and commercial employee, five car share parking spaces, four electric vehicle charging stations, and secure bicycle parking. The project is consistent with the City's Climate Action Plan and General Plan Implementation Strategies.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

ACTION DEADLINE:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437  
Leslie Mendez, Senior Planner, Planning & Development Department, (510) 981-7426

Attachments:

1: Resolution

    Exhibit A: Findings and Conditions

        Exhibit Ai: Findings of Fact Regarding Environmental Impacts, Mitigation Measures, Alternatives and Overriding Considerations

        Exhibit Aii: Mitigation Monitoring and Reporting

    Exhibit B: Project Plans dated October 25, 2018

2: Appeal Letter, dated November 14, 2018

3: ZAB Staff Report, dated October 25, 2018

4: Index to Administrative Record

5: Administrative Record

6: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

APPROVING USE PERMIT #ZP2016-0116 TO REDEVELOP A 19,967 SQUARE-FOOT (0.46-ACRE) SITE AT THE NORTHWEST CORNER OF SHATTUCK AVENUE AND ALLSTON WAY WITH A PROPOSED 18-STORY BUILDING WITH 274 RESIDENTIAL UNITS ABOVE APPROXIMATELY 10,000 SQUARE FEET OF GROUND FLOOR RETAIL SPACE IN THE DOWNTOWN MIXED-USE (C-DMU) CORE SUB-AREA ZONING DISTRICT.

WHEREAS, on June 13, 2016, Don Peterson filed an application on behalf of Mill Creek Residential (“Applicant”) to redevelop a property located at 2190 Shattuck Avenue with an 18-story, mixed use building with 10,000 square feet of commercial space and 274 dwelling units (“Project”); and

WHEREAS, on January 5, 2017, the City of Berkeley (“City”) released a Notice of Preparation (NOP) of an Environmental Impact Report and an Initial Study to Responsible Agencies, Agencies with Jurisdiction by Law, Trustee Agencies, Involved Federal Agencies, and Agencies/People Requesting Notice, and solicited public comment for 30-days; and

WHEREAS, January 26, 2017, at a duly noticed meeting, the applicant presented a preview of the project to the Zoning Adjustments Board (ZAB) and the ZAB conducted a scoping meeting to elicit public comment on the CEQA-required study areas identified by the NOP and the Initial Study; and

WHEREAS, on February 6, 2017, the 30-day NOP comment period terminated; and

WHEREAS, on August 10, 2017, the City of Berkeley (“City”) released for public review and comment a Draft Environmental Impact Report (“DEIR”) project, SCH No. 2017012011, and the circulation period for the DEIR began; and

WHEREAS, on August 17, 2017, at a duly noticed meeting, the applicant presented a preview of the project to the Design Review Committee (DRC); and

WHEREAS, on September 7, 2107, at a duly noticed public hearing, the Landmarks Preservation Commission (LPC) discussed the DEIR; and

WHEREAS, on September 14, 2017, at a duly noticed public hearing, the ZAB held a hearing, commented on the Draft EIR, and received public testimony; and

WHEREAS, on September 25, 2017, the 45-day Draft EIR comment period ended; and

WHEREAS, the City received comments on the Draft EIR and prepared responses to those comments as required by law; and

WHEREAS, the City prepared and released on January 4, 2018 a Response to Comments (RTC) Document to provide responses to comments on the DEIR and to make revisions to the DEIR, as necessary, in response to these comments or to amplify and clarify material in the DEIR. This RTC document, together with the DEIR, constitutes the Final EIR (FEIR) for the proposed project; and

WHEREAS, on January 25, 2018, at a duly noticed public hearing, the ZAB considered the Final EIR and the record, and in its independent judgment found it adequate and sufficient in all respects and Certified the EIR; and

WHEREAS, on February 15, 2018, at a duly noticed public hearing, the DRC reviewed and continued a vote for Preliminary Design Review on the Project; and

WHEREAS, on March 15, 2018, at a duly noticed public hearing, the DRC reviewed and continued a vote for Preliminary Design Review on the Project; and

WHEREAS, on April 19, 2018, at a duly noticed public hearing, the DRC reviewed and forwarded to ZAB a favorable recommendation on Preliminary Design Review on the Project; and

WHEREAS, on August 28, 2018, staff deemed this application complete; and

WHEREAS, on October 25, 2018, at a duly noticed public hearing, the Zoning Adjustments Board approved Use Permit #ZP2016-0117 for the reasons set forth in a notice of decision released on October 31, 2018; and

WHEREAS, on October 31, 2018, staff issued the notice of the ZAB decision; and

WHEREAS, on November 14, 2018, Shirley Dean, Dean Metzger, Steve Finacom, and Kelly Hammargren filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on January 31, 2019, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP 2016-0117, adopts the conditions in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

Exhibit Ai: Findings of Fact Regarding Environmental Impacts, Mitigation Measures,  
Alternatives and Overriding Considerations

Exhibit Aii: Mitigation Monitoring and Reporting

B: Project Plans, dated October 25, 2018

## 2190 Shattuck Avenue

**Use Permit #ZP2016-0117 to redevelop a 19,967 square-foot (0.46-acre) site at the northwest corner of Shattuck Avenue and Allston Way with a proposed 18-story building with 274 residential units above approximately 10,000 square feet of ground floor retail space. One hundred and three (103) parking spaces would be provided in a two-level subterranean garage accessed from Allston Way.**

### **PERMITS REQUIRED**

- Use Permit for construction for demolition of a non-residential building, under BMC 23C.08.050.A
- Use Permit for construction of a new main building with mixed-use development, under BMC 23E.68.030;
- Use Permit for construction of >10,000 sq. ft. gross floor area, under BMC 23E.68.050
- Use Permit to allow a maximum height of up to 180 feet, under BMC 23E.68.070.B
- Use Permit to allow a reduction in the required 5 foot rear yard setback for the portion of the building between 20 and 75 feet in height, under BMC 23E.26.070.C
- Use Permit to allow that portion of the building over 120 feet to be greater than 120 feet in width when measured at the widest point on the diagonal in plan view, under BMC 23E.68.070.C
- Use Permit to allow a reduced vehicle parking space requirement, under BMC 23E.68.080.D
- Use Permit for reduction of required parking spaces through payment of an in-lieu fee to be used to provide enhanced transit services, under BMC 23E.68.080.D
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, under BMC 23E.04.020.C

### **I. FINDINGS FOR APPROVAL**

1. As required by Section 23B.32.040.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project is a higher-density development in proximity to regional transit, shops and amenities, consistent with the goals of the Downtown Area Plan (described in greater detail in section IV.). The project site is located within the Downtown Mixed Use District (C-DMU), Core Area, as identified in the DAP. It will provide 274 residential units and 10,000 square feet of retail commercial space. The project is adjacent to the Downtown Berkeley BART station and multiple AC Transit lines on Shattuck Avenue and Allston Way. Surrounding land uses include a hotel, retail commercial space, offices, restaurants, and parking. The project will add to surrounding commercial uses and add population to support these uses.
  - B. The project will contribute to Downtown as a thriving, livable, diverse residential neighborhood with a mix of supportive uses, and play a significant role in meeting



Berkeley's continuing need for additional housing. The project will provide 274 housing units, comprised of 57 micro units, 63 studio units, 93 one-bedroom units, and 61 two-bedroom units. In addition, the project is subject to the City's Affordable Housing Mitigation Fee (AHMF) Ordinance (BMC Section 22.20.065), which requires that the applicant either (1) pay an AHMF; (2) provide 55 below-market-rate (BMR) units in lieu of the AHMF; or (3) pay a reduced AHMF in combination with a reduced number of BMR units.

- C. Pursuant to BMC Section 23E.68.070.D, the project will enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster a sense of place. Street improvements will strengthen Allston Way as a destination and enhance pedestrian experiences. Improvements within and facing the public right-of-way on Allston Way will include enhanced stone paving, trees, planters, and benches on the sidewalk, and art vitrines with glass display cases at the building's exterior. Sidewalks will be rebuilt consistent with the adopted Streets and Open Space Improvement Plan (SOSIP), and the project will pay its SOSIP fee, dedicated to public enhancement in the Downtown. In addition, the building will provide 21,952 square feet of private open space for residents, including rooftop terraces and gardens and private balconies.
- D. The project is designed to achieve a LEED Gold or equivalent rating, as required under BMC Section 23E.68.085.A, and will be in compliance with Title 24 of California's Building Standards Code. The project's sustainability features include: roof gardens to reduce the heat island effect and delay stormwater runoff; solar shading for residential units; low emissivity glass to minimize need for building cooling; hot water generated by solar thermal power; and Transportation Demand Management features including AC Transit passes for each residential household and commercial employee, five car share parking spaces, four electric vehicle charging stations, and secure bicycle parking. The project is consistent with the City's Climate Action Plan and General Plan Implementation Strategies.
- E. The 18-story project will result in new shading patterns; however, it will not be detrimental to the solar access of the surrounding buildings and general neighborhood. DAP Policy ES-3.15 directs that new structures in the plan area be designed and located in a manner that minimizes shading on public open spaces. Shadow studies of the project depicted increased shadowing during the summer and winter solstices. The building will not cast new shadows on Civic Center Park, open space and playing fields at Berkeley High School, or other public open spaces. During spring and fall afternoons, the building will increase existing shading of the BART plaza adjacent to the building's eastern façade. However, the stepped massing of the building, with upper stories receded from Shattuck Avenue, will minimize eastward shading during afternoon hours.
- F. The 18-story project will redirect winds; however, the project will not create detrimental wind impacts on surrounding streets and pedestrians. A Wind and Comfort Impact Analysis was completed and summarized in the Infill Environmental Checklist. Based on prevailing winds and the building's mass and location, and it was determined that the building will not significantly deflect downward drafts to ground level where pedestrian comfort could be affected. It should also be noted that the building's design in relation to wind is consistent with the Downtown Design Guidelines, which call for articulation and setbacks to reduce winds.

- G. The Final Environmental Impact Report prepared for the proposed project found that impacts related to Transportation/Traffic would be less than significant with Mitigation Measures. Project construction and operation will increase traffic. Project construction will result in reduced capacity, temporary closure of portions of Allston Way including sidewalks, and relocation of AC Transit bus stops. Construction-related traffic impacts will be less than significant with mitigation. The proposed driveway will result in new potential conflicts on Allston Way between vehicles accessing the site and pedestrians and AC Transit buses within the public right-of-way. Pedestrian safety impacts along Allston Way will be less than significant with mitigation. Commercial and passenger loading activity associated with the project also will introduce potential conflicts with other automobiles, buses, bicyclists, and pedestrians. Loading conflicts will be less than significant with mitigation.
- H. The Final Environmental Impact Report prepared for the proposed project found that impacts related to Noise would be less than significant with Mitigation Measures. Project construction and operation will affect the acoustic environment. Noise impacts were analyzed in the Environmental Impact Report. Construction of the project over a 27-month period will intermittently generate high noise levels on and adjacent to the project site, exceeding the City's standards for construction noise in commercial zones. Temporary construction noise will have a significant and unavoidable impact; nonetheless, this project-level impact is consistent with the finding of the Downtown Area Plan Environmental Impact Report for the Plan Area as a whole. New residential units also will be subject to noise levels in excess of the City of Berkeley noise compatibility guidelines. However, the exposure of new residents to ambient noise will be less than significant with mitigation.
- I. The Final Environmental Impact Report prepared for the proposed project found that impacts related to Air Quality would be less than significant with Mitigation Measures. Project construction and operation will affect air quality in the San Francisco Bay Area Air Quality basin; associated air pollutant emissions will be less than significant with mitigation.
- J. The Final Environmental Impact Report prepared for the proposed project found that impacts related to Cultural/Historic Resources would be less than significant. The project includes demolition of an existing commercial building on the project site. An evaluation of this building concluded that it is not a historical resource under CEQA. In addition, the project will not result in significant impacts to nearby historic resources in the proposed Shattuck Avenue Downtown Historic District. Consistent with mitigation measures CR-1a and CR-1b in the Final EIR, the applicant has modified the new building's design to include exterior materials that are more visually compatible with the adjacent, historic Shattuck Hotel (i.e., rectilinear wall systems below the seventh floor and wall rhythm modifications). These design features protect the Shattuck Hotel's integrity of setting. The new building also will partially obstruct scenic views of the Bay and the Golden Gate from the historic Campanile Way on the UC Berkeley campus. However, it will not have a direct material effect on the historic resource itself, and Campanile Way will substantially retain its integrity as a historic resource despite the view obstruction.
- K. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such

proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

### **III. DEMOLITION OF EXISTING BUILDINGS:**

Pursuant to BMC Section 23C.08.050.D, the City finds that the proposed demolition of the existing building will not be materially detrimental to the financial needs of the neighborhood or the City, because the proposed project will provide replacement floor area on-site and that the demolition is required in order to allow the proposed new project to be built.

### **IV. OTHER REQUIRED FINDINGS:**

- A. Pursuant to BMC Section 23E.68.090.B.1, the City finds that the proposed project is **consistent with the purposes of the C-DMU District**, because it is consistent with the goals and policies of the Downtown Area Plan as discussed in the project staff report dated October 25, 2018. The project is a higher-density, mixed-use development in proximity to regional transit, shops and amenities. The 274 dwelling units will improve options to increase access to Downtown on foot, by bicycle and via transit, and promote transit as an efficient and attractive choice. It will contribute to Downtown as a thriving, diverse residential neighborhood with a mix of supportive uses. It will enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster an exceptional sense of place. The project will include 10,000 square feet of commercial space that will service the city and region, consistent with the Core Area of the C-DMU District.
- B. Pursuant to BMC Section 23E.68.090.B.2 and D, the City finds that the project design is **compatible with the surrounding uses and buildings** and is compatible with the visual character and form of the District. The project would maintain continuity with and respect for the surrounding urban environment. Street wall height, cornice lines, human-scaled openings, and material would complement downtown's traditional fabric. The building's wall treatments would complement those of the adjacent, historic Shattuck Hotel. The street-level scale of neighboring buildings would be respected, as the project would maintain a continuous street wall at the edge of the abutting streets up to where the building would step back toward the interior of the site. At a height of approximately 72 feet (seven stories) above street level, the building would step back 15 feet from Shattuck Avenue and Allston Way. Above the 12th floor, the building would step back an additional 65 feet from Shattuck Avenue. This stepped massing is intended to minimize sight lines of the proposed 18-story tower from the perspective of people on Shattuck Avenue. The project's proposed retail and multi-family residential uses also are already found in Downtown Berkeley. The proposed project, which received a favorable recommendation by the DRC, will be designed with ground-floor storefronts and continuous building street walls except for architectural expression at the site's southeast corner and for usable open space. These features would provide for greater compatibility with nearby historic buildings in the proposed Shattuck Avenue Downtown Historic District. In addition, implementation of Final EIR Mitigation Measures CR-1a and CR-1b would enhance the compatibility of the proposed building's wall treatments with the adjacent, historic Shattuck Hotel.

C. Pursuant to BMC Section 23E.68.090.E, the applicant proposed the following as Significant Community Benefits:

1. **Project Labor Agreement.** An agreement with all twenty eight member trades of the Alameda County Building Trades Council, without any trade or work exclusions. Value: \$5,547,020. Based on 5% of estimated construction costs, as per City Council Resolution 67,172 – N.S.
2. **Community Space.** A 677 square-foot community art space next to the residential lobby that would be available for community events.

Pursuant to BMC Section 23E.68.090.E, the City finds the Project Labor Agreement complies with the Council Resolution #67,172 N.S. In addition, the City finds that the provision of community space is above and beyond what would otherwise be required by the City because the Zoning Ordinance does not currently require such a benefit. Thus, both of the above **are Significant Community Benefits** and satisfy the finding to approve a building of 180 feet in height.

- D. Pursuant to BMC Section 23E.68.090.F, the City finds that the **modified rear yard setback** for the portion of the building between 20 and 75 feet in height and to allow the portion of the building over 120 feet to be greater than 120 feet in width when measured at the widest point on the diagonal in plan view will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk. Shadow diagrams presented in Appendix A of the Draft EIR indicate that the building will partially shade Allston Way at street level during summer mornings, while partially shading Allston Way, the north side of the Shattuck Hotel, and a retail commercial building east of the hotel during summer afternoons. Due to the minimal massing in the setback encroachments, they will have a minimal contribution to these shadows. Therefore, it would not unreasonably limit solar access. Additionally, the Wind and Comfort Impact Analysis prepared for the project found that wind accelerations generated by the building will be located over rooftops of adjacent buildings or at decks and terraces within the building itself. It is not expected that the building will significantly affect ground-level winds. Therefore, the building's extension beyond setback standards will not significantly increase winds on the public sidewalk.
- E. Pursuant to BMC Section 23E.68.090.H, the City finds that the **reduced vehicle parking** spaces will not be detrimental to the neighborhood. The fee schedule adopted by the Council by resolution (66,178-N.S.) set the fee for reduced vehicle parking at \$15,000 per space for spaces 1-5 waived or reduced, \$20,000 per space for spaces 6-15 waived or reduced, \$25,000 per space for spaces 16-25 waived or reduced, and \$30,000 per space for spaces 26 and greater waived or reduced. A fee payment will be made to the City as a condition of this permit.
- F. Pursuant to BMC Section 23E.04.020.C, the City finds that the **architectural projections** that exceed the height limit are permissible as they represent no more than 15% of the average floor area of all of the building's floors and no tower or similar structure will be used as habitable space or for any commercial purpose, other than that which may accommodate the mechanical needs of the building. Rooftop elevator and stairwell enclosures and a parapet will exceed the District height limit of 180 feet. The elevator and stairwell enclosures will exceed the height limit by up to approximately 10 feet, while the parapet will exceed this limit by up to 5 feet. In addition, solar hot water panels will be installed on top of the elevator enclosure and

a stairwell enclosure. These panels will not substantially exceed the height of enclosures. The elevator extension and stairwell enclosures are necessary to serve such a tall building. The solar hot water panels would reduce the building's energy demand and assist in attainment of LEED Gold certification.

**V. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions and Mitigation Monitoring and Reporting Program Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

**3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

**4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

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

**VI. ADDITIONAL CONDITIONS**

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Pursuant to BMC 23B.32.040.D, the City attaches the following additional conditions to this Permit:

- 10. Pursuant to Section 23E.68.070.B.3.b, a) the applicant shall submit an application for a building permit no later than 180 days after this Use Permit is approved, b) shall respond to all plan check comments no later than 30 days after they are issued, and c) shall pay all building permit-related fees promptly when due, and shall commence construction no later than 180 days after being notified of approval of the first building permit. Any extension of any deadline in this condition shall be subject to approval by the Zoning Officer, except that no deadline for payment of any fees may be extended.

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

11. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

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

12. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee.

13. Compliance with Conditions and Environmental Mitigations. The building permit application is subject to verification of compliance to the adopted **Mitigation Monitoring and Reporting Program (Attachment 1- Exhibit B)**. The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit \$10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

14. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

15. Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

- A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- E. Prohibit unnecessary idling of internal combustion engines.



- F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

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

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

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

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

**17. Significant Community Benefits:** As per City Council Resolution No. 67,172-N.S. all significant community benefits agreed to by the applicant, and approved by the City, shall be included as Conditions of Approval, and prior to issuance of a building permit, a community benefits agreement shall be recorded as a notice of limitation on the title for the property. The significant community benefits are as follows:

- A. Project Labor Agreement. An agreement with all twenty eight member trades of the Alameda County Building Trades Council, without any trade or work exclusions. Value: \$5,547,020. Based on 5% of estimated construction costs, as per City Council Resolution 67,172 – N.S.
- B. Community Space. A 677 square-foot community art space next to the residential lobby that will be available for community events.
18. Percent for Public Art: Consistent with BMC §23C.23, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
19. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee prior to certificate of occupancy.
20. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, (5) commitment to notify neighbors at least four days in advance of authorized extended work hours and the reason for extended hours, and (6) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
21. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
22. Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
23. Demolition. Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
24. Parking In-Lieu Fee. Consistent with BMC 23E.28.080.D, the applicant shall pay a fee in lieu of providing each required vehicle parking. As set by the City Council, the graduated fee is as

follows: \$15,000 for each space 1-5, \$20,000 for each space 6-15, \$25,000 for each space 16-25, and \$30,000 for each space above 25. The in lieu fee will be deposited into a fund established by the City that provides enhanced transit services.

25. Streets and Open Space Improvement Plan: Street Frontage Improvements. Streets and Open Space Improvement Plan: Street Frontage Improvements. Consistent with the Downtown Streets and Open Space Improvement Plan (SOSIP) (or subsequent iterations as adopted by the City), the developer shall construct improvements along Shattuck Avenue and Allston Way to the centerline. Such improvements shall be included with the building permit submittal, designed and constructed as directed by the Public Works and Fire Departments, and constructed prior to certificate of occupancy. At the discretion of the City Engineer, the developer may be required to pay a fee in lieu of certain improvements as specified in the SOSIP Impact Fee COA below.
26. Streets and Open Space Improvement Plan: Impact Fee: As required by BMC Section 23E.68.075, the project shall pay an impact fee to implement the Streets and Open Space Improvement Plan (SOSIP) per the fee schedule adopted by the Council by resolution. The City shall deposit this payment into the Downtown Streets and Open Space Improvement Fund (SOSIF), or its equivalent, to pay for the design and construction of the SOSIP Major Projects. The fee shall apply to the project's "Gross Floor Area" as defined in BMC Section 23F.04.010, less any existing Gross Floor Area removed as part of the project.

At the City's discretion, the City Manager or her designee may reduce the required SOSIP Impact Fee, on a \$1 to \$1 ratio, as a credit for constructing all or a portion of a Major SOSIP Improvement Project beyond the frontage improvements already required by this Permit. The first half of this fee shall be paid prior to issuance of a building permit, and the second half shall be paid prior to issuance of a certificate of occupancy.

27. SOSIP Improvements: At the discretion of the City Engineer, the developer shall make an in-lieu payment for roadway improvements which are not constructed as part of the project, with a maximum payment of \$400,000 for expected improvements. Maximum payment amount shall be increased annually (if applicable) based on the Engineering News Record's construction prices for the San Francisco Bay Area. The first half of these payments shall be made prior to issuance of a building permit, and the second half shall be made prior to issuance of a certificate of occupancy.
28. Green Building Certification. The applicant shall submit documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation shall include proof of payment of the registration/application fee to the organization administering the green building certification system (e.g. USGBC/GBCI for LEED, Build It Green for GreenPoint Rated, etc.), a copy of the updated green building checklist that reflects anticipated points, and a statement from the appropriate project team professional (e.g. LEED Accredited Professional, GreenPoint Rater, etc.) verifying that the project is on track for certification at the required level or above. The submitted green building checklist must be a type that is appropriate for the project and a version that is being accepted by the organization granting the green building certification at the time of building permit application. Whenever applicable, measures from the green building checklist shall be incorporated and noted on site plans.

29. Electric Vehicle (EV) Charging. At least 10% of the project parking spaces for residential parking and 3% of the parking spaces for non-residential parking shall be pre-wired to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, as specified by the Office of Energy and Sustainable Development. Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable pre-wiring requirement. Pre-wiring for EV charging and EV charging station installations shall be noted on site plans.
30. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
31. Water Efficient Landscaping. Applicant shall provide an updated Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that will not be fully met at the project. Landscape improvements shall be consistent with the current versions of the State's Water Efficient Landscape Ordinance (WELO) and the East Bay Municipal Utility District's Section 31: Water Efficiency Requirements.
32. Construction and Demolition. Applicant shall submit a Waste Diversion Form and Waste Diversion Plan that meet the diversion requirements of BMC Chapters 19.24 and 19.37.
33. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
34. Parking for Disabled Persons. Per BMC Section 23E.28.040.D of the Zoning Ordinance, "Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces."
35. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
  - A. Environmental Site Assessments:
    - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:
      - All new commercial, industrial and mixed use developments and all large improvement projects.
      - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
      - EMA is available online at:
        - [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
    - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.

- 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
  - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
  - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
- C. Building Materials Survey:
- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.
- D. Hazardous Materials Business Plan:
- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

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

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

**During Construction:**

- 37. Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 38. Construction Hours- Exceptions.** It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.
- 39. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

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

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

- 40. Project Construction Website.** The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:
- Contact information (i.e. "hotline" phone number, and email address) for the project construction manager
  - Calendar and schedule of daily/weekly/monthly construction activities
  - The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

41. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
42. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
  - B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

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

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

43. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
  - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
  - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
  - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
  - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
44. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
45. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
46. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to



evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

47. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
  - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
  - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
  - G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).

- H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
  - I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 48. Public Works - Implement BAAQMD-Recommended Measures during Construction.** For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
- 49. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 50. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

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

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

55. Compliance with Conditions and Environmental Mitigations. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit. Occupancy is subject to verification of compliance to the Mitigation Monitoring and Reporting Program.
56. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated October 25, 2018, except as modified by conditions of approval.
57. Car Sharing Spaces. At least **five** car share spaces shall be provided within the parking garage for the life of the building. In addition, these car share spaces are subject to the following requirements:
  - A. At least 90 days prior to issuance of a certificate of occupancy, the property owner shall do one of the following if necessary to ensure that car share spaces are provided at this site: 1) purchase 2 cars for the use of a vehicle sharing service provider, or VSSP (e.g., City CarShare or Zipcar), or 2) provide a monthly subsidy to offset the costs to a VSSP to provide for the management of the cars at this site.
  - B. Prior to issuance of a certificate of occupancy, the property owner shall provide one of the following: 1) a signed agreement with a VSSP to manage shared vehicles at the site, or 2) a plan to provide on-site management. If the vehicle sharing spaces are managed by a VSSP, these spaces shall be accessible to all VSSP members in the same manner and during the same hours as other vehicles offered by the VSSP.
58. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this

requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

59. Green Building Certification. The applicant shall submit updated documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation expected at this stage includes proof of submission of the final application materials and payment of the certification fee. If this submission has not yet occurred, a detailed explanation and timeline indicating when it will happen must be submitted to the Zoning Officer for review and approval. Once awarded by the organization administering the green building certification system, the applicant shall forward a copy of the certification award to the Zoning Officer.

**At All Times:**

60. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
61. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
62. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
63. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
64. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
65. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
66. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
67. Parking to be Leased or Sold Separately. All residential parking spaces shall be leased or sold separate from the rental or purchase of dwelling units.
68. Bike Parking. Secure and on-site bike parking for at least 99 bicycles shall be provided for the life of the building.

69. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
-

## 2190 Shattuck Avenue Mixed-Use Project

### Pursuant to Sections 15091 and 15093 of the State CEQA Guidelines and Section 21081 of the Public Resources Code

The Final Environmental Impact Report (Final EIR) prepared by the City of Berkeley (City) for the 2190 Shattuck Avenue Mixed-Use Project (project) consists of the Draft Environmental Impact Report and the Final Environmental Impact Report Response to Comments Document. The Final EIR identifies significant environmental impacts that will result from implementation of the project. The City finds that the inclusion of certain mitigation measures as part of project approval will reduce all but one significant impact to levels that are less than significant. The significant and unavoidable impact will result from the exposure of nearby sensitive land uses to temporary noise during construction of the project. No feasible mitigation measures have been identified to reduce this impact to a less-than-significant level; therefore, construction noise will remain a significant and unavoidable impact of the project. However, this impact is consistent with the Downtown Area Plan (DAP) EIR’s finding for construction noise during the development of projects in the Plan Area as a whole. Furthermore, the impact is subject to a Statement of Overriding Considerations described in section 7 below.

As required by the California Environmental Quality Act (CEQA), the City, in adopting these CEQA Findings and Statement of Overriding Considerations, is also adopting a Mitigation Monitoring and Reporting Program (MMRP) for the project. The City finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the *CEQA Guidelines*, the City adopts these findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Final EIR reflects the City’s independent judgment as the lead agency for the project.

### TABLE OF CONTENTS

SECTION 1: INTRODUCTION .....	2
SECTION 2: THE 2190 SHATTUCK AVENUE MIXED-USE PROJECT .....	5
SECTION 3: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT .....	8
SECTION 4: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS.....	13
SECTION 5: SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL .....	24
SECTION 7: STATEMENT OF OVERRIDING CONSIDERATIONS .....	30

## SECTION 1: INTRODUCTION

### 1.1 Statutory Requirements for Findings

Section 15091 of the *CEQA Guidelines* states that:

*(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:*

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.<sup>1</sup>

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.<sup>2</sup> The *CEQA Guidelines* state in section 15093 that:

*“If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”*

### 1.2 Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City’s decision on the project consists of: a) matters of common knowledge to the City, including, but not limited to, federal, State and local laws and regulations; and b) the following documents which are in the custody of the City:

- The Notice of Preparation and other public notices issued by the City in conjunction with the project (see Appendix A of the Draft EIR for the Notice of Preparation);
- The Draft Infill Environmental Checklist and supporting documentation prepared for the proposed project, dated August 2017 (see Appendix A of the Draft EIR for the Draft Infill Environmental Checklist);
- The Public Review Draft EIR, dated August 2017;
- All written and verbal comments submitted by agencies, organizations and members of the public during the public comment period and at public hearings on the Draft EIR and responses to those comments (see Response to Comments Document in Final EIR, dated January 2018);

<sup>1</sup> *CEQA Guidelines*, 2017. Section 15091(a).

<sup>2</sup> Public Resources Code Section 21081(b).

- The Mitigation Monitoring and Reporting Program;
- All findings and resolutions adopted by the City in connection with the project, and all documents cited or referred therein;
- Relevant final reports, studies, memoranda, maps, correspondence, and all planning documents prepared by the applicant, the City or their consultants, or responsible or trustee agencies with respect to: a) the City's compliance with CEQA; b) development of the project site; or c) the City's action on the project; and
- Relevant documents submitted to the City by agencies or members of the public in connection with development of the project.

### 1.3 Infill EIR

The EIR is a Project EIR pursuant to CEQA *Guidelines* Section 15161 and an Infill EIR pursuant to CEQA *Guidelines* Section 15183.3. Under CEQA *Guidelines* Section 15183.3(b), to be eligible for streamlined review, an infill project must:

- (1) *Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter. For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way;*
- (2) *Satisfy the performance standards provided in Appendix M; and*
- (3) *Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy...*

In addition, Public Resources Code section 21099 of CEQA states that aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area are not to be considered significant environmental impacts.

As discussed in the Infill Environmental Checklist (Appendix A to the EIR), the proposed project qualifies as an infill project under CEQA *Guidelines* Section 15183.3. It is located in an urban area on a site that has been previously developed. In order to be eligible for streamlined review under Section 15183.3, a project must meet criteria in Appendix M of the CEQA *Guidelines*. Information and analysis demonstrating that this project satisfies the Appendix M performance standards is provided in the Infill Environmental Checklist in a section titled "Satisfaction of Appendix M Performance Standards."

The project is consistent with the general use designation, density, building intensity and applicable policies specified for the project area in the City's DAP EIR. As documented in the Infill Environmental Checklist, potential development on the project site was within the DAP vision and is included in all aspects of the DAP EIR.

Under CEQA *Guidelines* Section 15183.3(c), for eligible infill projects (such as the 2190 Shattuck Avenue Mixed use project) CEQA does not require certain analyses that would otherwise be required:

- If a significant environmental effect was analyzed in a prior EIR for a planning level decision, then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR.
- An effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable



development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect.

The EIR references pertinent City policies and guidelines, certified EIRs and adopted CEQA documents, and background documents prepared or relied upon by the City in preparing the CEQA analysis. A full reference list is contained in the EIR in Section 7, *References and Report Preparers*. The Infill Environmental Checklist makes reference to the uniformly applicable development policies or standards that would mitigate certain impacts identified in the Checklist, and also lists the mitigation measures from the DAP EIR (the prior EIR for a planning level decision) that would apply to the proposed project and address certain identified impacts. Those uniformly applicable development policies or standards and DAP EIR mitigation measures are discussed in the Infill Environmental Checklist and are listed with the project-specific mitigation measures discussed in sections 3 and 4 below.

#### **1.4 Organization/Format of Findings**

Section 2 of these findings sets forth the objectives of the project and contains a summary description of the project and project alternatives. Section 3 identifies the project's potential environmental effects that were determined not to be significant, and do not require mitigation. Section 4 identifies the potentially significant effects of the project that have been determined to be mitigated to a less-than-significant level. All numbered references identifying specific mitigation measures refer to numbered mitigation measures found in the Infill Environmental Checklist or Draft EIR and Response to Comments Document. Section 5 identifies the significant impacts of the project, including cumulative impacts, that cannot be mitigated to a less-than-significant level even though feasible mitigation measures have been identified and incorporated into the project. Section 6 discusses the feasibility of project alternatives. Section 7 includes the City's Statement of Overriding Considerations.

## SECTION 2: THE 2190 SHATTUCK AVENUE MIXED-USE PROJECT

This section lists the objectives of the proposed project, provides a brief description of the project, and lists the alternatives evaluated in the Draft EIR and Final EIR.

### 2.1 Project Objectives

The objectives of the applicant for the proposed 2190 Shattuck Avenue Mixed-Use Project are to:

1. Implement the Downtown Area Plan and Street & Open Space Improvement Plan by taking advantage of the full development potential under Zoning Ordinance standards and in turn, generating the revenue necessary to support the amenities and community benefits envisioned in the Downtown Area Plan, and maintaining the financial feasibility of the Project.
2. Generate much-needed, highly livable, transit-oriented, and sustainable market rate housing; and contribute substantial affordable housing (and/or fees to support development of such housing) as required by Berkeley Municipal Code Section 22.20.065.
3. Assist the State, region and the City to achieve established housing production goals.
4. Design a project that is feasible and contributes positively to the economic, social, and environmental goals of the City.
5. Establish a thriving, livable and diverse residential neighborhood that maximizes transit-oriented density and establish an environmentally sustainable community with 400-450 new residents.
6. Stimulate and activate the pedestrian environment along Allston Way by replacing the existing structure, with vibrant, walkable retail and pedestrian amenities and offering diverse, walk-to destinations.
7. Upgrade and revitalize an important urban block in Downtown Berkeley into a walkable, retail-centered, transit-friendly, residential block with active, safe and visually engaging pedestrian amenities consistent with the Downtown Area Plan and the Streets and Open Space Improvement Plan, while respecting key historic resources on adjacent blocks.
8. Develop a superior building, integrating environmentally sustainable development practices in design, development, and construction.
9. Utilize ecologically beneficial landscaping techniques that complement and enhance the local environment and reinforce the City's commitment to environmental sustainability, promote watershed health and create safe, comfortable, and inviting open spaces.
10. Actively encourage alternative modes of transportation by foot, by bicycle and via transit, for residents, employees, and retail customers by providing residents and employees with a range of Transportation Demand Management measures that are made possible by the income generated by the project's size and scale, and prioritizing the safety, attractiveness and convenience of the pedestrian experience.
11. Generate significant new revenue streams for the City of Berkeley through increased property taxes and property-based revenues, economically sensitive revenues such as sales taxes and business license taxes, jobs creation, gross receipts taxes, and a new residential population that supports a successful mix of retail businesses, institutions and other attractions in Downtown Berkeley.

### 2.2 Project Description

The project is a proposed 211,590 square-foot residential and commercial mixed-use development in Downtown Berkeley. The project would involve demolition of an existing two-story commercial building that covers the entire project site and construction of an 18-story building with retail commercial ground-floor uses, residential upper-floor uses, and a two-level subterranean parking garage with 103 parking spaces. The completed project would include 274 residential units and 10,000 square feet of commercial space. The commercial storefronts would front on the Shattuck Avenue BART Plaza and wrap around to Allston Way on the south. A 677 square-foot community art space next to the residential lobby would be available for community events.

The proposed building would have components of various heights, with the highest portion reaching 180 feet, excluding rooftop architectural projections (a parapet and elevator enclosures) that would extend up to

approximately 190 feet. The project would maintain a continuous street wall at the edge of the abutting streets up to where the building would step back toward the interior of the site. At a height of approximately 72 feet (seven stories) above street level, the building would step back 15 feet from Shattuck Avenue and Allston Way. Above the 12th floor, the building would step back an additional 65 feet from Shattuck Avenue.

A more detailed description of the proposed project is provided in Section 2, *Project Description*, of the Draft EIR.

### 2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to Section 15126.6 of the *CEQA Guidelines*, the following project alternatives were selected for analysis:

- **No Project Alternative.** This alternative assumes that the proposed project is not implemented and the existing two-story commercial building is left intact. This alternative assumes that the building occupancy would remain as is, including the Walgreens drug store and pharmacy on the ground floor and office uses on the second floor, while the basement would remain vacant.
- **Reduced Parking Alternative.** This alternative assumes that the proposed building would provide fewer off-street parking spaces for vehicles than would the proposed project but the same intensity of residential and commercial development (274 residential units and 10,000 square feet of retail commercial space). The garage would include 58 parking spaces as compared to 103 parking spaces under the proposed project. The 58 parking spaces would consist of the following:
  - 48 parking spaces in a three-tiered mechanical lift system
  - 4 independently accessible (non-tiered) parking spaces
  - 3 parking spaces accessible to persons with disabilities
  - 3 vehicle share parking spaces

While the proposed project would include a two-level subterranean parking garage, this alternative would provide either a one- or two-level garage to accommodate 58 parking spaces and building support systems.

- **14-Story Building Alternative.** This alternative would reduce the proposed building's height from 18 to 14 stories and the number of dwelling units from 274 to approximately 250, for the purpose of minimizing the obstruction of scenic views from Campanile Way on the UC Berkeley campus. The building would have a maximum height of 142 feet, 2 inches, plus an additional 4 feet of rooftop architectural projections above rooftop residential units. Relative to the proposed project, the 14-Story Building Alternative would reduce the building's maximum height by approximately 38 feet. Similar to the proposed project, this alternative would provide 10,000 square feet of commercial space and 103 parking spaces in a two-level underground garage.

This alternative would require several additional use permits compared to the proposed project pursuant to the City's C-DMU Downtown Mixed Use District standards: to exceed the bulk height limit at 120 feet by 22 feet, 1 inch; to reduce usable open space below the amount required; and to reduce the front, rear, and interior side setbacks below the distance required. However, while the project would require an administrative use permit to allow architectural projections to exceed the maximum building height of 180 feet, this permit would be unnecessary for the reduced-height alternative. With approval of the additional use permits, the 14-Story Building Alternative would be consistent with zoning standards.

- **15-Story Building Alternative.** This alternative would reduce the proposed building's height from 18 to 15 stories, for the purpose of reducing the obstruction of views from Campanile Way, while still maintaining the same number of dwelling units (274). The building would have a maximum height of 151 feet, 4 inches, plus an additional 14 feet of rooftop architectural projections. Relative to the proposed project, the 15-Story Building Alternative would reduce the building's maximum height by approximately 29 feet. To provide the same residential density as the proposed project in fewer stories, the alternative would widen the proposed

upper floors. While the project's upper tier would step back an additional 65 feet from Shattuck Avenue above the 12th floor, this alternative would eliminate that setback. Similar to the proposed project, this alternative would provide 10,000 square feet of commercial space and 103 parking spaces in a two-level underground garage.

This alternative would require several additional use permits to the proposed project pursuant to the City's C-DMU Downtown Mixed Use District standards: to exceed the bulk height limit at 120 feet by 31 feet, 3 inches; and to reduce the rear and interior side setbacks below the distance required. However, while the project would require an administrative use permit to allow architectural projections to exceed the maximum building height of 180 feet, this permit would be unnecessary for the reduced-height alternative. With approval of the additional use permits, the 15-Story Building Alternative would be consistent with zoning standards.

A more detailed description of these alternatives, and required findings, are set forth in Section 6: Feasibility of Project Alternatives.

### **SECTION 3: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT**

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the project are not significant or are less than significant. The Infill Environmental Checklist included as Appendix A of the Draft EIR and Section 4.0 of the Draft EIR provide a detailed analysis of the less-than-significant impacts of the proposed project.

#### **3.1 Agricultural and Forestry Resources**

The project site and vicinity are located within an urban area in the city of Berkeley. There are no agricultural resources, Williamson Act-contracted land, or forest land located on or near the project site. The California Department of Conservation classifies the site and all surrounding properties classified as “Urban and Built-Up Land” (2014). The project would not convert agricultural land to non-agricultural uses or result in the loss of forest land or conversion of forest land to non-forest use. The site’s urban zoning designation would not change. Although there are seven street trees on Allston Way that would be removed during site preparation and construction, those ornamental trees are not considered forestry resources, and the project includes replacing them with approximately seven street trees of species acceptable to the City’s Street Trees and Urban Forestry Management Program. Therefore, the City finds that the proposed project will have no impact on agricultural or forestry resources.

#### **3.2 Air Quality**

The City of Berkeley and the project site are located in the San Francisco Bay air basin and are within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The latest air quality plan, the 2017 Clean Air Plan, is a roadmap showing how the San Francisco Bay Area will achieve compliance with the state standard for atmospheric ozone levels over a one-hour period as expeditiously as practicable, and how the region will reduce transport of ozone and ozone precursors to neighboring air basins. A project’s consistency with BAAQMD quantitative thresholds demonstrates support for the CAP goals. The short-term and long-term emissions of the project are not anticipated to exceed BAAQMD thresholds. Furthermore, the project would be consistent with the growth assumptions in the Clean Air Plan. Therefore, the project would be consistent with the Clean Air Plan. Although construction emissions would be below BAAQMD project-level thresholds, the project would be subject to Mitigation Measure AIR-3 from the DAP EIR to minimize PM<sub>10</sub> and PM<sub>2.5</sub> construction emissions. Implementation of this measure would reduce air quality impacts to a less-than-significant level. On-site sensitive receptors would not be exposed to substantial levels of TACs that would significantly impact human health. In addition, the project would not generate substantial odors and its site is not located near any land uses considered by the 2012 BAAQMD CEQA Guidelines to have greater potential for offensive odors. Therefore, the project will have a less-than-significant impact on air quality.

#### **3.3 Biological Resources**

The project site and vicinity are located within an urban area in the city of Berkeley and within the DAP area. The setting information for the project site is the same as that described for the DAP area in the DAP EIR; there is virtually no vegetation on-site or adjacent other than non-native street trees on Allston Way and Shattuck Avenue, and no wetlands or riparian or other habitat on site or nearby. There is no suitable habitat for special status wildlife on site or adjacent. The project site does not provide a suitable corridor for wildlife movement, as it is completely developed with an existing building and not adjacent to habitat or wildlife movement areas. As existing street trees affected by the project would be replaced with an equal or greater number of street trees of species acceptable to the City’s Street Trees and Urban Forestry Management Program, no conflict with local policies or ordinances protecting biological resources, including trees, would occur. No adopted Habitat Conservation Plans, Natural Community Conservation Plans or other approved local, regional, or state habitat conservation plans apply to the project site.

The City of Berkeley has adopted bird-safe building standards that are “uniformly applicable development policies for multi-story buildings with the potential for significant bird strikes (City of Berkeley, Additional Amendments to the Master Use Permit Process, West Berkeley Project EIR, 2012). Pursuant to these standards, new buildings with the potential for significant bird strikes must adhere to specific design measures, which would be included in the conditions of approval for the proposed project, as applicable. Therefore, the City finds that the proposed project will have a less-than-significant impact on biological resources.

### **3.4 Cultural Resources**

As discussed in the DAP EIR, no archaeological or paleontological resources are currently known to exist in the Downtown Area, which includes the project site. Nevertheless, the DAP EIR identified impacts to unrecorded subsurface archaeological and paleontological resources, and to human remains, as potentially significant but mitigable. The proposed excavation to a maximum depth of 41 feet below the existing street-level for the foundation beneath the elevator shaft could uncover previously undisturbed resources, if they are located on the site. The site is not known to have greater likelihood of containing subsurface archaeological and paleontological resources or human remains than the DAP area as a whole. Therefore, mitigation measures CUL-3 through CUL-5 would apply to the project, and would reduce impacts to less than significant levels. Therefore, the City finds that the proposed project will not result in significant impacts related to cultural resources beyond those described in Section 4 of this document with regard to historic resources.

### **3.5 Geology and Soils**

As stated in the DAP EIR, the Downtown Area is not in an Alquist Priolo fault zone and is therefore not an area where structures are at significant risk from fault rupture; however, it is, like all of the East Bay, in an area at high risk from seismic shaking. However, the 2016 California Building Code (CBC), as adopted in Chapter 19.28 of the Berkeley Municipal Code, contains requirements for structural design, including seismic design specifications. Compliance with the mandatory building code structural specifications would result in a building that resists adverse effects from seismic ground-shaking. In addition, building design in compliance with the 2016 CBC would result in a building that resists adverse effects from seismic-related liquefaction. As stated in the DAP EIR, the Downtown Area is relatively flat and not subject to landslides. The use of standard soil erosion control measures during demolition and construction associated with the project would be expected to minimize erosion from exposed surfaces and reduce soil erosion impacts to a less than significant level. As stated in the DAP EIR, expansive soils may be present within the Downtown Area. However, the Geotechnical Feasibility Report prepared for the project did not identify expansive soils as a potential hazard at this site. Excavation to a maximum depth of 41 feet below the surface grade and removal of existing soil for the construction of building foundations would further reduce the risk of expansive soils to structural stability. The project also would not involve the use of septic systems. Therefore, the City finds that the proposed project will not result in significant impacts related to geologic and soil hazards beyond those described in Section 4 of this document.

### **3.6 Greenhouse Gas Emissions**

The combined annual emissions from new development on the project site would total approximately 1,085 metric tons of carbon dioxide equivalent (CO<sub>2</sub>e) per year, which does not exceed the BAAQMD threshold of 1,100 metric tons per year. The project's GHG efficiency was calculated by dividing the project's GHG emissions (1,085 MT CO<sub>2</sub>e per year) by the service population (573), which equals 1.9 MT CO<sub>2</sub>e per service population per year. This emissions rate would be 1.0 MT CO<sub>2</sub>e below the region-specific efficiency metric of 2.9 MT CO<sub>2</sub>e per service population per year. Therefore, the project would be consistent with the most recent State emissions goals. The project also would not conflict with California's commitment to GHG reduction under AB 32, SB 32, or any other plan, policy or regulation intended to reduce GHG emissions. Therefore, the City finds that the proposed project will have a less-than-significant impact on greenhouse gas emissions.

### 3.7 Hazards and Hazardous Materials

As stated in the DAP EIR, the type of proposed commercial and residential uses can involve the use of hazardous materials associated with motor vehicle use and storage, and with periodic cleaning, repair, and maintenance or for landscape maintenance or pest control. The DAP EIR's conclusion remains valid that, with existing regulations and normal standards of use, use of hazardous materials at commercial and residential land uses in the Downtown Area would not pose a significant risk to human health or the environment. While the project site is within roughly 490 feet (0.09 miles) of Berkeley High School, it would not emit hazardous emissions or pose a significant risk to this or any other school from hazardous materials releases. The existing commercial building that was constructed on the project site in 1958 would be demolished to accommodate the proposed mixed-use building. Based on the building's age, it may contain Asbestos-Containing Material (ACM) and lead-based paint (LBP). Adherence to BAAQMD rules would ensure the proper handling and disposal of ACM.

The project site is not included on any list of hazardous materials sites compiled pursuant to Section 65962.5 of the Government Code, and active sites in the vicinity does not pose a threat to people on the project site. The proposed excavation at the project site to a depth of up to 41 feet below street level could, however unlikely, disturb contaminated soils from the sources discussed above or other. However, standard conditions of the City of Berkeley's Toxics Management Division (TMD) require that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with the Project's building permit application and be approved by TMD prior to issuance of the building permit. Compliance with these standard City conditions would reduce these potential impacts. As stated in the DAP EIR, the Downtown Area is not near any airports or airstrips and therefore is not subject to substantial airport-related hazards. In the vicinity of the project site, the City has designated Allston Way and Shattuck Avenue as Emergency Access and Evacuation Routes. While the project would involve improvements to the pedestrian environment on Allston Way and Shattuck Avenue, these offsite actions would not result in any street closures that could impede emergency access or evacuation. Therefore, the City finds that the proposed project will have a less-than-significant impact related to hazards.

### 3.8 Hydrology and Water Quality

Construction activities on-site would have the potential to cause soil erosion from exposed soil, an accidental release of hazardous materials such as vehicle fuels and lubricant, or temporary siltation from stormwater runoff. In addition, the proposed building would have landscaping on terraces and the rooftop that could produce minor quantities of polluted runoff from sources such as chemical fertilizers. However, as stated in the DAP EIR, in order to prevent significant adverse impacts to water quality, construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that the above requirements are being met, and that contaminants are not released into urban runoff. Because the project site is already fully developed with impervious surfaces, the proposed mixed-use building would not increase the amount of impervious surfaces on-site or increase runoff. Therefore, the project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. No portion of the Downtown Area, including the project site, is located within a 100-year flood hazard area or an area subject to inundation in the event of a dam or levee failure. Any risk of inundation by seiche, tsunami or mudflow at the project site would be remote, and would not be increased as a result of project development. Therefore, the City finds that the proposed project will not result in significant impacts related to hydrology and water quality beyond those described in Section 4 of this document with regard to groundwater dewatering and stability of the Strawberry Creek culvert.

### 3.9 Land Use and Planning

The project would have no impact regarding division of an established community, as identified in the DAP EIR for the Plan as a whole. The Project would have no impact regarding Habitat Conservation Plans or Natural Community Conservation Plan, also as identified in the DAP EIR for the Plan as a whole. The proposed 180-foot-tall mixed-use building also would be within the overall buildout assumptions for both use and scale within the Core Area, which includes development on several Core sites with buildings of 120 to 180 feet in height. In addition, the proposed mixed-use building, with retail space and a high residential density near transit

opportunities, would be consistent with the Berkeley General Plan's Downtown land use classification and with the DAP's assumptions of development potential for 180-foot buildings in the Core Area. Although the project would be potentially inconsistent with General Plan policy to protect scenic views from the UC Berkeley campus, the aesthetic impacts of a mixed-use project on an infill site within a transit priority area may not be considered significant impacts on the environment. Therefore, the City finds that the project will not result in significant land use conflicts beyond those described in Section 4 of this document with regard to DAP policies for historic resource preservation and pedestrian safety.

### **3.10 Mineral Resources**

The DAP EIR identified no known mineral deposits of local importance or value to the region or residents of the State, or locally-important mineral resource recovery sites, within the Downtown Area. The project site is located within an urban area on a developed site and impacts would remain as identified in the DAP EIR. Therefore, the City finds that the proposed project will result in a less-than-significant impact to mineral resources.

### **3.11 Noise**

During operation of the project, on-site activities would generate noise that may periodically be audible to noise-sensitive receptors near the project site. On-site noise sources would include stationary equipment, such as rooftop ventilation and heating systems, and delivery and trash hauling trucks. However, on-site operational noise would not exceed ambient noise levels at nearby noise-sensitive receptors. Vehicle trips associated with operation of the project also would increase traffic volumes on Downtown Area roadways, resulting in greater traffic noise audible to existing noise-sensitive uses. However, the increase of vehicle trips from the project would be incremental and would not result in a substantial traffic noise increase. In addition, the project is not located within an airport land use plan, within two miles of a public airport or public use airport, or within the vicinity of a private airstrip. No impacts associated with airport noise would occur. Therefore, the City finds that the project will not result in significant noise or vibration impacts beyond those described in Section 4 and Section 5 of this document with regard to construction noise, vibration, and the exposure of new residents to ambient noise.

### **3.12 Population and Housing**

The project would directly increase Berkeley's population by adding 274 residential units to the project site. Based on the City's average household size for rental units, this addition of residential units would result in an increase in the local population by an estimated 573 persons. The estimated population growth of 573 persons would not be considered substantial in the context of existing population in Berkeley, and would be within the DAP EIR's projected population increase of 3,252 new residents under buildout of the Downtown Area Plan. In addition, the project does not include infrastructure improvements that would extend roadways or infrastructure into areas which do not currently support residential or other urban uses. Therefore, the project would neither directly nor indirectly increase population growth in Berkeley beyond that planned for by the City in the DAP. No occupied or vacant residential structures would be demolished to accommodate the project, so the project would not result in displace existing housing or people. Therefore, the City finds that the project will have a less-than-significant impact related to population and housing.

### **3.13 Public Services**

Because the project would increase the local population by an estimated 573 persons, which is well within the projected total population growth attributed to the DAP of 3,252 new residents during the planning period, it would not result in substantial population or housing growth beyond that already anticipated under the DAP EIR. Therefore, like the DAP EIR itself, the project's increase in demand for police, fire, school, recreational services, library services, and health and human services would not require the construction of new facilities. Therefore, the City finds that the project will have a less-than-significant impact on public services.



### 3.14 Recreation

Although the project would incrementally increase use of community and regional parks and recreation facilities, the City exceeds its goal of two park acres per 1,000 people, and the increase in use would be within that anticipated by the DAP EIR, and is not expected to result in substantial physical deterioration of these facilities. In addition, the project would include on-site outdoor common areas at terraces for use by project residents. The project would involve the redevelopment of the existing project site with residential and commercial uses. As discussed above, the project does not require the construction or expansion of off-site public recreational facilities; therefore, development of the project would not result in additional environmental effects beyond those described in this document. Therefore, the City finds that the project will have a less-than-significant impact on recreation.

### 3.15 Transportation and Traffic

Operation of the project would generate an estimated 33 net vehicle-trips (7 inbound, 26 outbound) during the weekday AM peak hour and 40 net vehicle trips (26 inbound, 14 outbound) during the weekday PM peak hour. With the addition of vehicle trips from the project, all intersections near the project site would continue to operate at an acceptable level of service of LOS D or better. In addition, the project would incorporate transportation demand management strategies that would help reduce vehicle trips associated with project operations. The project would generate vehicle trips in an area of Berkeley with low existing vehicle miles traveled relative to surrounding areas in Alameda County, and public transit would accommodate a substantial portion of the project's travel demand. Therefore, the project will not have an adverse effect on vehicle miles traveled. Garbage, recycling, and green waste generated by the project would be placed curbside on Allston Way for periodic collection. Zero Waste trucks would have direct access to the curbside collection area. While storage bins would present a minor and temporary obstacle for pedestrians, they would not substantially affect pedestrian circulation on Allston Way. In addition, the project would not result in any change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. As determined in the DAP EIR for the Plan as a whole, the project would have no impact from interference with air traffic patterns. Therefore, the City finds that the project will not result in significant impacts on transportation and traffic beyond those described in Section 4 of this document with regard to construction traffic, traffic conflicts, emergency access, transit operations, and pedestrian and bicycle circulation.

### 3.16 Utilities and Service Systems

The DAP EIR demonstrates that anticipated water demand in this area has been accounted for in EBMUD's water demand projections and that development occurring under the DAP would not require any changes to those projections. Because the project would be within the maximum buildout as anticipated under the DAP, it is not anticipated that EBMUD would need new or expanded entitlements to serve the project. The project also would reduce water use relative to standard building practices by attaining a LEED Gold (or equivalent) rating. Construction of a lateral connection to the sewer main on Allston Way would result in noise and pollutant emissions from the operation of construction vehicles. These secondary impacts would be short-term, would occur within paved rights-of-way with previously disturbed soils. Given the already developed nature of the site, the project would not result in an increase in impervious surface. Moreover, the project would include features that slow the rate of stormwater runoff and improve water quality. As discussed in the DAP EIR, although construction could result in physical damage to streets and sidewalks, the City would require pre- and post-construction surveys of street conditions and repair or replacement of any damage to sidewalks at the property owner's expense. Service by and consumption of gas, telecommunication, and electricity utilities would also be within the ranges considered in the DAP EIR. In addition, solid waste from the project site would be disposed of at the Vasco Road Landfill, which the DAP EIR found to have sufficient capacity to accommodate solid waste from the Downtown Area through the year 2024 including assumed buildout under the DAP. Therefore, the City finds that the project will have a less-than-significant impact on utilities and service systems.

## SECTION 4: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Infill Environmental Checklist and Draft EIR identified certain potentially significant effects that could result from the project. However, the City finds for each of the significant or potentially significant impacts identified in this section (Section 4) that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project; or mitigation measures from the DAP EIR would apply to the project; which avoid or substantially lessen the significant effects as identified in the Final EIR<sup>3</sup> and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. Adoption of the recommended mitigation measures will effectively make the mitigation measures part of the project. In addition, City Conditions of Approval and compliance with City and other regulations will further reduce project impacts. Impacts and mitigation measures identified in the Final EIR and the Infill Environmental Checklist are listed below.

### 4.1 Cultural Resources

**Impact CR-1:** Although the proposed demolition of the existing commercial building on-site would not directly affect an eligible historical resource, the proposed building design would adversely affect the setting of nearby historical resources, including the adjacent Shattuck Hotel and the greater proposed Shattuck Avenue Downtown Historic District. Impacts on the integrity of historical resources would be less than significant with incorporation of mitigation to enhance the compatibility of the proposed building's design with surrounding historical resources.

Mitigation Measure CR-1a Slanted Wall Modifications. The project applicant shall modify the proposed design of the slanted walls composed of slotted aluminum panels at stories two through six along Shattuck Avenue and Allston Way to make them more compatible with the Shattuck Hotel and other contributors to the proposed Shattuck Avenue Downtown Historic District. Specifically, these slanted walls shall be replaced with a rectilinear wall system, i.e., one with predominant wall surfaces below the seventh-floor loggia being either parallel or perpendicular to the abutting property line.

Mitigation Measure CR-1b Wall Rhythm Modifications. The proportion and pattern of void to wall in the proposed wall treatments of the project shall be modified to more closely match that exhibited in the Shattuck Hotel. Potential ways to achieve this include, but are not necessarily limited to, replacing the window wall systems with punched curtain wall systems or breaking up the window wall systems with windowless bays.

Mitigation Measure CR-1c Wall Cladding Material Modifications. The project applicant shall modify the proposed design so as to incorporate wall cladding materials that are compatible with the Shattuck Hotel and other contributors to the proposed Shattuck Avenue Downtown Historic District. Such materials include brick, concrete, stucco, marble, granite, tile and terra cotta, and could be used in conjunction with the proposed glass fiber reinforced concrete (GFRC), glass panels, and metal screens.

Mitigation Measure CR-1d Roofline Modifications. The project applicant shall modify the proposed design so as to incorporate elements that more prominently accentuate the building's roofline by differentiating it from the walls below. Potential ways to achieve this include, but are not necessarily limited to, adding a cornice element or employing a change in material, color or finish at the uppermost portions of the wall façades.

Mitigation Measure CR-1e Ground Floor Modifications. The project applicant shall modify the proposed design of the storefront along Shattuck Avenue and the ground-floor wall along Allston Way in a manner

<sup>3</sup> CEQA Guidelines, 2012. Section 15091.

that visually divides the uninterrupted expanse of glazing at the ground floor into distinct bays that are between 15 and 30 feet in width.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: With implementation of Mitigation Measures CR-1a through CR-1e, the project would substantially conform to the City's Downtown Design Guidelines intended to preserve the integrity of contexts for historic resources. These measures would modify the building's slanted walls, wall rhythm, wall cladding, roofline design, and the ground-floor storefront for improved compatibility with nearby historic buildings. Therefore, implementation of the foregoing mitigation measures will reduce the project's compatibility impacts on historical resources to a less-than-significant level. The design has been substantially modified over several Design Review Committee (DRC) Meetings in early 2018 in response to the Design Mitigation Measures CR-1a through CR-1e, as well as design recommendations from the DRC.

Impact CR-2: The proposed demolition of the existing building on-site and construction of an 18-story mixed-use building with two levels of underground parking would produce ground vibration in the vicinity of existing historical resources. The levels of vibration that would be generated by project construction activities could potentially exceed thresholds for physical damage to historic structures. However, implementation of Mitigation Measure NOI-6 in the DAP EIR would be required to monitor and reduce vibration levels at the Shattuck Hotel from construction activity. Therefore, impacts would be less than significant with mitigation.

DAP EIR Mitigation Measure NOI-6. Avoidance of Pile-Driving/Site-Specific Vibration Studies/Monitoring/Contingency Planning. The following measures are recommended to reduce vibration from construction activities:

- Avoid impact pile-driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.
- Avoid using vibratory rollers and tampers near sensitive areas.
- In areas where project construction is anticipated to include vibration-generating activities, such as pile-driving in close proximity to existing structures, site-specific vibration studies should be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:
  - Identification of sites that would include vibration compaction activities such as pile-driving and that have the potential to generate groundborne vibration, and the sensitivity of nearby structures to groundborne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.
  - Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
  - Construction contingencies would be identified for when vibration levels approached the limits.
  - At a minimum, vibration monitoring should be conducted during initial demolition activities and during pile-driving activities. Monitoring results may indicate the need for more or less intensive measurements.
  - When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
  - Conduct post-survey on structure where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of vibration.

**Finding:** The City finds that the foregoing mitigation measure from the DAP EIR has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

**Facts in Support of Finding:** Mitigation Measure NOI-6 from the DAP EIR would require monitoring at the historic Shattuck Hotel of vibration levels generated by construction equipment on the project site and, if necessary, implementation of actions to reduce excessive vibration levels. Therefore, implementation of the foregoing mitigation measures will reduce the project's potential impact on historical resources from vibration to a less-than-significant level.

## 4.2 Geology and Soils

**Impact GEO-1:** Construction of the project would occur within 25 feet of the centerline of the Strawberry Creek culvert. The presence of the culvert in proximity to the proposed building's foundations could potentially result in instability of the proposed building's foundations. Required compliance with Berkeley Municipal Code and California Building Code standards would reduce the potential for excavation, shoring and foundations to cause instability. However, improper installation of temporary shoring and tiebacks could result in damage to the culvert during project construction.

**Mitigation Measure GEO-1 Temporary Shoring and Tieback Design Review.** Prior to the issuance of a grading permit, the project applicant shall submit to the City of Berkeley Department of Planning & Development – Building and Safety Division for review and approval the results of a site-specific geotechnical investigation as well as final engineering and design plans for excavation, temporary shoring, tiebacks, and tieback anchors. The final engineering and design plans for the project shall demonstrate the precise location of the Strawberry Creek culvert, the location of all tiebacks and tieback anchors, the shoring design pressures, the bearing strength of the soil between the project and the culvert, and the construction sequencing. Excavation and temporary shoring shall be designed to limit horizontal and vertical ground deformations such that the stability of the adjacent culvert would not be affected. The installation of tiebacks and tieback anchors shall be designed to prevent damage to the adjacent culvert. The final design shall locate work as far from the edge of culvert as practicable at a distance equal to depth of culvert bottom.

**Finding:** The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

**Facts in Support of Finding:** Implementation of Mitigation Measure GEO-1 above would provide for City review and approval of final engineering and design plans in accordance with performance standards, prior to commencement of construction activities. This would eliminate or substantially reduce the potential for project activities to adversely affect the Strawberry Creek culvert. Therefore, implementation of the foregoing mitigation measure will reduce the project's potential impacts on structural stability related to the Strawberry Creek culvert to a less-than-significant level.

**Impact GEO-2:** Construction of the project would occur within the zone of influence of the adjacent BART station and tunnels. Improper construction within this zone could result in damage to, or destabilization of, the proposed project and the BART subway tunnel and station. Mitigation would be required to ensure that the construction design meets all applicable BART standards. With implementation of mitigation, the project would have a less than significant impact related to the structural integrity of BART substructures.

**Mitigation Measure GEO-2 BART Zone of Influence Design Review:** Prior to the issuance of a grading permit, the project applicant shall submit to the City of Berkeley Department of Planning & Development – Building and Safety Division for review and approval the results of a site-specific geotechnical investigation as well as final engineering and design plans for the building, including all subsurface and

above-ground elements of the project. The final engineering and design plans for the project shall demonstrate adherence to BART's *General Guidelines for Design and Construction Over or Adjacent to BART's Subway Structures*. Applicable elements of the *General Guidelines* may include, but are not limited to, the following:

- Minimum clearance of 7'6" between new construction and BART substructures
- Shoring for excavations in the Zone of Influence
- Monitoring of shoring to ensure that it maintains at-rest soil condition
- Monitoring of dewatering and recharging if the existing groundwater level is expected to drop by more than two feet
- Predrilling of piles to a minimum of 10 feet below the Line of Influence, which is a line from the critical point of a BART substructure at a slope of 1.5 horizontal to 1.0 vertical towards ground level

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure GEO-2 above would eliminate or substantially reduce the potential for improper construction within BART's zone of influence to adversely affect the stability of the proposed building and the subway tunnel and station. Therefore, implementation of the foregoing mitigation measure will reduce the project's potential impacts on stability related to BART structures to a less-than-significant level.

#### 4.3 Noise

**Impact N-2:** Project construction would temporarily generate high vibration levels on and adjacent to the project site. Because construction would occur inside the hours allowed in the Berkeley Municipal Code, it would not generate vibration when people normally sleep. While vibration in excess of FTA thresholds may temporarily disturb daytime educational activities at Berkeley City College, the use of administrative controls including notification of neighbors and appropriate scheduling of vibrating-generating activities would minimize exposure to perceptible vibration. Vibration levels at the Shattuck Hotel could potentially exceed Caltrans thresholds for structure damage, but vibration monitoring pursuant to Mitigation Measure NOI-6 from the DAP EIR would reduce the likelihood of structure damage. Therefore, the project would have a less than significant vibration impact with mitigation.

DAP EIR Mitigation Measure NOI-6 (see above)

Finding: The City finds that the foregoing mitigation measure from the DAP EIR has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Because vibration from construction activity could potentially exceed Caltrans thresholds for structure damage to historic structures in the Downtown Area including the Shattuck Hotel, Mitigation Measure NOI-6 in the DAP EIR requires measures to monitor and reduce vibration levels. Consistent with this measure, the applicant would develop a vibration monitoring and contingency plan for the Shattuck Hotel; set up a vibration monitoring schedule; define structure-specific monitoring limits; and address the need to conduct photo, elevation, and crack surveys to document before- and after-construction conditions. In addition, the applicant would identify contingencies for when vibration levels approach monitoring limits, in order to lower vibration levels or secure the affected structures. Mitigation Measure NOI-6 also requires the applicant to survey structures where monitoring has indicated high levels, and make appropriate repairs or compensation for damage. Therefore, implementation of the foregoing mitigation measure will reduce the project's potential impact from construction-period vibration to a less-than-significant level.

**Impact N-5:** New residential units on the project site would be subject to noise levels in excess of the City of Berkeley noise compatibility guidelines. However, sound attenuation techniques would reduce ambient noise in the residential units to below the City's standard of 45 dBA Ldn, ensuring that this impact would be less than significant with mitigation.

Mitigation Measure N-5 Sound Insulation: The applicant shall install exterior building materials with sufficient Sound Transmission Class (STC) ratings to reduce interior noise levels in habitable rooms to below 45 dBA Ldn, as required by California Code of Regulations, Title 24, Section 1207.4. All residential windows, exterior doors, and exterior wall assemblies shall meet the STC 30 rating to ensure the adequate attenuation of noise at a range of frequencies.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Mitigation Measure N-5 above would implement the programmatic performance standards in the DAP EIR Mitigation Measure NOI-1 for reducing noise transmission by exterior building materials. This mitigation measure would require the applicant to install exterior building materials with sufficient noise-attenuating qualities to reduce interior noise levels in habitable rooms to below the State standard of 45 dBA Ldn. After implementation of Mitigation Measure N-5, new residents in the proposed building would be exposed to acceptable interior noise levels. Therefore, implementation of the foregoing measure will reduce the project's potential impacts from the exposure of new residents to ambient noise to a less-than-significant level. In addition, DAP EIR Mitigation Measure N-1 requires forced-air ventilation where ambient noise exceeds 70 dBA Ldn.

#### 4.4 Transportation/Traffic

**Impact T-3:** Construction of the project, based on its expected duration and intensity, would result in a temporary reduction in roadway capacity, closure of portions of Allston Way, and relocation of AC Transit bus stops. These physical changes would have temporary adverse effects on vehicle, pedestrian, bicycle, and transit circulation. The project would have a less than significant impact with mitigation during construction.

Mitigation Measure T-3 Development and Implementation of a Construction Traffic Management Plan: Prior to the issuance of demolition permits, a construction traffic management plan shall be prepared and implemented during construction and shall include, but not be limited to, the following strategies to the satisfaction of the City's Zoning Officer and Public Works staff:

##### 1) Temporary Traffic Control Strategies

- Coordinate with the City of Berkeley Public Works Department and construction manager(s)/contractor(s) for nearby developments, and with AC Transit, Bear Transit, and Alta Bates Shuttle, as applicable, to develop construction phasing and operations and detour plans that would result in the least amount of disruption that is feasible to transit operations, pedestrian and bicycle activity, and vehicular traffic.
- Establish construction phasing/staging schedule and sequence that minimize impacts of a work zone on traffic by using operationally sensitive phasing and staging throughout the life of the project.
- Coordinate and schedule utilities work to minimize potential work disruptions or interruptions and reduce overall construction duration.
- Identify optimal delivery and haul routes to and from the site to minimize impacts to traffic, transit, pedestrians, and bicyclists.
- Conduct monitoring for pavement damage and timing/coordination for completing repairs along construction truck routes

- Identify arrival/departure times for trucks and construction workers to avoid peak periods of adjacent street traffic and minimize traffic affects
  - Specify timing, signage, location, and duration of necessary partial/complete sidewalk closures and identification of detour routes for pedestrians, bicyclists, and vehicles, as needed
  - Preserve safe and convenient passage for pedestrians and bicyclists around construction areas. Provide alternate facilities for bicyclists and pedestrians (including those with disabilities) in places where the work zone impacts accessibility
  - Provide for relocation of bus stops and ensure adequate wayfinding and signage to notify transit users
  - Establish criteria for use of flaggers and other temporary traffic controls
  - Preserve emergency vehicle access
  - As necessary, obtain a transportation permit from Caltrans for transportation of heavy construction equipment and/or materials which requires the use of oversized transport vehicles on State highways
- 2) Transportation Operations and Transportation Demand Management Measures
- Encourage construction workers to use transit, carpool and other sustainable transportation modes when commuting to and from the site.
  - Specify locations of construction worker employee parking.
- 3) Public Information Strategies
- Provide advance notification to affected property owners, businesses, residents, etc. of possible driveway blockages or other access obstructions and implement alternate access and parking provisions where necessary.
  - Implement public awareness strategies to educate and reach out to the public, businesses, and the community concerning the project and work zone (e.g., brochures and mailers, press releases/media alerts).
  - Provide a point of contact for residents, employees, property owners, and visitors to obtain construction information, and provide comments and questions.
  - Provide current and/or real-time information to road users regarding the project work zone (e.g., changeable message sign to notify road users of lane and road closures and work activities, temporary conventional signs to guide motorists through the work zone).

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: With implementation of the transportation construction plan required under Mitigation Measure T-3, the applicant would disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overall disruptions and ensure that overall circulation in the project vicinity is maintained to the extent possible, with particular focus on ensuring transit, pedestrian, and bicycle connectivity. This would ensure that the project would be consistent with DAP Policies AC 2.1 and 2.2 to provide safe and accessible access to Downtown streets and Policies AC-4.2 to improve transit options and give transit priority over personal vehicles. Therefore, implementation of the foregoing mitigation measure will reduce the impact associated with construction traffic to a less-than-significant level.

**Impact T-4:** The proposed project driveway would introduce potential conflicts between vehicles accessing the site and pedestrians using the north-side sidewalk of Allston Way. Use of the proposed driveway within approximately 25 feet of a bus layover zone on Allston Way also could introduce conflicts between vehicles accessing the site and buses. These conflicts would cause a potentially significant impact without adequate sight distance provided at the project driveway and appropriate technology to minimize conflicts associated with the driveway. The project would result in a less than significant impact with mitigation incorporated.

**Mitigation Measure T-4 Driveway Safety Measures:** Prior to obtaining a certificate of occupancy, the applicant shall implement the following traffic safety measures to the satisfaction of the City's Zoning Officer and Public Works staff:

- Per City of Berkeley guidelines, maintain a minimum five foot by five foot sight distance triangle at the driveway entrance/exit;
- Install "STOP" pavement markings and signage for exiting drivers to look both ways at the exit, prior to crossing the sidewalk;
- Install convex mirrors at the project driveway to improve the visibility of exiting vehicles from the sidewalk;
- Provide visual and/or audio warning devices that alert pedestrians when vehicles are exiting the driveway;

The typical and standard treatments identified above should be sufficient to address potential conflicts. In addition, the following non-standard treatments may be considered and implemented at the determination of the City:

- Provide visual warning devices that alert drivers when pedestrians are present on the sidewalk; and
- Utilize a different surface treatment or special paving to define and highlight the driveway entrance within the public right-of-way.

**Finding:** The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

**Facts in Support of Finding:** Mitigation Measure T-4 would require the implementation of several traffic safety measures to minimize potential conflicts between motorists accessing the driveway to the proposed garage and pedestrians and AC Transit buses on Allston Way. In addition, this measure would ensure that the project complies with DAP Policy AC-3.3, Action b) to locate, design, and size entrances and exits to parking through traffic management, exit mirrors, and warning lights in order to minimize impacts on pedestrians. Therefore, implementation of the foregoing mitigation measure will reduce the impact associated with traffic safety hazards at the proposed driveway to a less-than-significant level.

**Impact T-5:** Commercial and passenger loading activity associated with the project would introduce potential conflicts with other automobiles, buses, bicyclists, and pedestrians. If demand exceeds available space at the proposed commercial loading zone on the north side of Allston Way or at the existing passenger loading zone on the south side of the street, spillover loading activity could lead to illegal parking in red curb zones or double-parking. Large trucks parked in the proposed loading zone also could temporarily block access to and from the proposed garage. The project would have a less than significant impact with mitigation incorporated to minimize traffic conflicts associated with loading activity.

**Mitigation Measure T-5(a) Commercial Loading Management Strategies:** It shall be the responsibility of building management to monitor and report on on-street commercial loading activity. Building management shall assign an inspector who will be responsible for field monitoring and documenting observations on a monitoring report worksheet. The inspector will be responsible for the following activities:

- On-site, day-to-day monitoring of commercial loading activities;
- Recording instances of illegal stopping, double-parking, blockage of adjacent travel lanes, and conflicts with transit vehicles;
- Acting in the role of contact for property owners or other affected persons who wish to register observations of commercial loading conflicts. The inspector shall be responsible for verifying any



such observations and for developing any necessary corrective actions in consultation with City staff;

- Maintaining a log of all significant interactions and enforceable violations and submitting a monthly monitoring report worksheet to the City's Traffic Engineer for a period of one-year; and,
- Obtaining assistance as necessary from technical experts in order to identify appropriate strategies to minimize conflicts.

The City's Traffic Engineer shall review the monitoring reports and identify recurring issues. If recurring issues are identified, for example, if commercial loading demand exceeds available supply and loading activity results in illegal stopping in red zones, blockage of adjacent travel lanes, or conflicts with transit vehicles on a regular basis (e.g., more than once per day), it shall be the responsibility of the building management to implement strategies to minimize conflicts. Strategies may also be required to be implemented at discretion of City staff, depending on the number and nature of conflicts observed. Appropriate strategies will vary depending on the characteristics and causes of the conflicts. Suggested strategies include, but are not limited to, the following:

- Coordinate with AC Transit and the City for additional loading space;
- Coordinate with AC Transit and the City to determine if the transit stop can be used for loading during certain hours;
- Restrict size of freight and delivery/service vehicles to no more than 25 feet in length;
- Limit deliveries to certain times of day, such as the early morning or late evening;
- Prohibit trucks with more than two axles from parking during peak hours;
- Limit duration of loading activity in the curbside commercial truck loading zone to 30 minutes or less;
- Install meters and increase parking enforcement;
- Encourage deliveries during off-peak times;
- Establish nearby delivery areas or delivery stations to consolidate deliveries for a variety of users and utilize smaller vehicles and/or non-motorized modes for last-mile delivery;
- Install a reception desk, delivery lockers, and/or other delivery-supportive amenities on-site;
- Install delivery lockers and delivery-supportive amenities on-site;
- Schedule and coordinate loading activities through building management to ensure that any freight loading/service vehicles can be accommodated either in existing on-street loading spaces in the vicinity of the Project; and
- Actively manage the loading zone through use of attendants to direct freight and delivery/service vehicles to available spaces when the loading zone is in use.

Mitigation Measure T-5(b) Passenger Loading Management Strategies: It shall be the responsibility of building management to monitor and report on on-street passenger loading activity. Building management shall assign an inspector who will be responsible for field monitoring and documenting observations on a monitoring report worksheet. The inspector will be responsible for the following activities:

- On-site, day-to-day monitoring of passenger loading activities during the weekday AM peak hour (7:00 AM to 9:00 AM), midday (11:00 AM to 1:00 PM), and PM peak hour (4:00 PM to 6:00 PM) periods, or other time periods determined by the City;
- Recording instances of illegal stopping, double-parking, blockage of adjacent travel lanes, and conflicts with transit vehicles over a 20-minute period within the identified time periods;
- Acting in the role of contact for property owners or other affected persons who wish to register observations of commercial loading conflicts. The inspector shall be responsible for verifying any such observations and for developing any necessary corrective actions in consultation with City staff;

- Maintaining a log of all significant interactions and enforceable violations and submitting a monthly monitoring report worksheet to the City's Traffic Engineer for a period of one year; and,
- Obtaining assistance as necessary from technical experts in order to identify appropriate strategies to minimize conflicts.

The City's Traffic Engineer shall review the monitoring report and identify any recurring issues. If recurring issues are identified, for example, if passenger loading demand exceeds available supply and loading activity results in illegal stopping in red zones, blockage of adjacent travel lanes, or conflicts with transit vehicles on a regular basis (e.g., more than once per day), it shall be the responsibility of the building management to implement strategies to minimize conflicts. Strategies may also be required to be implemented at discretion of City staff, depending on the number and nature of conflicts observed. Appropriate strategies will vary depending on the characteristics and causes of the conflicts. Suggested strategies include but are not limited to the following:

- Create a combined commercial/passenger loading zone on the Project frontage (e.g., through signage and use of alternating white and yellow color curb) in conjunction with implementation of time of day restrictions for delivery/service vehicle use of the proposed commercial truck loading zone; and,
- Coordinate with owners of nearby buildings to increase the amount of passenger loading (white curb) space available.

**Finding:** The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

**Facts in Support of Finding:** Mitigation Measures T-5(a) and T-5(b) would require implementation of measures to reduce traffic conflicts associated with the project's commercial and passenger loading activity. These strategies, such as reducing the size of commercial loading vehicles allowed and limiting the timing of deliveries, would minimize illegal parking in red curb zones and double-parking to the extent feasible. Therefore, implementation of the foregoing mitigation measures will reduce the impact associated with loading conflicts to a less-than-significant level.

**Impact T-7:** All streets and intersections on the route from the nearest fire stations to the project site are sufficiently wide enough to provide adequate emergency vehicle access to the site. Operation of the project would not substantially increase delays on emergency access routes. However, project construction would temporarily impede emergency access to the project site during construction. The project would have a less than significant impact related to emergency access with mitigation incorporated during construction.

**Mitigation Measure T-3** (see above).

**Finding:** The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

**Facts in Support of Finding:** The temporary traffic control strategies and transportation operations and demand management measures as required in Mitigation Measure T-3 would minimize delays to emergency access. Therefore, implementation of the foregoing mitigation measure will reduce the impact on emergency access during construction activities to a less-than-significant level.

**Impact T-8:** The project would not generate a substantial increase in transit ridership that results in result in overcrowding on local or regional transit systems. However, the temporary closure of an AC Transit bus stop and layover zone would impede transit access during construction. Traffic conflicts with vehicles entering and

leaving the proposed driveway and with loading activity also could delay buses on Allston Way. The project would have a less than significant impact on the performance of local and regional transit operations with mitigation incorporated to preserve local bus access during construction and to minimize traffic and loading conflicts with buses during operation.

Mitigation Measures T-3, T-4, T-5(a), T-5(b) (see above).

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: The temporary traffic control strategies required in Mitigation Measure T-3 would ensure a temporary relocation of the AC Transit bus layover zone next the project site during construction, preserving bus access in the project vicinity. This mitigation measure also would ensure consistency with DAP Policy AC-4.2, Actions c) and d) to work with AC Transit and shuttle providers to identify suitable bus stops and layover locations and avoid bus stop and layover locations that interrupt pedestrian movement or block clear views of sidewalks, plazas or storefronts. In addition, Mitigation Measure T-4 would require the installation of convex mirrors at the proposed driveway to improve the visibility of exiting vehicles and the maintenance of adequate sight distance, which would minimize vehicle/bus conflicts on Allston Way. Mitigation Measure T-5 also would minimize adverse effects on bus movement from loading activities including illegal parking in red curb zones and double-parking. Therefore, implementation of the foregoing mitigation measures will reduce the impact on transit operations during construction and operation of the project to a less-than-significant level.

Impact T-9: The project would not involve features that would result in permanent or substantial operational impacts to alternative modes of transportation. However, construction of the project would temporarily impact pedestrian and bicycle circulation. The project would have a less than significant impact with mitigation incorporated on local pedestrian and bicycle circulation.

Mitigation Measures T-3, T-4 (see above).

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Mitigation Measure T-3 would require the implementation of temporary traffic control and public information strategies to maintain safe pedestrian and bicyclist access during construction of the project. In addition, Mitigation Measure T-4 would require driveway safety measures to protect pedestrians on the north side of Allston Way from vehicles entering and exiting the proposed garage. These measures would ensure project consistency with DAP Policy DAP Policies AC-2.1 and AC-2.2 regarding pedestrian safety and access to the Downtown and DAP Goal AC-5 promote bicycling in Downtown. Therefore, implementation of the foregoing mitigation measures will reduce the impact on pedestrian and bicyclist circulation from construction and operation of the project to a less-than-significant level.

#### **4.5 Tribal Cultural Resources**

As discussed in the Infill Environmental Checklist (Appendix A of the EIR), the City of Berkeley prepared and mailed formal notification letter in accordance with the provisions of AB 52 to the Native American Heritage Commission on February 17, 2017. No responses have been received and no tribal cultural resources have been identified on-site. However, proposed excavation of the project site could potentially result in adverse effects on unanticipated tribal cultural resources. Impacts from the unanticipated discovery of tribal cultural resources during construction would be less than significant with mitigation incorporated.

Mitigation Measure TCR-1 Unanticipated Discovery of Tribal Cultural Resources: In the event that cultural resources of Native American origin are identified during construction, the City shall consult with a qualified archaeologist and begin or continue Native American consultation procedures. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Infill Environmental Checklist to a less-than-significant level.

Facts in Support of Finding: Consistent with the State requirements of AB 52, Mitigation Measure TCR-1 would require consultation with Native American groups and implementation of measures to protect tribal cultural resources in the event of their discovery during construction on the project site. Therefore, implementation of the foregoing mitigation measure will reduce the potential impact on tribal cultural resources to a less-than-significant level.

## SECTION 5: SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The project would result in a significant unavoidable impact related to noise. Although mitigation from the DAP EIR would be imposed to lessen the exposure of sensitive land uses to construction noise, this would not reduce the impact to a less-than-significant level.

### 5.1 Noise (from EIR)

**Impact N-1:** Project construction would temporarily generate high noise levels on and near the project site. Construction noise levels would intermittently exceed City standards for construction noise in commercial zones, particularly in the first months of construction during excavation and construction of the foundation system.

**Mitigation Measures:** The project developer would be required to implement a project-specific noise reduction program as described in Mitigation Measure NOI-5 of the DAP EIR, which requires appropriate time limits for construction (7:00 A.M. to 7:00 P.M. on weekdays and between the hours of 9:00 A.M. and 8:00 P.M. on weekends or holidays), the use of available control technology such as equipment mufflers and temporary noise barriers, locating stationary noise-generating equipment as far as possible from adjoining sensitive receptors, notification of neighbors, and other measures.

**Finding:** The City finds that the foregoing mitigation measure from the DAP EIR has been incorporated into the project; however, implementation of this measure would not avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level. Therefore, impacts to sensitive receptors from temporary noise generated by construction of the project will remain significant and unavoidable.

**Facts in Support of Finding:** Implementation of a noise reduction program as required by DAP EIR Mitigation NOI-5 would reduce the exposure of nearby sensitive receptors to construction noise. However, as found in the DAP EIR for new construction in the entire Downtown Area, the impact would remain significant and unavoidable as a result of the extended duration of construction (27-months), during which adjacent sensitive receptors would be exposed to construction noise that may exceed Berkeley noise standards for commercial zones.

### 5.2 Cumulative Impacts

As discussed in the Infill Environmental Checklist (Appendix A of the EIR), the project analyzed in the Draft EIR would not have cumulatively considerable impacts in the following environmental issue areas: Agricultural and Forest Resources, Biological Resources, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, Tribal Cultural Resources, and Utilities and Service Systems. Therefore, the project would also not have cumulative considerable impacts in these environmental issue areas. The Project's potential cumulatively considerable impacts in several other issue areas were analyzed in the Draft EIR in Section 4.1, *Air Quality*; Section 4.2, *Cultural Resources*; Section 4.3, *Geology and Soils*; Section 4.4, *Noise and Vibration*; and Section 4.5, *Transportation/Traffic*.

Section 4.1, *Air Quality*, found that the project would not result in long-term emissions which exceed BAAQMD's operational emissions thresholds. Therefore, the project would not conflict with or obstruct continued implementation of BAAQMD's 2017 *Clean Air Plan*, which means that the project would not have a cumulatively considerable contribution to regional air quality, according to the agency's guidance for Clean Air Plan consistency. Therefore, cumulative impacts to air quality would be less than significant.

Section 4.2, *Cultural Resources*, found that the project would not contribute to a significant and unavoidable cumulative impacts identified in the DAP EIR from the demolition of historic resources, since the project would not involve demolition of a historic building. As discussed in the Noise/Vibration section of the DAP EIR, the use of vibration-generation equipment during construction of projects in the Downtown Area could cause

structural damage of nearby historic buildings, resulting in a significant and unavoidable cumulative impact. However, vibration generated by construction of the project would not degrade the structural integrity of nearby historic buildings such as the Shattuck Hotel. Therefore, the project would not make a considerable contribution to this significant cumulative impact. The project also would adhere to the Downtown Berkeley Design Guidelines with mitigation incorporated to enhance the proposed building's visual compatibility with the style of the Shattuck Hotel. Additionally, the project would not materially impair the eligibility of nearby resources such as Campanile Way for historic designation. Therefore, the project would not make a considerable contribution to a significant cumulative impact to historical resources.

Section 4.3, *Geology and Soils*, found that cumulative projects would involve excavation and construction in the Downtown Area that could destabilize the underlying geology and soils and potentially result in damage to nearby BART structures. If cumulative projects are located within BART's zone of influence, then those projects would also be subject to BART review and approval of final design and engineering plans. Also, all cumulative projects would be subject to the requirements of the California Building Code, which would ensure that structures and foundations are designed and constructed in a manner that does not destabilize underlying or adjacent structures or soil. Compliance with the California Building Code and adherence to BART's General Guidelines would reduce potential cumulative impacts related to the stability of BART substructures to a less than significant level. With implementation of Mitigation Measure GEO-2, project-specific impacts to BART substructure stability from construction of the project would be less than significant, and the project's contribution to the already less than significant cumulative impact would not be cumulatively considerable.

Section 4.4, *Noise and Vibration*, found that construction noise and vibration are localized and rapidly attenuate within an urban environment. It is anticipated that construction of other projects would not be occurring at the same time and sufficiently close to the project site to result in a cumulative impact. In addition, all projects in the Downtown Area would need to comply with construction noise mitigation included in the DAP EIR, which would lessen cumulative construction noise in the project vicinity. Therefore, the project would not contribute considerably to temporary cumulative construction noise and vibration impacts. Traffic noise impacts associated with cumulative development through the year 2040 would incrementally increase noise levels along roadways. However, cumulative growth in traffic would not generate noise levels exceeding the DAP EIR's cumulative threshold of 4 dBA Ldn or more over existing conditions. Therefore, the cumulative traffic noise impact would be less than significant, and the project would not contribute considerably to a significant cumulative impact. Cumulative development would also add sources of on-site operational (non-traffic) noise in the project vicinity. Although the operation of mechanical equipment such as HVAC units would have the potential to expose Downtown Area residents to excessive noise, the implementation of Mitigation Measure NOI-2 from the DAP EIR would ensure that commercial development complies with the City's noise standards. Therefore, cumulative development would have a less than significant impact from on-site operational noise after mitigation.

The City finds that the proposed project, in conjunction with other foreseeable projects, will not result in any cumulatively considerable impacts beyond those identified in the DAP EIR.

## SECTION 6: PROJECT ALTERNATIVES

**6.1 Project Alternatives**

The Final EIR included two alternatives: the No Project Alternative and the Reduced Parking Alternative. The City hereby concludes that the Final EIR sets forth a reasonable range of alternatives to the 2190 Shattuck Avenue Mixed-Use Project that address the significant impacts of the project, so as to foster informed public participation and informed decision making. The City finds that the alternatives identified and described in the Final EIR were considered and further finds them to be infeasible for the specific economic, social, or other considerations set forth below pursuant to Public Resources Code section 21081(c).

**6.1.1 No Project Alternative.** This alternative assumes that the proposed project is not implemented and the existing two-story commercial building is left intact. This alternative assumes that the building occupancy would remain as is, including the Walgreens drug store and pharmacy on the ground floor and office uses on the second floor, while the basement would remain vacant.

Findings. Because the No Project Alternative would retain the existing building, it would not involve construction activities and would avoid the proposed project's significant and unavoidable impact from construction noise. The alternative would also reduce the project's less than significant impacts with mitigation from the emission of air pollutants and disturbance of the BART substructure during construction. By retaining the existing building on-site, this alternative would avoid the project's less than significant impact with mitigation from introducing a new building whose design could be incompatible with nearby historic buildings. In addition, by retaining existing retail commercial and office uses, this alternative would avoid the project's increase in vehicle trips and further reduce the project's less than significant impact on traffic congestion. No mitigation measures would be required for the No Project alternative. Overall impacts would be lower than those of the proposed project. Nonetheless, the No Project Alternative would not achieve any of the objectives of the proposed project, including the most basic objectives to develop market-rate housing in a transit-oriented area, help achieve housing production goals, revitalize a block in Downtown Berkeley, and generate increased revenue streams for the City. For these reasons, the City rejects the No Project Alternative.

**6.1.2 Reduced Parking Alternative.** This alternative assumes that the proposed building would provide fewer off-street parking spaces for vehicles than would the proposed project but the same intensity of residential and commercial development (274 residential units and 10,000 square feet of retail commercial space). The garage would include 58 parking spaces as compared to 103 parking spaces under the proposed project. The 58 parking spaces would consist of the following:

- 48 parking spaces in a three-tiered mechanical lift system
- independently accessible (non-tiered) parking spaces
- 3 parking spaces accessible to persons with disabilities
- 3 vehicle share parking spaces

While the proposed project would include a two-level subterranean parking garage, this alternative would provide either a one- or two-level garage to accommodate 58 parking spaces and building support systems.

Findings. While this alternative would involve construction of a mixed-use building the same size as the proposed project, it would provide fewer parking spaces and may reduce the proposed subterranean parking garage from one to two levels. Therefore, the amount of grading and excavation could be less than for the proposed project and construction-related emissions may be reduced. Similar to the proposed project, the impact on air quality during construction would be less than significant with mitigation. The Reduced Parking Alternative also would reduce the number of on-site parking spaces by 44%. As a result, this alternative would decrease the mode share of automotive trips by 35% relative to the proposed project and would generate fewer auto person-trips and vehicle-trips. Conversely, this alternative would increase the mode share of public transit and walking, thereby increasing transit users and reducing mobile emissions. Therefore, the Reduced

Park Alternative would further reduce the project's already less than significant impact related to operational air pollution.

Relative to the project, the alternative would contribute fewer trips to the surrounding roadway network. Like the proposed project, traffic volumes with the project under Baseline and Cumulative Conditions would not exceed the traffic load and capacity thresholds for the surrounding roadway network. Therefore, this alternative would further reduce the proposed project's already less than significant impact to vehicle intersection operating conditions.

Aside from incrementally lessening the project's already less-than-significant impacts related to air quality and traffic congestion, the Reduced Parking Alternative would have similar environmental impacts to those of the proposed project. All mitigation measures to reduce the project's impacts would also apply to this alternative.

This alternative would generally achieve all of the objectives of the proposed project. Although the substantial reduction in off-street parking spaces would be consistent with objectives to generate transit-oriented housing and to encourage alternative modes of transportation, it may not fully achieve Objective #4 to design a feasible project. Instead of the proposed 103 parking spaces, this alternative would provide substantially fewer (58) parking spaces for 274 residential units, which could arguably be inadequate to meet residential parking demand. Because this alternative would fully realize all of the project objectives to the same extent as the proposed project, and could be infeasible with regard to meeting residential parking demand, the City rejects the Reduced Parking Alternative.

**6.1.3 14-Story Building Alternative.** This alternative would reduce the proposed building's height from 18 to 14 stories and the number of dwelling units from 274 to approximately 250, for the purpose of minimizing the obstruction of scenic views from Campanile Way on the UC Berkeley campus. The building would have a maximum height of 142 feet, 2 inches, plus an additional 4 feet of rooftop architectural projections above rooftop residential units. Relative to the proposed project, the 14-Story Building Alternative would reduce the building's maximum height by approximately 38 feet. Similar to the proposed project, this alternative would provide 10,000 square feet of commercial space and 103 parking spaces in a two-level underground garage.

This alternative would require several additional use permits compared to the proposed project pursuant to the City's C-DMU Downtown Mixed Use District standards: to exceed the bulk height limit at 120 feet by 22 feet, 1 inch; to reduce usable open space below the amount required; and to reduce the front, rear, and interior side setbacks below the distance required. However, while the project would require an administrative use permit to allow architectural projections to exceed the maximum building height of 180 feet, this permit would be unnecessary for the reduced-height alternative. With approval of the additional use permits, the 14-Story Building Alternative would be consistent with zoning standards.

Findings. In decreasing the number of dwelling units by approximately 9 percent, this alternative would result in an estimated 9 percent reduction in vehicle miles traveled by residents on the project site. Therefore, the 14-Story Building Alternative would incrementally reduce mobile emissions of air pollutants and would further reduce the project's already less than significant impact related to operational air pollution. For similar reasons, the project could generate incrementally fewer vehicle trips during peak hours. Therefore, this alternative would further reduce the proposed project's already less than significant impact to vehicle intersection operating conditions.

The 14-Story Building Alternative would obstruct scenic Bay views from the Campanile Way corridor to a similar extent as the proposed project. However, the reduced building height would result in less vertical intrusion on airspace above the Bay waters. For example, from the perspective of the steps at the base of the Campanile tower, the alternative would preserve existing views of the span of the Golden Gate Bridge. Similar to the proposed project, it would not result in a substantial adverse change to the cultural landscape of UC Berkeley's Classical Core. Similar to the proposed project, the design of the new 14-story building's commercial storefront, exterior wall cladding, and roof under this alternative could be incompatible with nearby



historic buildings. Implementation of mitigation measures CR-1a through CR-1e to modify slanted walls, the proportion of void to wall, wall cladding materials, and the storefront and rooftop design would reduce this alternative's impact on the integrity of historical resources, including the adjacent Shattuck Hotel and the greater proposed Shattuck Avenue Downtown Historic District. Nonetheless, conceptual massing diagrams prepared for the alternative indicate that the building would have long, uninterrupted horizontal surfaces that are incompatible with historic buildings and inconsistent with the Downtown Berkeley Design Guidelines. Therefore, additional mitigation would be required for this alternative (Mitigation Measure CR-1f), modifying the building's massing to avoid long, uninterrupted horizontal surfaces. Like the proposed project, impacts to cultural resources would be less than significant with mitigation. All other impacts would be similar to those of the proposed project.

Although the 14-Story Building Alternative would achieve most of the objectives of the proposed project, it would not fully achieve Objective #1 to take advantage of the site's full development potential under the DAP. In addition, this alternative would not maximize transit-oriented density, per Objective #5. As a result, the alternative would not fully achieve the social and environmental benefits of meeting housing needs in a transit-oriented location. Furthermore, it would respect the historic character of the Shattuck Avenue corridor to a lesser extent, by eliminating the proposed setbacks in building massing from the perspective of adjacent streets. As discussed above, additional mitigation and modifications to the building's massing would be necessary to protect the setting of nearby historic resources.

The 14-story Alternative would not be financially feasible. Strategic Economics was commissioned by the City to peer review the applicant's community benefits proposal and this review found that the return on investment for the proposed project is below that considered by other developers. The 14-story Alternative would result in fewer units and/or square footage which would have a direct, negative impact to project economics, as land and other project costs remain fixed. In addition, there would be considerably fewer units that could capture higher rents for their views. For the reasons listed above, the City rejects the 14-Story Building Alternative.

**6.1.4 15-Story Building Alternative.** This alternative would reduce the proposed building's height from 18 to 15 stories, for the purpose of reducing the obstruction of views from Campanile Way, while still maintaining the same number of dwelling units (274). The building would have a maximum height of 151 feet, 4 inches, plus an additional 14 feet of rooftop architectural projections. Relative to the proposed project, the 15-Story Building Alternative would reduce the building's maximum height by approximately 29 feet. To provide the same residential density as the proposed project in fewer stories, the alternative would widen the proposed upper floors. While the project's upper tier would step back an additional 65 feet from Shattuck Avenue above the 12th floor, this alternative would eliminate that setback. Similar to the proposed project, this alternative would provide 10,000 square feet of commercial space and 103 parking spaces in a two-level underground garage.

This alternative would require several additional use permits to the proposed project pursuant to the City's C-DMU Downtown Mixed Use District standards: to exceed the bulk height limit at 120 feet by 31 feet, 3 inches; and to reduce the rear and interior side setbacks below the distance required. However, while the project would require an administrative use permit to allow architectural projections to exceed the maximum building height of 180 feet, this permit would be unnecessary for the reduced-height alternative. With approval of the additional use permits, the 15-Story Building Alternative would be consistent with zoning standards.

Findings. The 15-Story Building Alternative would obstruct scenic Bay views from the Campanile Way corridor to a similar extent as the proposed project. While the reduced building height would result in less vertical intrusion on airspace above the Bay waters, the wider upper stories would obstruct slightly more of the Golden Gate Bridge from view. Similar to the proposed project, the alternative would not result in a substantial adverse change to the cultural landscape of UC Berkeley's Classical Core. Similar to the proposed project, the design of the new 15-story building's commercial storefront, exterior wall cladding, and roof under this alternative could be incompatible with nearby historic buildings. Implementation of mitigation measures CR-1a through CR-1e to modify slanted walls, the proportion of void to wall, wall cladding materials, and the storefront and rooftop design would reduce this alternative's impact on the integrity of historical resources, including the

adjacent Shattuck Hotel and the greater proposed Shattuck Avenue Downtown Historic District. Nonetheless, conceptual massing diagrams prepared for the alternative indicate that the building may have long, uninterrupted horizontal surfaces that are incompatible with historic buildings and inconsistent with the Downtown Berkeley Design Guidelines. Therefore, additional mitigation would be required for this alternative (Mitigation Measure CR-1f), modifying the building's massing to avoid long, uninterrupted horizontal surfaces. Like the proposed project, impacts to cultural resources would be less than significant with mitigation.

Although the 15-Story Alternative would generally achieve all of the objectives of the proposed project, it would respect the historic character of the Shattuck Avenue corridor to a lesser extent, by eliminating the proposed stepbacks in building massing from the perspective of adjacent streets. As discussed above, additional mitigation and modifications to the building's massing would be necessary to protect the setting of nearby historic resources.

The 15-story Alternative would not be financially feasible. Strategic Economics was commissioned by the City to peer review the applicant's community benefits proposal and this review found that the return on investment for the proposed project is below that considered by other developers. The 15-story Alternative would result in fewer units and/or square footage which would have a direct, negative impact to project economics, as land and other project costs remain fixed. In addition, there would be considerably fewer units that could capture higher rents for their views. For the reasons listed above, the City rejects the 15-Story Building Alternative.

**6.2 Environmentally Superior Alternative.** Section 15126.6(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be identified among the selected alternatives. While the No Project Alternative would be environmentally superior in the technical sense that contribution to the afore-mentioned impacts would not occur, the No Project Alternative would also fail to achieve all of the project's objectives.

Among the development options, Alternative 2 (Reduced Parking) would be environmentally superior to the proposed project, as it would substantially reduce vehicle trips such that air quality, traffic noise, and circulation impacts would be reduced. However, impacts related to air quality, traffic noise, and circulation were all found to be less than significant or less than significant with mitigation. The Reduced Parking Alternative would not change any impact conclusions. This alternative would still require mitigation for air pollutant emissions during construction, design compatibility with historic buildings, structural stability of the Strawberry Creek culvert and BART substructure, construction noise, vibration, construction-related impacts to circulation, and pedestrian safety.

Findings. The City finds that out of the development options, the Reduced Parking Alternative is the environmentally superior alternative. However, as discussed above, the City finds that this alternative would fail to fully realize all of the project objectives, particularly those related to designing a feasible project, to the same extent as the proposed project. Therefore, the City rejects the Reduced Parking Alternative.

## SECTION 7: STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable.<sup>4</sup> CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record.<sup>5</sup> The proposed project will result in a significant unavoidable impact related to noise, even after incorporation of all feasible mitigation measures. This significant unavoidable impact is identified and discussed in Section 5 of these Findings. The City further finds that this impact is outweighed by the project's benefits, each of which, independently of the others, constitutes overriding consideration warranting approval of the proposed project. Those benefits are as follows:

- The project will upgrade and revitalize an important urban block in Downtown Berkeley into a walkable, retail-centered, transit-friendly, residential block with active, safe and visually engaging pedestrian amenities consistent with the Downtown Area Plan and the Streets and Open Space Improvement Plan, while respecting key historic resources on adjacent blocks
- The project advances DAP Environmental Sustainability Goal ES-3 and Land Use Goal LU-1, which encourage high intensity development near transit, by introducing high-quality, transit-oriented, and sustainable market rate housing and contributing substantial affordable housing (and/or fees to support development of such housing) as required by Section 22.20.065 of the Berkeley Municipal Code. High intensity development near transit will reduce regional vehicle miles traveled and associated greenhouse gas emissions from transportation, by reducing development pressure in outlying parts of the Bay Area and beyond.
- The project will assist the State, region, and the City to achieve established housing production goals.
- The project advances DAP Environmental Sustainability Goal ES-4, which promotes sustainable building practices, by constructing a building that integrates environmentally sustainable development practices in design, development, and construction, and uses ecologically beneficial landscaping techniques.
- The project activates the pedestrian environment along Allston Way, adjacent to the Downtown Berkeley BART Station, by replacing the existing commercial building which has limited openings and visual permeability/activity with a new building that offers pedestrian amenities such as art vitrines with glass display cases as well as streetscape upgrades. This advances DAP Goal ES-3, Historic Preservation and Urban Design Goal HD-4, which emphasizes pedestrian environments that are active, safe, and visually engaging, and Policy HD-4.1, which emphasizes improving the pedestrian experience.
- The project will complement Downtown's traditional character by maintaining a continuous street wall, except for architectural expression at the site's southeast corner and for usable open space, which is consistent with DAP Economic Development Goal ED-3; building wall treatments that complement those of the historic Shattuck Hotel; and stepped massing to minimize sight lines of the building from the perspective of people on Shattuck Avenue.
- The project will encourage alternative modes of transportation by foot, by bicycle and via transit, for residents, employees, and retail customers by providing residents and employees with a range of Transportation Demand Management measures that are made possible by the income generated by the project's size and scale, and prioritizing the safety, attractiveness and convenience of the pedestrian experience.
- The Project will significant new revenue streams for the City of Berkeley through increased property taxes and property-based revenues, economically sensitive revenues such as sales taxes and business license

<sup>4</sup> CEQA Guidelines, 2017. Section 15093(a)

<sup>5</sup> CEQA Guidelines, 2017. Section 15093(b)

taxes, jobs creation, gross receipts taxes, and a new residential population that supports a successful mix of retail businesses, institutions and other attractions in Downtown Berkeley.

- The Project will be required to provide Significant Community Benefits as per Berkeley Municipal Code Section 23.E.68.090.E, and will contribute to affordable housing, street and open space improvements or fees, school mitigation fees, bicycle parking, and other improvements required by the Berkeley Municipal Code.

On balance, the City finds that there are specific considerations associated with the project that serve to override and outweigh the project's significant unavoidable effect. Therefore, pursuant to CEQA Guidelines Section 15093(b), this adverse effect is considered acceptable.

# ATTACHMENT 1 — EXHIBIT B

## MITIGATION MONITORING & REPORTING PROGRAM

OCTOBER 25, 2018

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This Draft Mitigation Monitoring and Reporting Program (MMRP) was formulated based upon the findings of the Environmental Impact Report (EIR) and Infill Environmental Checklist (IEC) prepared for the 2190 Shattuck Avenue Mixed-Use Project. The MMRP, which is provided in Table 1 of this section, lists mitigation measures recommended in the EIR for the proposed project and identifies mitigation monitoring requirements. The Final MMRP must be adopted when the City makes a final decision on the project.

This MMRP has been prepared to comply with the requirements of State law (Public Resources Code Section 21081.6). State law requires the adoption of an MMRP when mitigation measures are required to avoid significant impacts. The MMRP is intended to ensure compliance during implementation of the project.

The MMRP is organized in a matrix format. The first column identifies the impact and the second column identifies the mitigation measure that will be implemented for each project impact. The third column, entitled "Monitoring Responsibility," refers to the agency responsible for oversight or ensuring that the mitigation measure is implemented. The fourth column, entitled "Monitoring Timing," refers to when the monitoring will occur to ensure that the mitigation action is completed. The lead agency will provide verification that the measures have been implemented. These mitigation measures include any minor revisions made as a result of the Response to Comments Document.

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 2 of 16

Table 1: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
<b>AIR QUALITY</b>			
<p><u>AIR-1:</u> Project construction would generate increases in localized air pollutant emissions. While these emissions may result in temporary adverse impacts to local air quality, they would not exceed BAAQMD thresholds. Nevertheless, the project would be required to comply with BAAQMD regulations and Mitigation Measure AIR-3 from the DAP EIR to minimize emissions that could pose a health and nuisance impact to nearby sensitive receptors. Therefore, air quality impacts associated with construction activities would be less than significant with mitigation.</p>	<p>Implement DAP EIR Mitigation Measure AIR-3 (see below).</p> <p><u>AIR-3: Implement BAAQMD-Recommended Measures to Control PM<sub>10</sub> Emissions during Construction.</u> Measures to reduce diesel particulate matter and PM<sub>10</sub> from construction are recommended to ensure that short-term health impacts to nearby sensitive receptors are avoided.</p> <p>Dust (PM<sub>10</sub>) Control Measures:</p> <ul style="list-style-type: none"> <li>▪ Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.</li> <li>▪ Cover all hauling trucks or maintain at least two feet of freeboard.</li> <li>▪ Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas.</li> <li>▪ Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.</li> <li>▪ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for 10 days or more).</li> <li>▪ Enclose, cover, water twice daily, or apply (non-toxic_ soil binders to exposed stockpiles.</li> <li>▪ Limit traffic speeds on any unpaved roads to 15 mph.</li> <li>▪ Replant vegetation in disturbed areas as quickly as possible.</li> <li>▪ Suspend construction activities that cause visible dust plumes to extend beyond the construction site.</li> </ul> <p>Measures to Reduce Diesel Particulate Matter and PM<sub>2.5</sub>:</p> <ul style="list-style-type: none"> <li>▪ Clear signage at all construction sites will be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite or adjacent to the construction site.</li> <li>▪ Opacity is an indicator of exhaust particulate emissions from off-road</li> </ul>	<p>City of Berkeley Planning and Development and Public Works Departments</p> <p>The City of Berkeley Building Official or their designee shall verify compliance that these measures have been implemented during normal construction site inspections.</p>	<p>During demolition, site preparation, and project construction</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 3 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<p>diesel-powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately.</p> <ul style="list-style-type: none"> <li>▪ The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).</li> <li>▪ Properly tune and maintain equipment for low emissions.</li> </ul>		
<b>CULTURAL RESOURCES</b>			
<p><u>CR-1</u>: Although the proposed demolition of the existing commercial building on-site would not directly affect an eligible historical resource, the proposed building design would adversely affect the setting of nearby historical resources, including the adjacent Shattuck Hotel and the greater proposed Shattuck Avenue Downtown Historic District. Impacts on the integrity of historical resources would be less than significant with incorporation of mitigation to enhance the compatibility of the proposed building's design with surrounding historical resources.</p>	<p><u>CR-1a: Slanted Wall Modifications.</u> The project applicant shall modify the proposed design of the slanted walls composed of slotted aluminum panels at stories two through six along Shattuck Avenue and Allston Way to make them more compatible with the Shattuck Hotel and other contributors to the proposed Shattuck Avenue Downtown Historic District. Specifically, these slanted walls shall be replaced with a rectilinear wall system, i.e., one with predominant wall surfaces below the seventh-floor loggia being either parallel or perpendicular to the abutting property line.</p> <p><u>CR-1b: Wall Rhythm Modifications.</u> The proportion and pattern of void to wall in the proposed wall treatments of the project shall be modified to more closely match that exhibited in the Shattuck Hotel. Potential ways to achieve this include, but are not necessarily limited to, replacing the window wall systems with punched curtain wall systems or breaking up the window wall systems with windowless bays.</p> <p><u>CR-1c: Wall Cladding Material Modifications.</u> The project applicant shall modify the proposed design so as to incorporate wall cladding materials that are compatible with the Shattuck Hotel and other contributors to the proposed Shattuck Avenue Downtown Historic District. Such materials include brick, concrete, stucco, marble, granite, tile and terra cotta, and could be used in conjunction with the proposed glass fiber reinforced concrete (GFRC), glass panels, and metal screens.</p> <p><u>CR-1d: Roofline Modifications.</u> The project applicant shall modify the proposed design so as to incorporate elements that more prominently accentuate the building's roofline by differentiating it from the walls below.</p>	<p>City of Berkeley Planning and Development Department, Land Use Division</p>	<p>Prior to issuance of demolition, grading, or construction permits</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 4 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<p>Potential ways to achieve this include, but are not necessarily limited to, adding a cornice element or employing a change in material, color or finish at the uppermost portions of the wall façades.</p> <p><b>CR-1e: Ground Floor Modifications.</b> The project applicant shall modify the proposed design of the storefront along Shattuck Avenue and the ground-floor wall along Allston Way in a manner that visually divides the uninterrupted expanse of glazing at the ground floor into distinct bays that are between 15 and 30 feet in width.</p>		
<p><b>CR-2:</b> The proposed demolition of the existing building on-site and construction of an 18-story mixed-use building with two levels of underground parking would produce ground vibration in the vicinity of existing historical resources. The levels of vibration that would be generated by project construction activities could potentially exceed thresholds for physical damage to historic structures. However, implementation of Mitigation Measure NOI-6 in the DAP EIR would be required to monitor and reduce vibration levels at the Shattuck Hotel from construction activity. Therefore, impacts would be less than significant with mitigation.</p>	<p>Implement DAP EIR Mitigation Measure NOI-6 (see below).</p> <p><b>NOI-6: Avoidance of Pile-Driving/Site-Specific Vibration Studies/Monitoring/Contingency Planning.</b> The following measures are recommended to reduce vibration from construction activities:</p> <ul style="list-style-type: none"> <li>▪ Avoid impact pile-driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.</li> <li>▪ Avoid using vibratory rollers and tampers near sensitive areas.</li> <li>▪ In areas where project construction is anticipated to include vibration-generating activities, such as pile-driving in close proximity to existing structures, site-specific vibration studies should be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:                             <ul style="list-style-type: none"> <li>o Identification of sites that would include vibration compaction activities such as pile-driving and that have the potential to generate groundborne vibration, and the sensitivity of nearby structures to groundborne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.</li> <li>o Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.</li> <li>o Construction contingencies would be identified for when vibration</li> </ul> </li> </ul>	<p>City of Berkeley Planning and Development Department, Land Use Division</p>	<p>Prior to the issuance of a grading permit (for review of vibration monitoring and construction contingency plan)</p> <p>During construction period (for on-site monitoring)</p>



ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 5 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<p>levels approached the limits.</p> <ul style="list-style-type: none"> <li>o At a minimum, vibration monitoring should be conducted during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.</li> <li>o When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.</li> <li>o Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.</li> </ul>		
<b>GEOLOGY AND SOILS</b>			
<p><u>GEO-1</u>: Construction of the project would occur within 25 feet of the centerline of the Strawberry Creek culvert. The presence of the culvert in proximity to the proposed building's foundations could potentially result in instability of the proposed building's foundations. Required compliance with Berkeley Municipal Code and California Building Code standards would reduce the potential for excavation, shoring and foundations to cause instability. However, improper installation of temporary shoring and tiebacks could result in damage to the culvert during project construction.</p>	<p><u>GEO-1</u>: <b>Temporary Shoring and Tieback Design Review.</b> Prior to the issuance of a grading permit, the project applicant shall submit to the City of Berkeley Department of Planning &amp; Development – Building and Safety Division for review and approval the results of a site-specific geotechnical investigation as well as final engineering and design plans for excavation, temporary shoring, tiebacks, and tieback anchors. The final engineering and design plans for the project shall demonstrate the precise location of the Strawberry Creek culvert, the location of all tiebacks and tieback anchors, the shoring design pressures, the bearing strength of the soil between the project and the culvert, and the construction sequencing. Excavation and temporary shoring shall be designed to limit horizontal and vertical ground deformations such that the stability of the adjacent culvert would not be affected. The installation of tiebacks and tieback anchors shall be designed to prevent damage to the adjacent culvert. The final design shall locate work as far from the edge of culvert as practicable at a distance equal to depth of culvert bottom.</p>	<p>City of Berkeley Planning and Development Department, Building and Safety Division</p>	<p>Prior to issuance of a grading permit</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 6 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
<p><b>GEO-2:</b> Construction of the project would occur within the zone of influence of the adjacent BART station and tunnels. Improper construction within this zone could result in damage to, or destabilization of, the proposed project and the BART subway tunnel and station. Mitigation would be required to ensure that the construction design meets all applicable BART standards. With implementation of mitigation, the project would have a less than significant impact related to the structural integrity of BART substructures.</p>	<p><b>GEO-2: BART Zone of Influence Design Review.</b> Prior to the issuance of a grading permit, the project applicant shall submit to the City of Berkeley Department of Planning &amp; Development – Building and Safety Division for review and approval the results of a site-specific geotechnical investigation as well as final engineering and design plans for the building, including all subsurface and above-ground elements of the project. The final engineering and design plans for the project shall demonstrate adherence to BART’s <i>General Guidelines for Design and Construction Over or Adjacent to BART’s Subway Structures</i>. Applicable elements of the <i>General Guidelines</i> may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>▪ Minimum clearance of 7’6” between new construction and BART substructures</li> <li>▪ Shoring for excavations in the Zone of Influence</li> <li>▪ Monitoring of shoring to ensure that it maintains at-rest soil condition</li> <li>▪ Monitoring of dewatering and recharging if the existing groundwater level is expected to drop by more than two feet</li> <li>▪ Predrilling of piles to a minimum of 10 feet below the Line of Influence, which is a line from the critical point of a BART substructure at a slope of 1.5 horizontal to 1.0 vertical towards ground level</li> </ul>	<p>City of Berkeley Planning and Development Department, Building and Safety Division</p>	<p>Prior to issuance of a grading permit</p>
<b>NOISE AND VIBRATION</b>			
<p><b>N-1:</b> Project construction would temporarily generate high noise levels on and near the project site. Construction noise levels would intermittently exceed City standards for construction noise in commercial zones, particularly in the first months of construction during excavation and construction of the foundation system. Therefore, construction noise impacts would be significant and unavoidable.</p>	<p>Implement DAP EIR Mitigation Measure NOI-5 (see below).</p> <p><b>NOI-5: Develop Site-Specific Noise Reduction Programs and Implement Noise Abatement Measures during Construction.</b> Prior to the issuance of building permits, the applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include appropriate time limits for construction (7:00 AM to 7:00 PM on weekdays and between the hours of 9:00 AM and 8:00 PM on weekends or holidays) as well as technically and economically feasible controls to meet the requirements of the Berkeley Municipal Code. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction</p>	<p>City of Berkeley Planning and Development and Public Works Departments</p> <p>Construction Contractor</p>	<p>Prior to issuance of demolition, grading or building permits</p> <p>Throughout the construction period</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 7 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<p>noise levels as low as practical:</p> <ul style="list-style-type: none"> <li>▪ Construction equipment should be well maintained and used judiciously to be as quiet as practical.</li> <li>▪ Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.</li> <li>▪ Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.</li> <li>▪ Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.</li> <li>▪ Prohibit unnecessary idling of internal combustion engines.</li> <li>▪ If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.</li> <li>▪ Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.</li> <li>▪ Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.</li> <li>▪ Route construction related traffic along major roadways and away from sensitive receptors where feasible.</li> <li>▪ Businesses, residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the construction schedule in writing prior to the beginning of construction. Designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem.</li> </ul>		

**ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM**

October 25, 2018

Page 8 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	Conspicuously post a telephone number for the liaison at the construction site.		
<p><u>N-2:</u> Project construction would temporarily generate high vibration levels on and adjacent to the project site. Because construction would occur inside the hours allowed in the Berkeley Municipal Code, it would not generate vibration when people normally sleep. While vibration in excess of FTA thresholds may temporarily disturb daytime educational activities at Berkeley City College, the use of administrative controls including notification of neighbors and appropriate scheduling of vibrating-generating activities would minimize exposure to perceptible vibration. Vibration levels at the Shattuck Hotel could potentially exceed Caltrans thresholds for structure damage, but vibration monitoring pursuant to Mitigation Measure NOI-6 from the DAP EIR would reduce the likelihood of structure damage. Therefore, the project would have a less than significant vibration impact with mitigation.</p>	<p>Implement DAP EIR Mitigation Measure NOI-6 (see MM for Impact CR-2).</p>	<p>City of Berkeley Planning and Development Department, Land Use Division</p>	<p>Prior to the issuance of a grading permit</p>
<p><u>N-5:</u> New residential units on the project site would be subject to noise levels in excess of the City</p>	<p>Implement DAP EIR Mitigation Measure NOI-1 (see below). <b><u>NOI-1: Site-Specific Noise Studies/Site Planning/Noise Control</u></b></p>	<p>City of Berkeley Planning and Development and</p>	<p>Prior to issuance of demolition,</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 9 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
<p>of Berkeley noise compatibility guidelines. However, sound attenuation techniques would reduce ambient noise in the residential units to below the City's standard of 45 dBA Ldn, ensuring that this impact would be less than significant with mitigation.</p>	<p><b>Treatments.</b> Future residential units proposed under the DAP would be exposed to outdoor noise levels in excess of 60 dBA Ldn and indoor noise levels in excess of 45 dBA Ldn, which would exceed the City's and state's established land use compatibility thresholds. In areas where residential development would be exposed to an Ldn of greater than 60 dBA, site-specific noise studies should be conducted to determine the area of impact and to present appropriate mitigation measures, which may include the following:</p> <ul style="list-style-type: none"> <li>▪ Utilize site planning to minimize noise in shared residential outdoor activity areas by locating these areas behind the buildings, in courtyards, or orienting the terraces to alleyways rather than streets, whenever possible.</li> <li>▪ The California Building Code and the City of Berkeley require project-specific acoustical analyses to achieve interior noise levels of 45 dBA Ldn or lower in residential units exposed to exterior noise levels greater than 60 dBA Ldn. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation in noise environments exceeding 70 dBA Ldn so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building façade treatments) may be required where exterior noise levels exceed 65 dBA Ldn. These treatments include, but are not limited to, sound rated windows and doors, sound rated exterior wall assemblies, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis during project design. Result of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA Ldn or lower.</li> </ul> <p><b>N-5: Sound Insulation.</b> The applicant shall install exterior building materials with sufficient Sound Transmission Class (STC) ratings to reduce interior noise levels in habitable rooms to below 45 dBA Ldn, as required by California Code of Regulations, Title 24, Section 1207.4. All residential windows, exterior doors, and exterior wall assemblies shall meet the STC 30</p>	<p>Public Works Departments  Construction Contractor</p>	<p>grading or building permits  Throughout the construction period</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 10 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
rating to ensure the adequate attenuation of noise at a range of frequencies.			
<b>TRANSPORTATION AND TRAFFIC</b>			
<p>T-3: Construction of the project, based on its expected duration and intensity, would result in a temporary reduction in roadway capacity, closure of portions of Allston Way, and relocation of AC Transit bus stops. These physical changes would have temporary adverse effects on vehicle, pedestrian, bicycle, and transit circulation. The project would have a less than significant impact with mitigation during construction.</p>	<p><b>T-3: Development and Implementation of a Construction Traffic Management Plan.</b> Prior to the issuance of demolition permits, a construction traffic management plan shall be prepared and implemented during construction and shall include, but not be limited to, the following strategies to the satisfaction of the City’s Zoning Officer and Public Works staff:</p> <p>1) Temporary Traffic Control Strategies</p> <ul style="list-style-type: none"> <li>▪ Coordinate with the City of Berkeley Public Works Department and construction manager(s)/contractor(s) for nearby developments, and with AC Transit, Bear Transit, and Alta Bates Shuttle, as applicable, to develop construction phasing and operations and detour plans that would result in the least amount of disruption that is feasible to transit operations, pedestrian and bicycle activity, and vehicular traffic.</li> <li>▪ Establish construction phasing/staging schedule and sequence that minimize impacts of a work zone on traffic by using operationally sensitive phasing and staging throughout the life of the project.</li> <li>▪ Coordinate and schedule utilities work to minimize potential work disruptions or interruptions and reduce overall construction duration.</li> <li>▪ Identify optimal delivery and haul routes to and from the site to minimize impacts to traffic, transit, pedestrians, and bicyclists.</li> <li>▪ Conduct monitoring for pavement damage and timing/coordination for completing repairs along construction truck routes.</li> <li>▪ Identify arrival/departure times for trucks and construction workers to avoid peak periods of adjacent street traffic and minimize traffic affects</li> <li>▪ Specify timing, signage, location, and duration of necessary partial/complete sidewalk closures and identification of detour routes for pedestrians, bicyclists, and vehicles, as needed.</li> <li>▪ Preserve safe and convenient passage for pedestrians and bicyclists around construction areas. Provide alternate facilities for bicyclists and pedestrians (including those with disabilities) in places where the work zone impacts accessibility.</li> <li>▪ Provide for relocation of bus stops and ensure adequate wayfinding and signage to notify transit users.</li> </ul>	<p>Project Applicant  City of Berkeley Planning and Development and Public Works Departments, Transportation Division</p>	<p>Prior to issuance of a demolition permit</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 11 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<ul style="list-style-type: none"> <li>▪ Establish criteria for use of flaggers and other temporary traffic controls.</li> <li>▪ Preserve emergency vehicle access.</li> <li>▪ As necessary, obtain a transportation permit from Caltrans for transportation of heavy construction equipment and/or materials which requires the use of oversized transport vehicles on State highways.</li> </ul> <p>2) Transportation Operations and Transportation Demand Management Measures</p> <ul style="list-style-type: none"> <li>▪ Encourage construction workers to use transit, carpool and other sustainable transportation modes when commuting to and from the site.</li> <li>▪ Specify locations of construction worker employee parking.</li> </ul> <p>3) Public Information Strategies</p> <ul style="list-style-type: none"> <li>▪ Provide advance notification to affected property owners, businesses, residents, etc. of possible driveway blockages or other access obstructions and implement alternate access and parking provisions where necessary.</li> <li>▪ Implement public awareness strategies to educate and reach out to the public, businesses, and the community concerning the project and work zone (e.g., brochures and mailers, press releases/media alerts).</li> <li>▪ Provide a point of contact for residents, employees, property owners, and visitors to obtain construction information, and provide comments and questions.</li> <li>▪ Provide current and/or real-time information to road users regarding the project work zone (e.g., changeable message sign to notify road users of lane and road closures and work activities, temporary conventional signs to guide motorists through the work zone).</li> </ul>		
<p>T-4: The proposed project driveway would introduce potential conflicts between vehicles accessing the site and pedestrians using the north-side sidewalk of Allston Way. Use of the proposed driveway within approximately 25 feet of a bus layover zone on Allston Way also</p>	<p>T-4: <b>Driveway Safety Measures.</b> Prior to obtaining a certificate of occupancy, the applicant shall implement the following traffic safety measures to the satisfaction of the City’s Zoning Officer and Public Works staff:</p> <ul style="list-style-type: none"> <li>▪ Per City of Berkeley guidelines, maintain a minimum five foot by five foot sight distance triangle at the driveway entrance/exit;</li> <li>▪ Install “STOP” pavement markings and signage for exiting drivers to look both ways at the exit, prior to crossing the sidewalk;</li> <li>▪ Install convex mirrors at the project driveway to improve the visibility of exiting vehicles from the sidewalk;</li> </ul>	<p>City of Berkeley Zoning Officer and Public Works Department</p>	<p>Prior to issuance of a certificate of occupancy</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 12 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
<p>could introduce conflicts between vehicles accessing the site and buses. These conflicts would cause a potentially significant impact without adequate sight distance provided at the project driveway and appropriate technology to minimize conflicts associated with the driveway. The project would result in a less than significant impact with mitigation incorporated.</p>	<ul style="list-style-type: none"> <li>▪ Provide visual and/or audio warning devices that alert pedestrians when vehicles are exiting the driveway;</li> </ul> <p>The typical and standard treatments identified above should be sufficient to address potential conflicts. In addition, the following non-standard treatments may be considered and implemented at the determination of the City:</p> <ul style="list-style-type: none"> <li>▪ Provide visual warning devices that alert drivers when pedestrians are present on the sidewalk; and</li> <li>▪ Utilize a different surface treatment or special paving to define and highlight the driveway entrance within the public right-of-way.</li> </ul>		
<p><u>T-5:</u> Commercial and passenger loading activity associated with the project would introduce potential conflicts with other automobiles, buses, bicyclists, and pedestrians. If demand exceeds available space at the proposed commercial loading zone on the north side of Allston Way or at the existing passenger loading zone on the south side of the street, spillover loading activity could lead to illegal parking in red curb zones or double-parking. Large trucks parked in the proposed loading zone also could temporarily block access to and from the proposed garage. The project would have a less than significant impact with mitigation incorporated to minimize traffic conflicts associated with loading activity.</p>	<p><u>T-5a: Commercial Loading Management Strategies.</u> It shall be the responsibility of building management to monitor and report on on-street commercial loading activity. Building management shall assign an inspector who will be responsible for field monitoring and documenting observations on a monitoring report worksheet. The inspector will be responsible for the following activities:</p> <ul style="list-style-type: none"> <li>▪ On-site, day-to-day monitoring of commercial loading activities;</li> <li>▪ Recording instances of illegal stopping, double-parking, blockage of adjacent travel lanes, and conflicts with transit vehicles;</li> <li>▪ Acting in the role of contact for property owners or other affected persons who wish to register observations of commercial loading conflicts. The inspector shall be responsible for verifying any such observations and for developing any necessary corrective actions in consultation with City staff;</li> <li>▪ Maintaining a log of all significant interactions and enforceable violations and submitting a monthly monitoring report worksheet to the City's Traffic Engineer for a period of one-year; and,</li> <li>▪ Obtaining assistance as necessary from technical experts in order to identify appropriate strategies to minimize conflicts.</li> </ul> <p>The City's Traffic Engineer shall review the monitoring reports and identify recurring issues. If recurring issues are identified, for example, if commercial loading demand exceeds available supply and loading activity results in illegal stopping in red zones, blockage of adjacent travel lanes, or conflicts with transit vehicles on a regular basis (e.g., more than once per day), it shall be</p>	<p>Project Applicant and designated inspector</p> <p>City of Berkeley Planning and Development Department and Public Works Department, Transportation Division</p>	<p>For a period of one year after construction</p>



ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 13 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<p>the responsibility of the building management to implement strategies to minimize conflicts. Strategies may also be required to be implemented at discretion of City staff, depending on the number and nature of conflicts observed. Appropriate strategies will vary depending on the characteristics and causes of the conflicts. Suggested strategies include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>▪ Coordinate with AC Transit and the City for additional loading space;</li> <li>▪ Coordinate with AC Transit and the City to determine if the transit stop can be used for loading during certain hours;</li> <li>▪ Restrict size of freight and delivery/service vehicles to no more than 25 feet in length;</li> <li>▪ Limit deliveries to certain times of day, such as the early morning or late evening;</li> <li>▪ Install meters and increase parking enforcement;</li> <li>▪ Encourage deliveries during off-peak times;</li> <li>▪ Establish nearby delivery areas or delivery stations to consolidate deliveries for a variety of users and utilize smaller vehicles and/or non-motorized modes for last-mile delivery;</li> <li>▪ Install a reception desk, delivery lockers, and/or other delivery-supportive amenities on-site;</li> <li>▪ Install delivery lockers and delivery-supportive amenities on-site;</li> <li>▪ Schedule and coordinate loading activities through building management to ensure that any freight loading/service vehicles can be accommodated either in existing on-street loading spaces in the vicinity of the Project; and,</li> <li>▪ Actively manage the loading zone through use of attendants to direct freight and delivery/service vehicles to available spaces when the loading zone is in use.</li> </ul> <p><b>T-5b: Passenger Loading Management Strategies.</b> It shall be the responsibility of building management to monitor and report on on-street passenger loading activity. Building management shall assign an inspector who will be responsible for field monitoring and documenting observations on a monitoring report worksheet. The inspector will be responsible for the following activities:</p> <ul style="list-style-type: none"> <li>▪ On-site, day-to-day monitoring of passenger loading activities during the</li> </ul>		

**ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM**

October 25, 2018

Page 14 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
	<p>weekday AM peak hour (7:00 AM to 9:00 AM), midday (11:00 AM to 1:00 PM), and PM peak hour (4:00 PM to 6:00 PM) periods, or other time periods determined by the City;</p> <ul style="list-style-type: none"> <li>▪ Recording instances of illegal stopping, double-parking, blockage of adjacent travel lanes, and conflicts with transit vehicles over a 20-minute period within the identified time periods;</li> <li>▪ Acting in the role of contact for property owners or other affected persons who wish to register observations of commercial loading conflicts. The inspector shall be responsible for verifying any such observations and for developing any necessary corrective actions in consultation with City staff;</li> <li>▪ Maintaining a log of all significant interactions and enforceable violations and submitting a monthly monitoring report worksheet to the City’s Traffic Engineer for a period of one year; and,</li> <li>▪ Obtaining assistance as necessary from technical experts in order to identify appropriate strategies to minimize conflicts.</li> </ul> <p>The City’s Traffic Engineer shall review the monitoring report and identify any recurring issues. If recurring issues are identified, for example, if passenger loading demand exceeds available supply and loading activity results in illegal stopping in red zones, blockage of adjacent travel lanes, or conflicts with transit vehicles on a regular basis (e.g., more than once per day), it shall be the responsibility of the building management to implement strategies to minimize conflicts. Strategies may also be required to be implemented at discretion of City staff, depending on the number and nature of conflicts observed. Appropriate strategies will vary depending on the characteristics and causes of the conflicts. Suggested strategies include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ Create a combined commercial/passenger loading zone on the Project frontage (e.g., through signage and use of alternating white and yellow color curb) in conjunction with implementation of time of day restrictions for delivery/service vehicle use of the proposed commercial truck loading zone; and,</li> <li>▪ Coordinate with owners of nearby buildings to increase the amount of passenger loading (white curb) space available.</li> </ul>		

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 15 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
<p><u>T-7:</u> All streets and intersections on the route from the nearest fire stations to the project site are sufficiently wide enough to provide adequate emergency vehicle access to the site. Operation of the project would not substantially increase delays on emergency access routes. However, project construction would temporarily impede emergency access to the project site during construction. The project would have a less than significant impact related to emergency access with mitigation incorporated during construction.</p>	<p>Implement Mitigation Measure T-3 (see above).</p>	<p>Project Applicant  City of Berkeley Planning and Development and Public Works Departments, Transportation Division</p>	<p>Prior to issuance of a demolition permit</p>
<p><u>T-8:</u> The project would not generate a substantial increase in transit ridership that results in result in overcrowding on local or regional transit systems. However, the temporary closure of an AC Transit bus stop and layover zone would impede transit access during construction. Traffic conflicts with vehicles entering and leaving the proposed driveway and with loading activity also could delay buses on Allston Way. The project would have a less than significant impact on the performance of local and regional transit operations with mitigation incorporated to preserve local bus</p>	<p>Implement Mitigation Measures T-3, T-4, T-5a, T-5b (see above).</p>	<p>Project Applicant And designated inspector  City of Berkeley Zoning Officer  City of Berkeley Planning and Development and Public Works Departments, Transportation Division</p>	<p>Prior to issuance of a demolition permit and certificate of occupancy  For a period of one year after construction</p>

ATTACHMENT 1 – EXHIBIT B: MITIGATION MONITORING AND REPORTING PROGRAM

October 25, 2018

Page 16 of 16

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>EIR IMPACTS AND MITIGATION MEASURES</b>			
access during construction and to minimize traffic and loading conflicts with buses during operation.			
<p><u>T-9:</u> The project would not involve features that would result in permanent or substantial operational impacts to alternative modes of transportation. However, construction of the project would temporarily impact pedestrian and bicycle circulation. The project would have a less than significant impact with mitigation incorporated on local pedestrian and bicycle circulation.</p>	<p>Implement Mitigation Measures T-3 &amp; T-4 (see above).</p>	<p>Project Applicant  City of Berkeley Zoning Officer  City of Berkeley Planning and Development and Public Works Departments, Transportation Division</p>	<p>Prior to issuance of a demolition permit and certificate of occupancy</p>
Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing
<b>INFILL INITIAL STUDY CHECKLIST IMPACTS AND MITIGATION MEASURES</b>			
<b>TRIBAL CULTURAL RESOURCES</b>			
<p><u>TCR-1:</u> Proposed excavation of the project site could potentially result in adverse effects on unanticipated tribal cultural resources. Impacts from the unanticipated discovery of tribal cultural resources during construction would be less than significant with mitigation incorporated.</p>	<p><u>TCR-1: Unanticipated Discovery of Tribal Cultural Resources.</u> In the event that cultural resources of Native American origin are identified during construction, the City shall consult with a qualified archaeologist and begin or continue Native American consultation procedures. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.</p>	<p>City of Berkeley Planning and Development Department</p>	<p>During construction period; work must stop immediately if resources are discovered, and consultation initiated as soon as practical</p>

**WRNSSTUDIO**

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CALIFORNIA 94402  
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**MILL CREEK RESIDENTIAL**

**SHATTUCK TERRACE GREEN APARTMENTS**  
2190 SHATTUCK AVENUE, BERKELEY

ZONING DISTRICT C-DMU CORRIDOR

USE PERMIT SET  
10.25.2018

**PROJECT INFO**

**PROJECT LOCATION**

2190 SHATTUCK AVENUE, BERKELEY, CALIFORNIA 94704

**PROJECT SUMMARY**

DEMOLITION OF (E) BUILDING AND NEW CONSTRUCTION OF AN 18-STORY MIXED USE BUILDING WITH TWO LEVELS OF UNDERGROUND PARKING, 10,000 SF OF RETAIL AREA AND RESIDENTIAL LOBBY WITH ADJACENT COMMUNITY AREA AT GROUND FLOOR, AND 274 RESIDENTIAL RENTAL UNITS ON LEVELS ABOVE.

**TABULATION FORM**

**II.F. TABULATION FORM – USE PERMIT UPDATES**

Standard BMC Sections 23E.08.070-080	Proposed Design	Permitted/ Required		
Lot Area (sq. ft.)	19,967 SF	---		
Gross Floor Area (sq. ft.)	211,590 SF	---		
Commercial Floor Area (sq. ft.)	10,000 SF			
Dwelling Units	274	---		
Floor Area Ratio	10.60	---		
Building Height	Average (ft.) – measured from average site elevation	180'-0" (Core sub area)		
	Maximum Architectural Projection	+ 5 parapet (w/UP)		
	Stories	(18)		
Setbacks	Front (Shattuck)	0 (building height < 75')		
		15 (building height 76'-120')		
		98 (building height 121'-180')		
	Rear (West)	5 (building height < 20')		
		0 <sup>(1)</sup> (building height > 20'-27')		
		15 (building height 76' – 180')		
	North Interior Side (distance from lot frontage)	0-65'	0 (building height < 25') 5 (building height 76'-120') 15 (building height 121'-180')	
		>65'	0 (building height < 20')	
			10 (building height 21'-75')	
			15 (building height 76'-180')	
		South Street Side (distance from lot frontage)	0-65'	0 (building height < 25') 5 (building height 76'-120') 15 (building height 121'-180')
			>65'	0 (building height < 20')
0 <sup>(1)</sup> (building height 21'-75')				
	15 (building height 76'-180')			
Lot Coverage (%)	92%	---		
Usable Open Space (sq. ft.)	Residential	21,952 SF 80 per unit 21,920 total		
	Commercial (privately owned public open space)	252 SF 1 per 50 SF (200 SF)		
Parking	Automobile	(103) 91 for DUs, 1-3 units 15 for commercial: 1.5-1K sqft		
	Vehicle Sharing	(5) (3) for 61 plus (1) for ea. (60) addl.		
	Bicycle	99 94 for residents 5 for commercial: 1.2K sqft		

(1) All setbacks may be modified by a Use Permit  
 (2) No such architectural element shall represent more than fifteen percent (15%) of the average floor area of all of the building's floors; and no tower or similar structure shall be used as habitable space or for any commercial purpose, other than that which may accommodate the mechanical needs of the building (BMC §23E.04.020.C)

**PROJECT DIRECTORY**

**ARCHITECT LANDSCAPE STRUCTURAL**

**WRNS STUDIO**  
501 SECOND STREET SUITE 402 SAN FRANCISCO, CA 94107 415-489-2242

**SWA**  
301 BATTERY STREET 2 MEZZANINE SAN FRANCISCO, CA 94111 415-838-8770

**TIPPING STRUCTURAL ENGINEERS**  
1908 SHATTUCK AVE BERKELEY, CA 94704 510-549-1908

**CIVIL**

**BKF ENGINEERS**  
4670 WILLOW ROAD SUITE 250 PLEASANTON, CA 94588 925-396-7718

**MEP**

**INTERFACE ENGINEERING**  
135 MAIN STREET SUITE 400 SAN FRANCISCO, CA 94105 415-489-3215

**DESIGN NARRATIVE**

**Design Narrative Summary**

The Shattuck Terrace Green Apartments project is a new mixed-use residential building set within the heart of Berkeley's Downtown Core Area. The 18-story, approximately 211,590 SF building will offer a diverse mix of spaces including: a range of living unit types, 10,000 SF of ground floor retail, a community room and recreation spaces, enhancements to the BART Plaza and Allston Way, and lushly planted terraces with expansive views to the San Francisco Bay and Berkeley Hills.

The building's design expresses a unique balance between individual and collective needs – a decidedly Berkeley Community aspiration. The project engages the 7-story base and 18-story tower into a dialogue of distinctive forms and material sensibilities. The building's facades are composed to feature a fabric of wall panels, shade screens, and integrated balconies to control the amount of light and shadow on the south-facing facade. This 'woven' composition creates a dynamic facade that opens at the corner of Shattuck and Allston. To further distinguish the massing and allow for multiple readings at the urban scale, the building's base is characterized by a strong expression of rich structure and dark-textured materials, while the taller section takes on a lighter, more-ephemeral palette that reflects the sky.

**Downtown Berkeley Design Guidelines**

The building is designed to integrate within the urban context of downtown Berkeley. The project's stepped massing complies with current zoning requirements and is in keeping with the Downtown Berkeley Design Guidelines. This massing also helps delineate the different scales of collective and individual uses, and sets up the overall engagement of the base and upper levels. The lower levels mediate between the surrounding heights of the Shattuck streetscape and the historic Hotel Shattuck, while the upper levels participate in the taller adjacent buildings such as Chase Bank, Wells Fargo, and other new buildings that are envisioned in the Downtown Area Plan.

The building's base exhibits a clear base-middle-top composition with a highly transparent retail frontage at the ground level, and an open loggia and canopy at the top. The middle levels are articulated with alternating bays of punched windows and open balconies to create a crisp, modern expression that also feels rooted within the proposed historic district of the downtown. These projecting bays break the facade into 16' sections that impart a residential scale to the lower levels while maintaining the contemporary look and feel of a downtown building.

The ground floor retail space fronts on Shattuck Avenue with a recessed entry at the corner, while the residential lobby sets adjacent a new, small entry court down Allston Way – where the tower steps back. The pedestrian experience along Allston is enhanced by a new robust streetscape including new sidewalk paving, street trees, benches, and public art vitrines that are integrated into the storefront windows. The art vitrines, situated beneath the projected bays above, help tie the layers of the building together and enhance the urban experience.

The upper levels of the building are comprised of a blended mix of solid wall panel, hi-performance glazing, integrated balconies, and south-facing shade screens. The pattern and openness of the shade screens help to control light and view and offer a complimentary counterpart to the look and feel of the base levels. The lyrical composition of glass window-wall, open balconies, and lightly-colored exterior shading features extend to all sides of the building. The intent is to emphasize that, while different in nature and orientation, all facades are equally important. While the south side features a dynamic skin, the north facade reads more like a collection of smaller buildings defined by different yet complimentary, facade patterns, exterior shading, and balconies.

**Sustainability**

The Shattuck Terrace Green project is pursuing LEED Gold Certification, and the building's design leverages a myriad of sustainable features, including: Transit Oriented Development and Sustainable Sites, Water Conservation and Energy Efficiency, Material Resources, and enhanced Indoor Air Quality. Beyond merely picking items from a checklist, the design takes advantage of synergies among the various disciplines and building systems to incorporate 'win-win' features that are high-performance, expressive of a conservation ethic, and also cost effective. For example, a primary aspect of the building design is lushly planted roof-decks. These communal features provide attractive settings for residents to engage socially and connect with nature (of an urban variety). But they also contribute to the outward expression of the building on multiple levels, and serve a vital function in storm water management, rainwater catchment, and reuse. Another great example is the exterior shading screens. This system expands the range of comfort for residents by providing added control over the environment while at the same time reducing solar heat gain that leads to greater comfort and ultimately energy savings.

**DRAWING SHEET INDEX**

001_SHEET INDEX ARCHITECTURAL							
Sheet Number	Sheet Name	USE PERMIT SUBMITTAL 06/01/2016	PRELIMINARY DESIGN REVIEW 06/15/2017	DR3 3 Design Update	DR4 4 Design Updates	DR5 5 Design Updates	USE PERMIT SET 10/25/2018
G-000	COVER PAGE						
G-010	RENDERINGS		•	•	•	•	•
G-011	RENDERINGS		•	•	•	•	•
G-012	RENDERINGS		•	•	•	•	•
G-013	DAP COMPLIANCE - SITE DESIGN		•	•	•	•	•
G-023	MATERIAL BOARD		•	•	•	•	•
AS-100	VICINITY PLAN		•	•	•	•	•
AS-101	SITE PLAN		•	•	•	•	•
A-100	B2 PARKING		•	•	•	•	•
A-101	B1 PARKING		•	•	•	•	•
A-102	FLOOR PLAN LEVEL 01		•	•	•	•	•
A-103	FLOOR PLAN LEVEL 02		•	•	•	•	•
A-104	FLOOR PLAN LEVEL 03-06		•	•	•	•	•
A-105	FLOOR PLAN LEVEL 07		•	•	•	•	•
A-106	FLOOR PLAN LEVEL 08		•	•	•	•	•
A-107	FLOOR PLAN LEVEL 09-11		•	•	•	•	•
A-108	FLOOR PLAN LEVEL 12		•	•	•	•	•
A-109	FLOOR PLAN LEVEL 13		•	•	•	•	•
A-110	FLOOR PLAN LEVEL 14-17		•	•	•	•	•
A-111	FLOOR PLAN LEVEL 18		•	•	•	•	•
A-112	ROOF PLAN		•	•	•	•	•
A-113	UPPER ROOF PLAN		•	•	•	•	•
A-131	TYP. UNIT LAYOUT PLAN, LEVELS 03 - 06		•	•	•	•	•
A-132	TYP. UNIT LAYOUT PLAN, LEVELS 08 - 11		•	•	•	•	•
A-133	TYP. UNIT LAYOUT PLAN, LEVELS 14 - 17		•	•	•	•	•
A-301	BUILDING ELEVATION - SOUTH		•	•	•	•	•
A-302	BUILDING ELEVATION - NORTH		•	•	•	•	•
A-304	BUILDING ELEVATION - EAST - WEST		•	•	•	•	•
A-310	NORTHSOUTH BUILDING SECTION		•	•	•	•	•
A-311	EASTWEST BUILDING SECTION		•	•	•	•	•
A-320	STREETSCAPE ELEVATIONS		•	•	•	•	•
A-400	FACADES - DETAILS / ENLARGED ELEVATIONS		•	•	•	•	•

001_SHEET INDEX LANDSCAPE							
Sheet Number	Sheet Name	USE PERMIT SUBMITTAL 06/01/2016	PRELIMINARY DESIGN REVIEW 06/15/2017	DR3 3 Design Update	DR4 4 Design Updates	DR5 5 Design Updates	USE PERMIT SET 10/25/2018
L-100	ROOF TERRACE VIEWS		•	•	•	•	•
L-101	LANDSCAPE SITE PLAN		•	•	•	•	•
L-102	LEVEL 1 LANDSCAPE PLAN		•	•	•	•	•
L-103	LEVEL 8 LANDSCAPE PLAN		•	•	•	•	•
L-104	LEVEL 13 LANDSCAPE PLAN		•	•	•	•	•
L-105	LEVEL 18 LANDSCAPE PLAN		•	•	•	•	•
L-106	PLANT PALETTE		•	•	•	•	•

001_SHEET INDEX CIVIL							
Sheet Number	Sheet Name	USE PERMIT SUBMITTAL 06/01/2016	PRELIMINARY DESIGN REVIEW 06/15/2017	DR3 3 Design Update	DR4 4 Design Updates	DR5 5 Design Updates	USE PERMIT SET 10/25/2018
C-100	TOPOGRAPHIC SURVEY		•	•	•	•	•
C-200	PRELIMINARY GRADING PLAN		•	•	•	•	•

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ISSUES	DATE
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PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DR3 - UPDATE DESIGN	02/15/2018
DR4 - UPDATE DESIGN	03/15/2018
DR5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
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**SHATTUCK TERRACE GREEN APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE:  
SHEET TITLE:

**DRAWING INDEX, PROJECT DIRECTORY, PROJECT INFO**

SHEET NO: **G-001**

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 If this drawing is not 30"x42" then the drawing has been revised from its original size. Noted scales must be adjusted. This line should be equal to one inch.

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PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
---------------	------



**SOUTHEAST VIEW FROM SHATTUCK AVENUE**

**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

**KEYPLAN**

PROJECT NO: 15.0022.00

DATE: 10.25.2018

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**RENDERINGS**

SHEET NO:

**G-010**

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DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
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**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

**KEY PLAN**

PROJECT NO.: 15.0022.00

DATE: 10.25.2018

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**RENDERINGS**

SHEET NO.:

**G-011**

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**SOUTHEAST NIGHT VIEW FROM SHATTUCK AVENUE**



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PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE



CLOSE UP VIEW FROM SHATTUCK AVENUE



NORTH EAST VIEW FROM SHATTUCK AVENUE



ALLSTON WAY ENTRY PLAZA VIEW FROM SOUTH WEST



SOUTH WEST VIEW FROM ALLSTON WAY

**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00

DATE: 10.25.2018

SCALE:

SHEET TITLE:

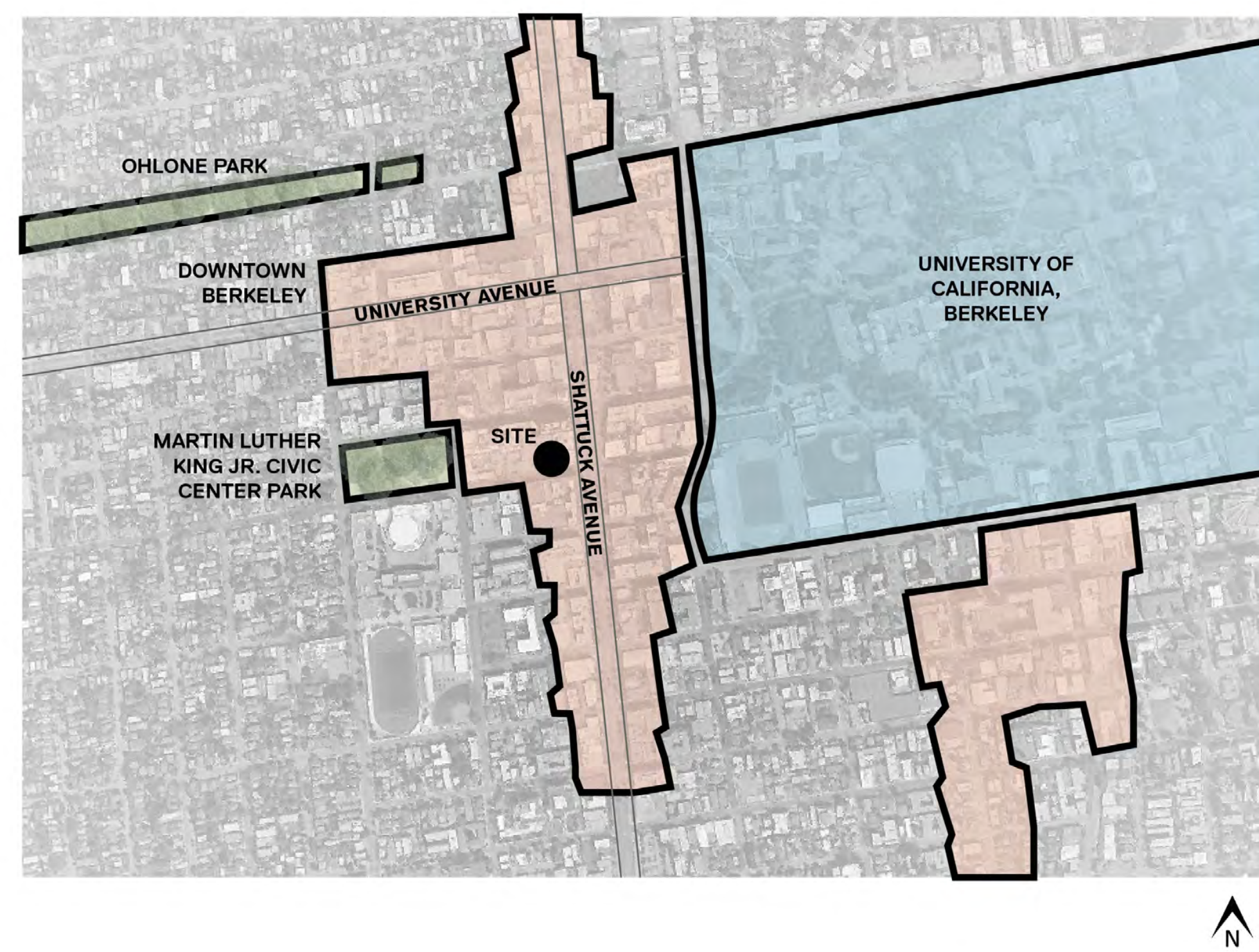
RENDERINGS

SHEET NO:

G-012

## LOCATION AND TRANSPORTATION A SITE IN THE HEART OF BERKELEY

- » THE SITE IS LOCATED IN THE CORE OF BERKELEY, CA.
- » DOWNTOWN BERKELEY, THE UNIVERSITY OF CALIFORNIA, BERKELEY, AND MARTIN LUTHER KING JR. CIVIC CENTER PARK ARE JUST A FEW OF THE DIVERSE USES WITHIN WALKING DISTANCE OF THE SITE.
- » THE NEW RESIDENTIAL TOWER WILL MAKE USE OF A PREVIOUSLY DEVELOPED SITE, BY REPLACING A WALGREENS.
- » AFTER CONSTRUCTION IS COMPLETED, WALGREENS WILL TENTATIVELY MOVE BACK IN AND PROVIDE RESIDENTS A CONVENIENT RETAIL SERVICE.
- » LEED CREDIT | SURROUNDING DENSITY AND DIVERSE USES
- » LEED CREDIT | HIGH PRIORITY SITE

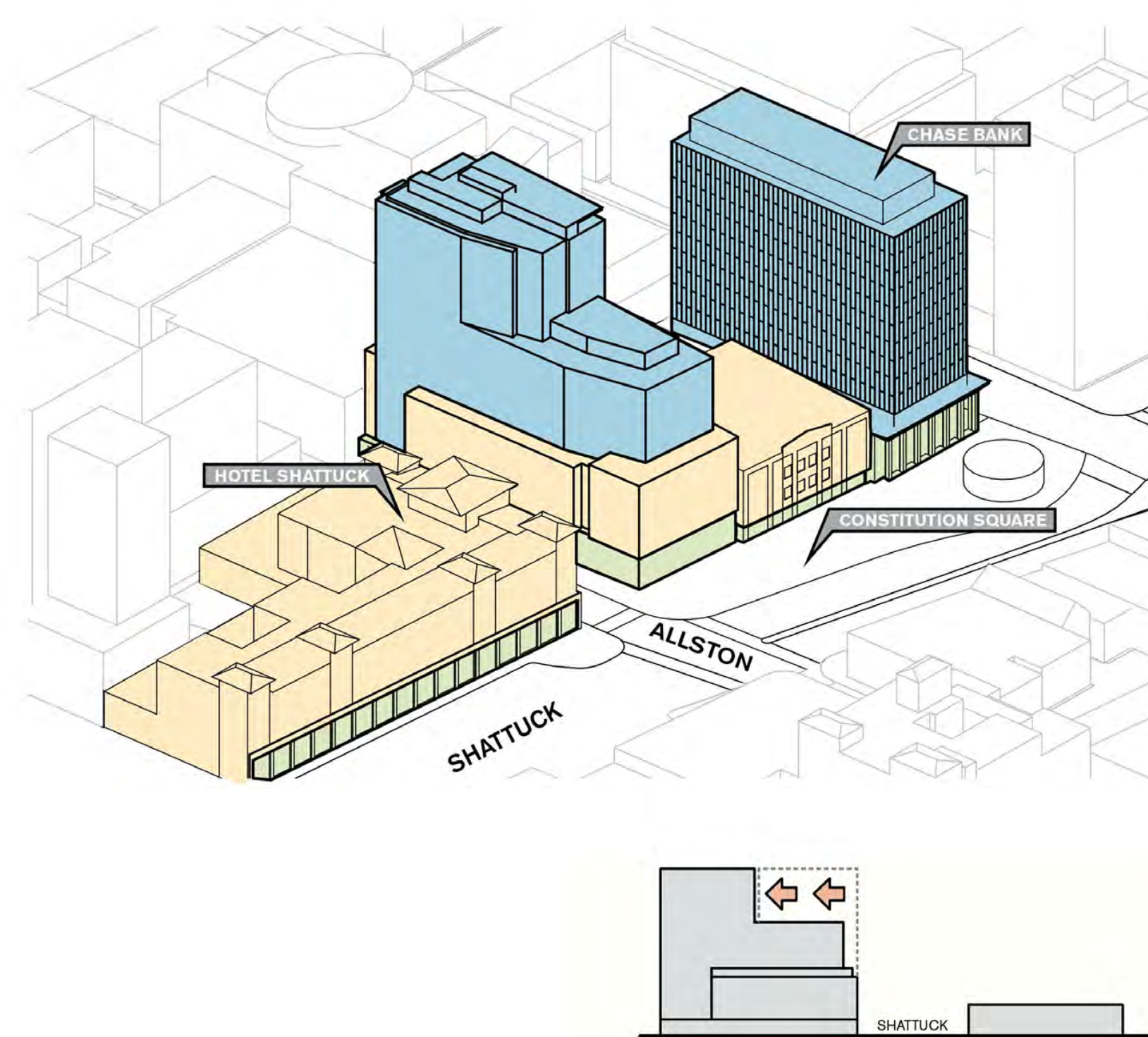


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SHATTUCK TERRACE GREEN APARTMENTS | SUSTAINABILITY

## SITE & BUILDING DESIGN MASSING RELATES TO URBAN CONTEXT

- » MAIN STREET TRANSPARENT FIRST FLOOR RETAIL FACADE
- » THE LOWER LEVELS REFLECT THE SURROUNDING HEIGHTS AROUND CONSTITUTION SQUARE AND THE HEIGHT OF THE HISTORIC HOTEL SHATTUCK
- » BASE OF BUILDING CONTAINS BAY WINDOWS SIMILAR TO THOSE NORTH OF CONSTITUTION SQUARE
- » THE NARROW TOWER MASS OF THE BUILDING IS SITUATED TOWARD THE CENTER OF THE SITE.
- » OVERALL BUILDING HEIGHT RELATES TO ADJACENT CHASE BANK
- » LEED CREDIT | SENSITIVE LAND PROTECTION
- » LEED CREDIT | SITE SELECTION

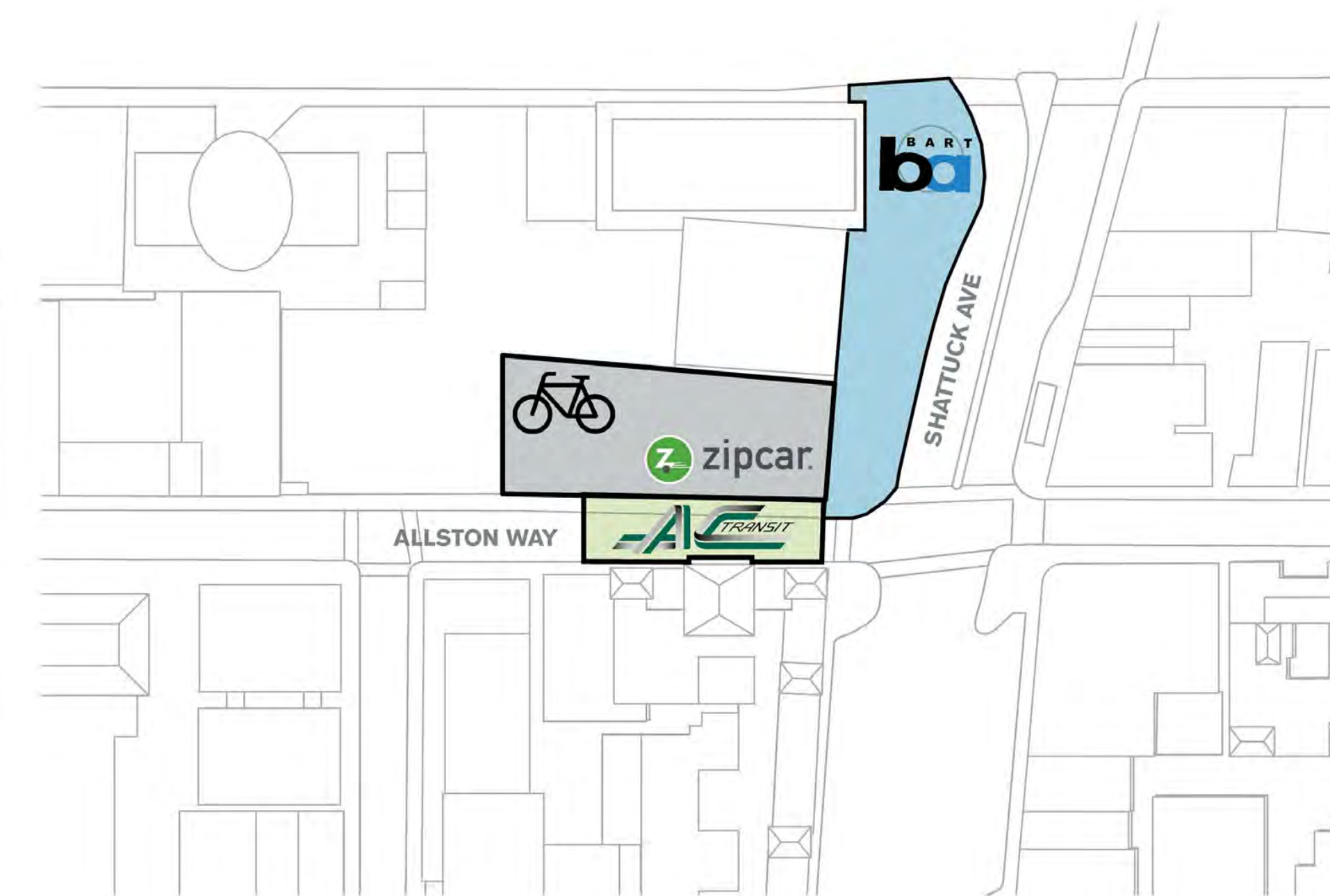


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SHATTUCK TERRACE GREEN APARTMENTS | DOWNTOWN AREA PLANNING GUIDELINES

## LOCATION AND TRANSPORTATION TRANSIT ORIENTED DEVELOPMENT

- » SITE LOCATED ON LAND THAT HAS BEEN PREVIOUSLY DEVELOPED AS A 2-STORY COMMERCIAL BUILDING
- » DIRECT CONNECTION WITH BART AND MUNI STATIONS
- » REDUCED CAR PARKING WITH CAR SHARE AND ELECTRONIC CHARGING STATIONS
- » ENCLOSED BIKE PARKING WITH FIX IT STATION
- » LEED CREDIT | GREEN VEHICLES
- » LEED CREDIT | ACCESS TO QUALITY TRANSIT
- » LEED CREDIT | BICYCLE FACILITIES
- » LEED CREDIT | REDUCED PARKING FOOTPRINT



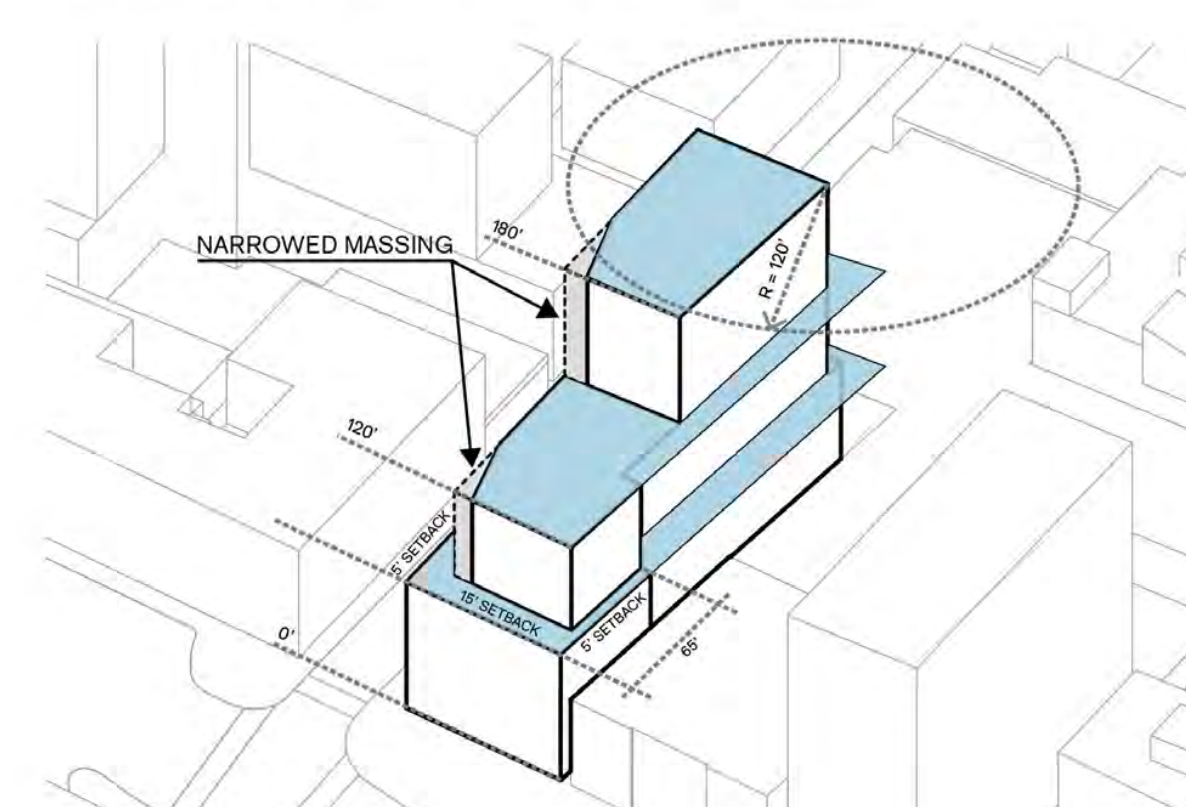
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SHATTUCK TERRACE GREEN APARTMENTS | SUSTAINABILITY

## SITE DESIGN MASS CONFORMS TO THE HEIGHT & BULK RESTRICTIONS OF DAP

- » 75'-0" BULK HEIGHT LIMIT
- » 120'-0" BULK HEIGHT LIMIT\*
- » 180'-0" BULK HEIGHT LIMIT
- » MAX BULK LIMIT AT TOWER OF LARGEST DIAGONAL OF 120'-0"\*

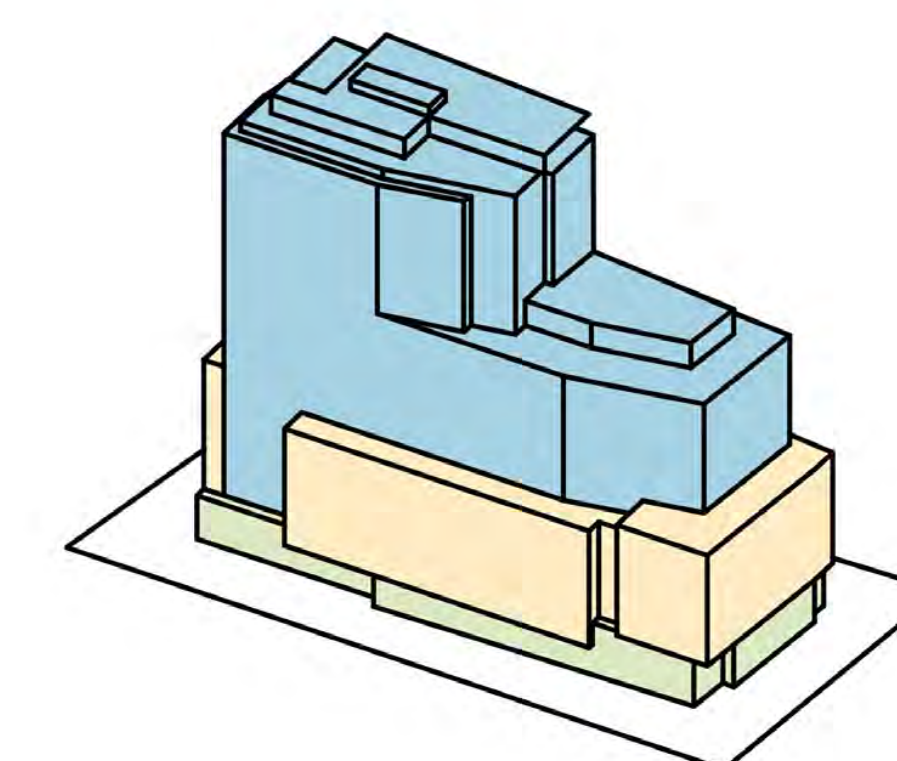
\*Administrative use permit for exceptions



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## CLEAR EXPRESSION OF GROUND, BASE AND TOWER

- » MASSING OF BUILDING IS CALIBRATED TO MULTIPLE SCALES OF COLLECTIVE AND INDIVIDUAL USE



SHATTUCK TERRACE GREEN APARTMENTS | DOWNTOWN AREA PLANNING GUIDELINES

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DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE

## SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE:

SHEET TITLE:  
DAP COMPLIANCE - SITE  
DESIGN

SHEET NO.:

G-013

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DR3 - UPDATE DESIGN	03/15/2018
DR4 - UPDATE DESIGN	03/15/2018
DR5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE

**Floor Area, Gross:** The total gross horizontal areas of all floors of a building or enclosed structure, including, but not limited to, **usable basements** and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings (or the centerlines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof without walls, except that in the case of a **multi-story building which has covered or enclosed stairways, stairwells and elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent.** Areas that shall be excluded from gross floor area shall include covered or uncovered areas used for **off-street parking spaces or loading spaces and driveways, ramps between floors of a multi-level parking garage and maneuvering aisles relating thereto, mechanical, electrical and telephone equipment rooms below Finish Grade, and areas which qualify as usable open space.** For non-residential uses, Gross Floor Area includes pedestrian access interior walkways or corridors, or interior courtyards, walkways, paseos or corridors covered by a roof or skylight, but excludes arcades, porticoes and similar open areas which are located at or near street level, which are accessible to the general public and which are not designed or used as sales, display, storage, service or production areas.

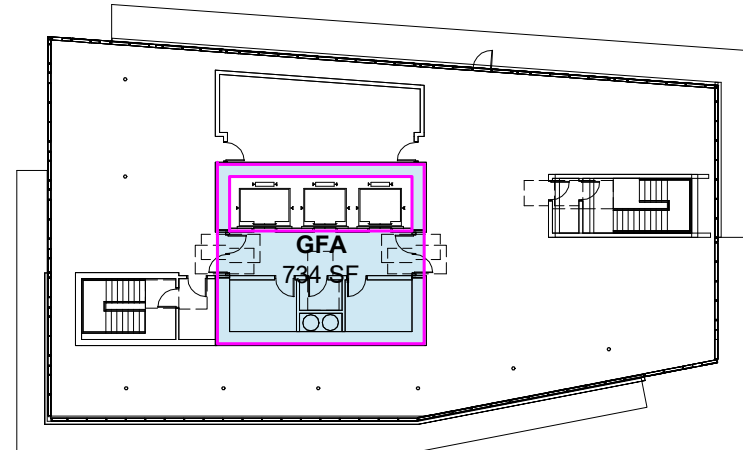
**Floor Area, Leasable:** The total interior floor area of a commercial lease space available for use by a single business including all sales, customer, display, shelving, assembly, seating, counter, kitchen, storage and office areas but not including stairs, restrooms and unenclosed walkways and those areas serving more than one lease space, including, but not limited to, common hallways, corridors, lobbies, maintenance areas, vestibules and other common areas.

**Floor Area Ratio (FAR)**

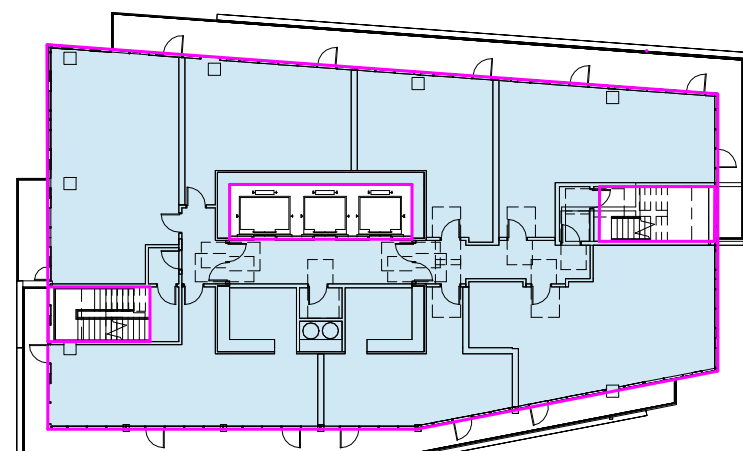
**Floor Area Ratio (FAR):** The quotient resulting from division of the Gross Floor Area of all buildings on a lot by the area of the lot. In a single integrated development on contiguous lots, the permitted Floor Area Ratio shall be computed upon the basis of the total area of all such lots.

Figure 3 Floor Area Ratio (FAR)

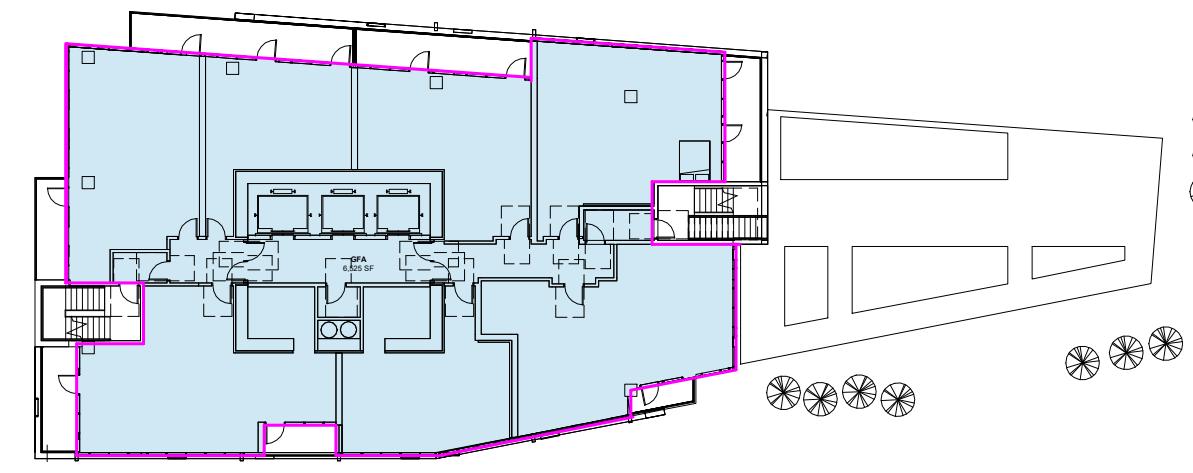
**000. CITY OF BERKELEY GFA CODE**  
1/8" = 1'-0"



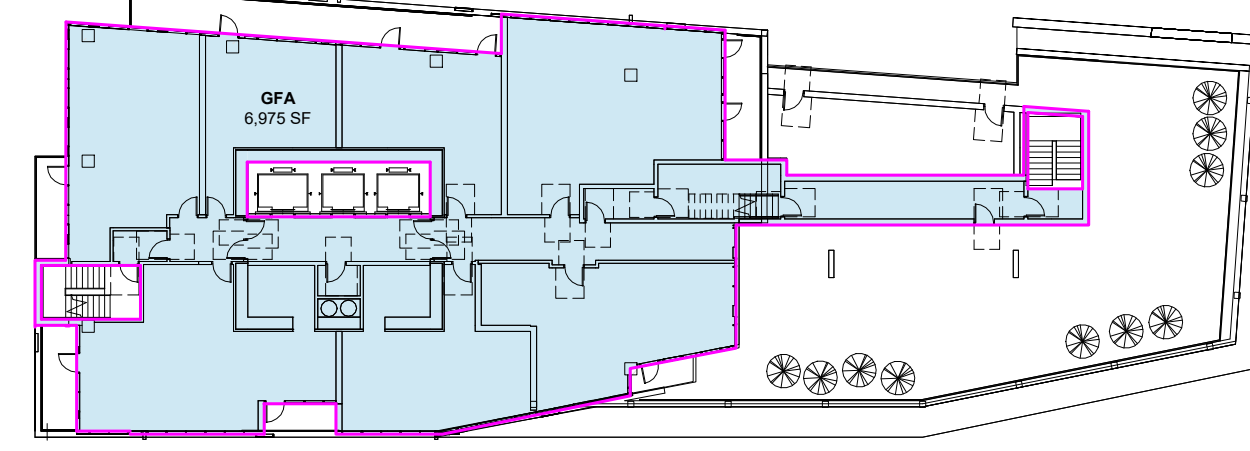
**12 ROOF**  
1" = 30'-0"



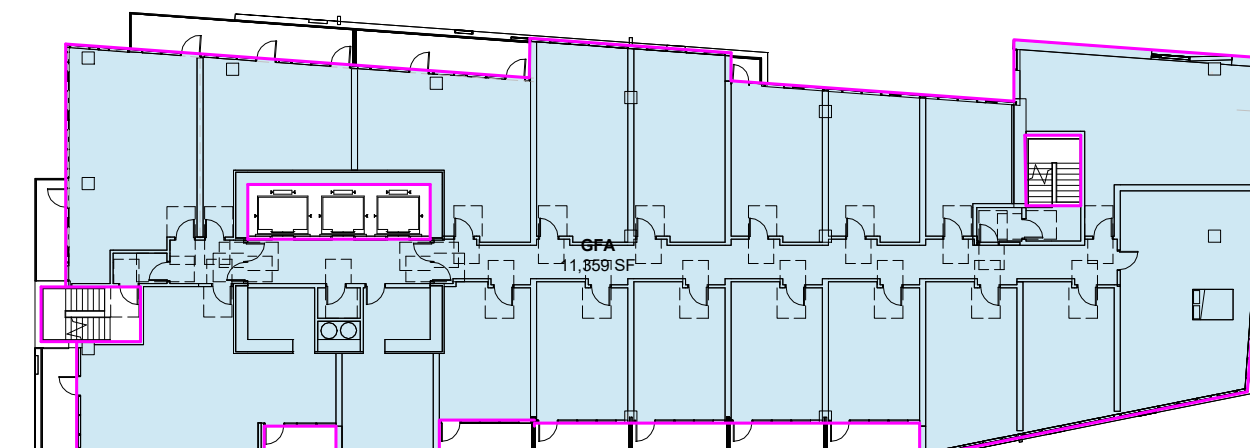
**9 FF LEVEL 18**  
1" = 30'-0"



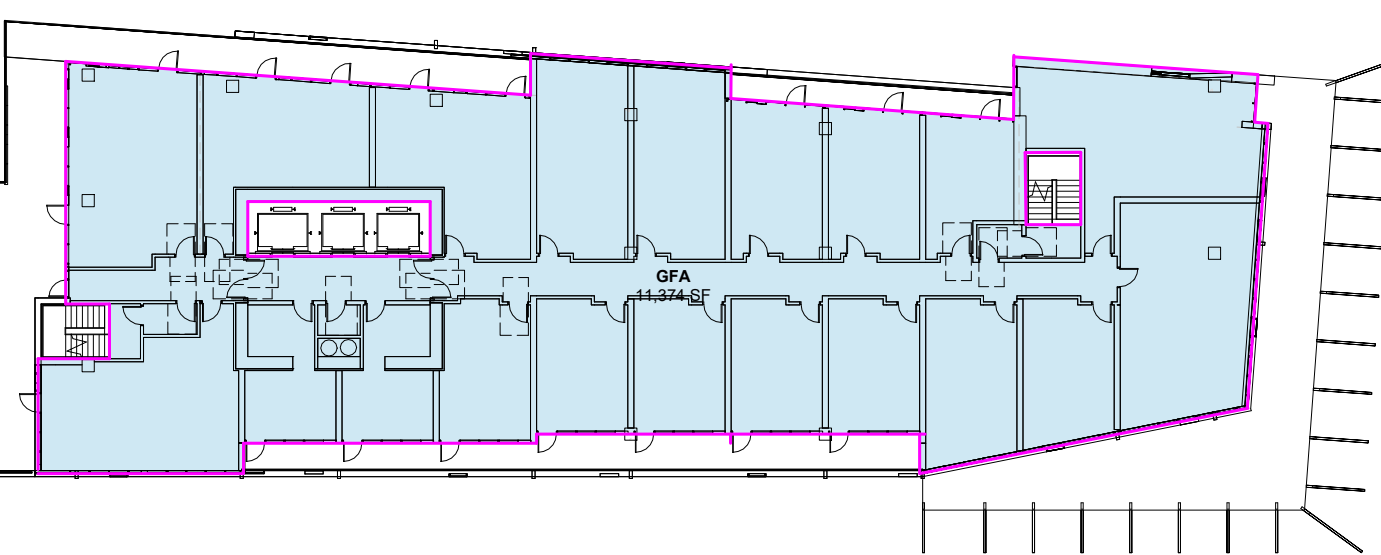
**8 FF LEVEL 14-17**  
1" = 30'-0"



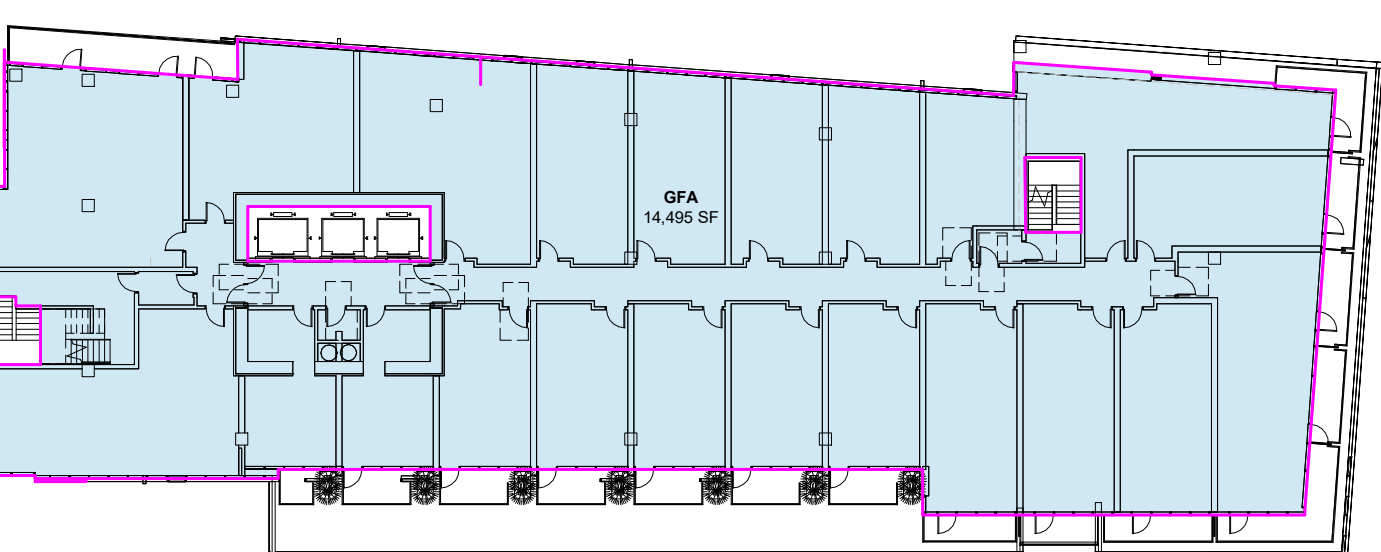
**7 FF LEVEL 13**  
1" = 30'-0"



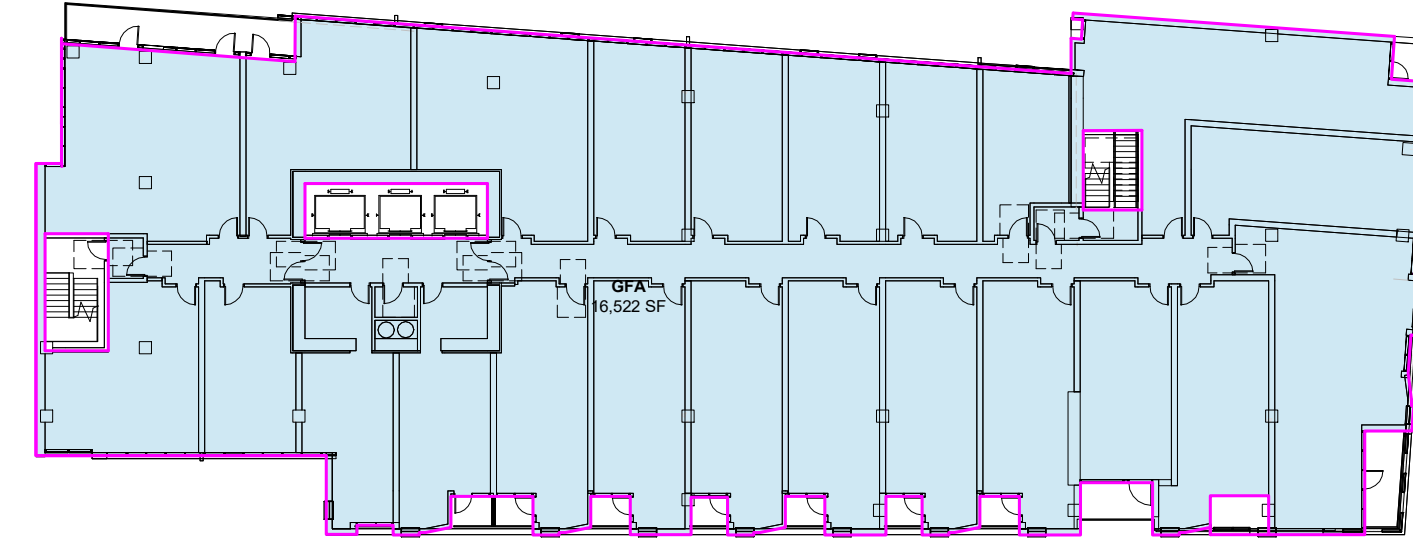
**6 FF LEVEL 9-12**  
1" = 30'-0"



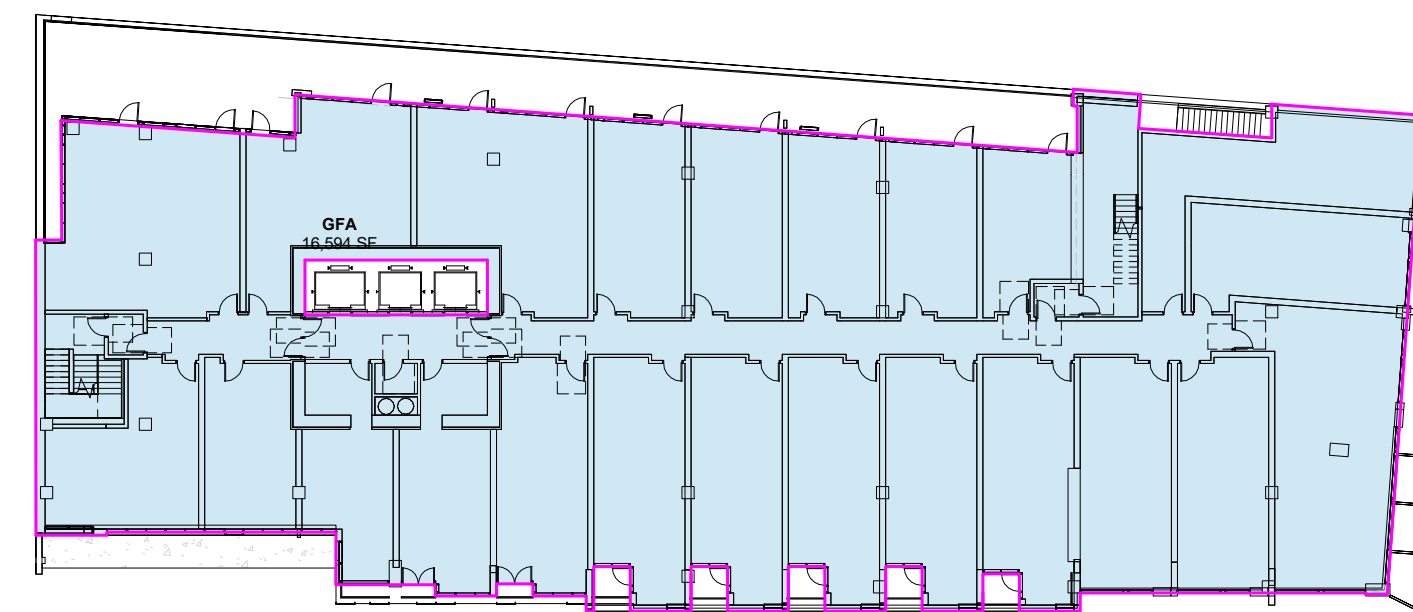
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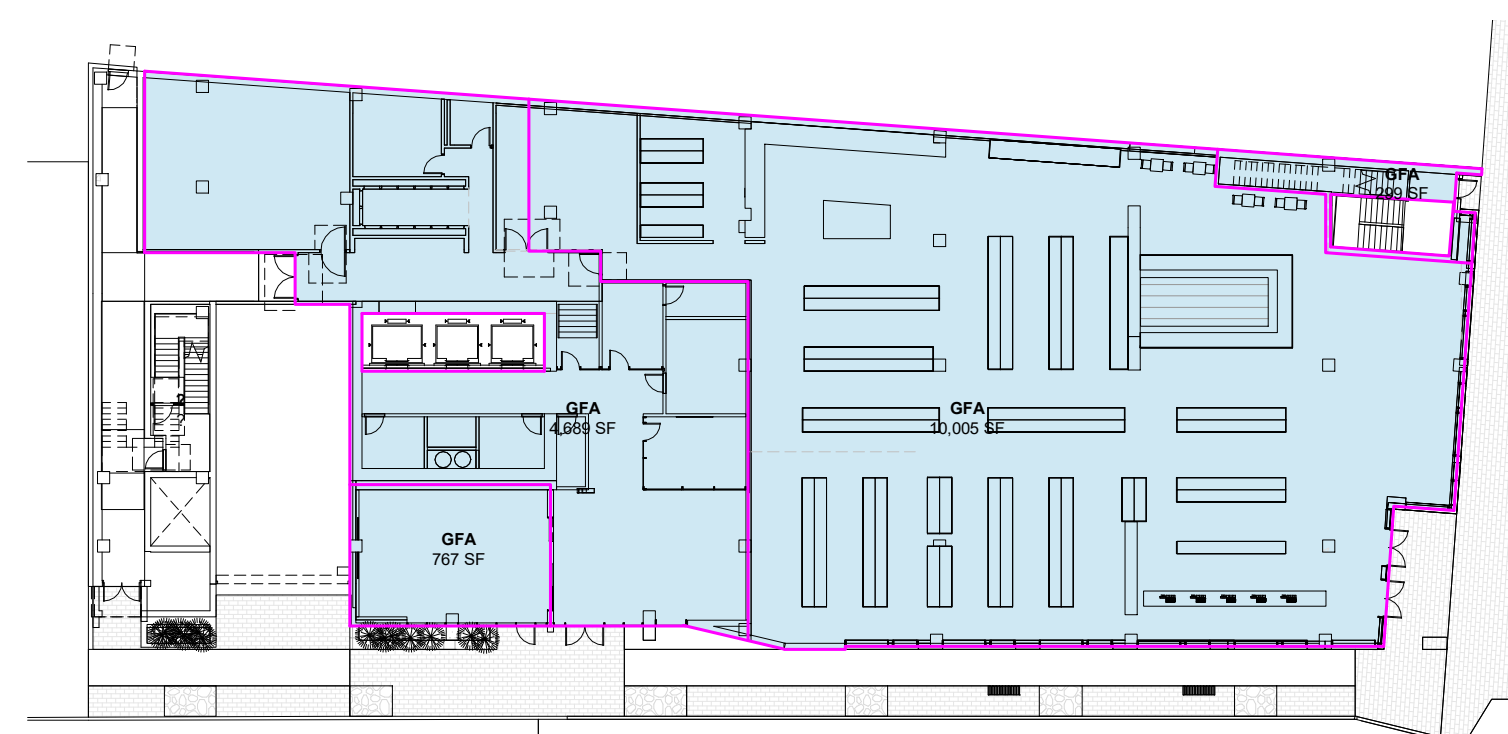
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1" = 30'-0"



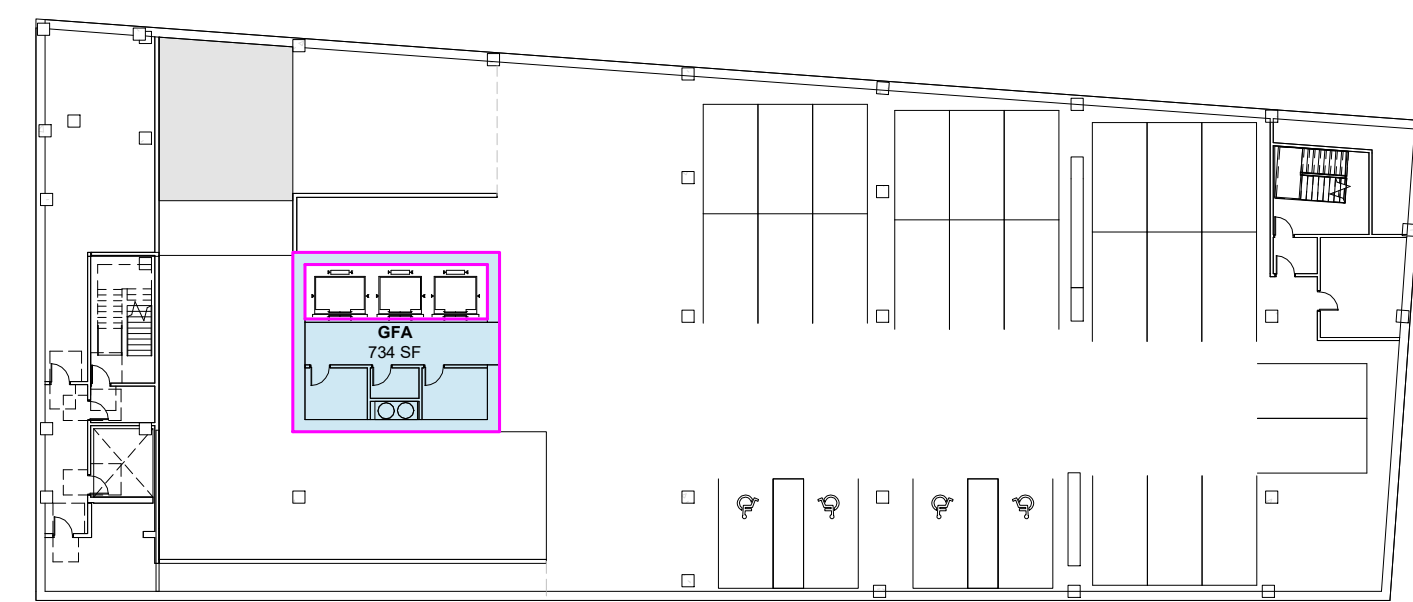
**3 FF LEVEL 3-6**  
1" = 30'-0"



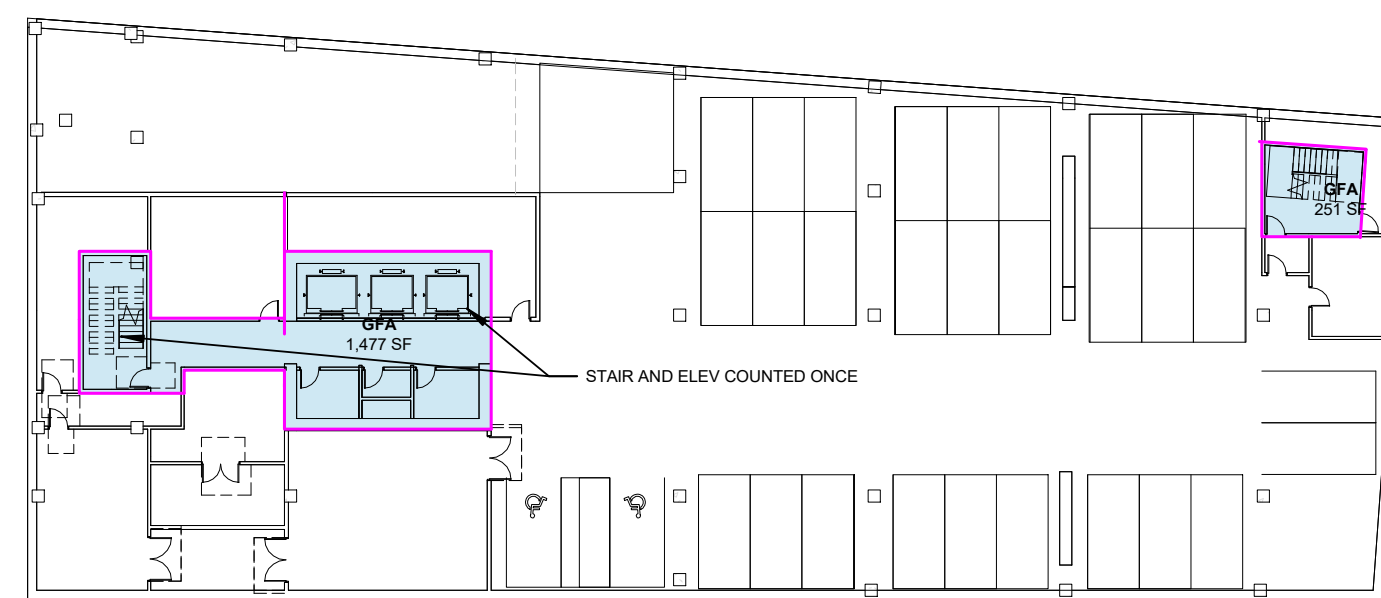
**2 FF LEVEL 2**  
1" = 30'-0"



**1 FF LEVEL 01**  
1" = 30'-0"



**10 FF LEVEL B1**  
1" = 30'-0"



**11 FF LEVEL B2**  
1" = 30'-0"

000_Area Schedule By Level (Gross Building)		
Level	Name	Area
Not Placed	GFA	0 SF
FF LEVEL B2	GFA	1,728 SF
FF LEVEL B1	GFA	734 SF
FF LEVEL 01	GFA	15,760 SF
FF LEVEL 2	GFA	16,594 SF
FF LEVEL 3	GFA	16,522 SF
FF LEVEL 4	GFA	16,522 SF
FF LEVEL 5	GFA	16,522 SF
FF LEVEL 6	GFA	16,522 SF
FF LEVEL 7	GFA	14,495 SF
FF LEVEL 8	GFA	11,374 SF
FF LEVEL 9	GFA	11,359 SF
FF LEVEL 10	GFA	11,766 SF
FF LEVEL 11	GFA	11,130 SF
FF LEVEL 12	GFA	11,036 SF
FF LEVEL 13	GFA	6,975 SF
FF LEVEL 14	GFA	6,525 SF
FF LEVEL 15	GFA	6,530 SF
FF LEVEL 16	GFA	6,530 SF
FF LEVEL 17	GFA	6,530 SF
FF LEVEL 18	GFA	5,700 SF
ROOF	GFA	734 SF
		211,591 SF

**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: As indicated

SHEET TITLE:

Gross Floor Area - Berkeley Code

SHEET NO:

A-122

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DELAWARE LIMITED LIABILITY  
COMPANY**

411 BOREL AVENUE  
SUITE 405  
SAN MATEO  
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650-349-1224 TEL

ISSUES	DATE
USE PERMIT SUBMITTAL	06/01/2016
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DRC 3 - UPDATE DESIGN	02/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE



TILE-SOLID WALLS  
AT GROUND FLOOR



CAST-IN-PLACE CONCRETE  
CORNICE ELEMENTS, SLAB EDGES



GLASS-INSULATED GLASS UNIT  
EXTERIOR GLAZING



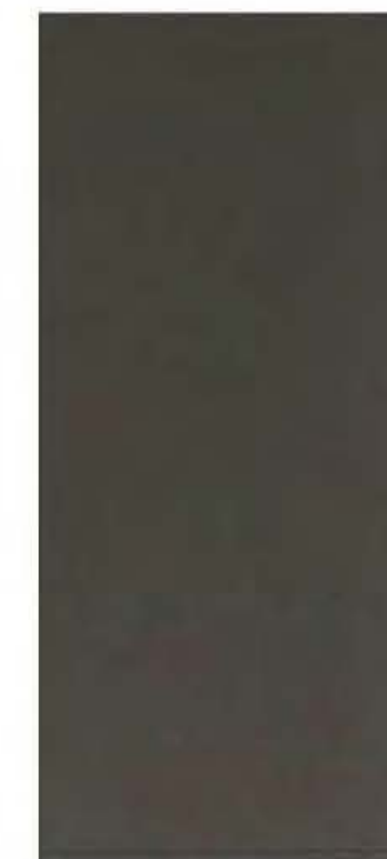
VISION GLASS - LOW IRON GLASS  
BASE OF BUILDING STOREFRONT



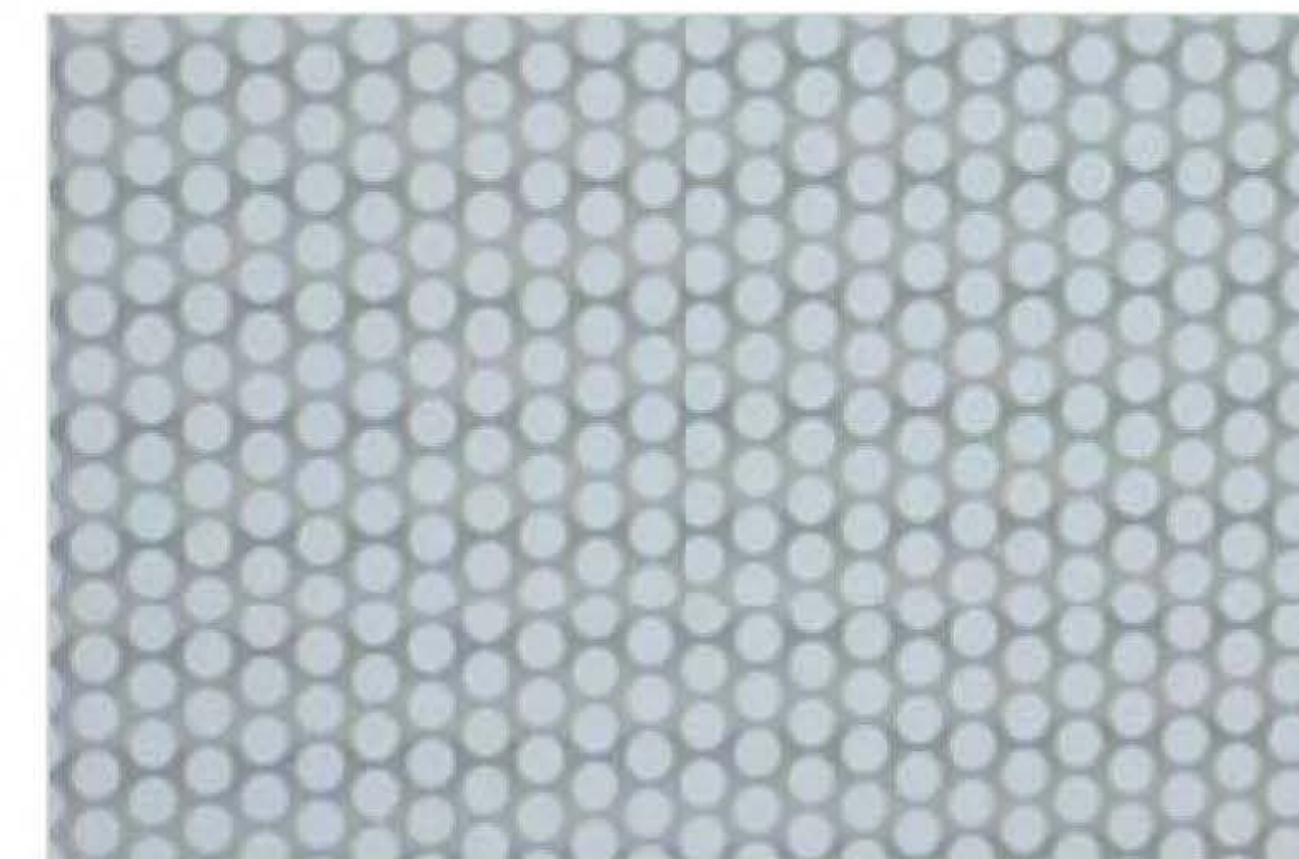
CEMENTITIOUS FINISH  
EXTERIOR PANEL



ALUMINUM-SILVER  
MULLIONS AT TOWER



ALUMINUM-BRONZE  
MULLIONS AT BASE



GLASS-FRITTED PANEL EXTERIOR  
GLAZING - 2'-0" SILL TYP.



BRICK VENEER AT  
BUILDING BASE



WOOD CORNICE  
SOFFITS, BALCONY  
SCREENS



LINEAR PAVERS

**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00

DATE: 10.25.2018

SCALE:

SHEET TITLE:

MATERIAL BOARD

SHEET NO:

G-023

10/11/2018 4:57:17 PM

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USE PERMIT SUBMITTAL	06/01/2016
PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DR3 - UPDATE DESIGN	03/15/2018
DR4 - UPDATE DESIGN	03/15/2018
DR5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE



**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1" = 50'-0"

SHEET TITLE:  
**VICINITY PLAN**

SHEET NO:

**AS-100**

10/11/2018 4:56:56 PM

**1 VICINITY PLAN**

1" = 50'-0"

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PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE



10/11/2018 4:57:01 PM

## 1 SITE PLAN

1/8" = 1'-0"

### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

#### KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

#### SHEET TITLE:

SITE PLAN

SHEET NO:

AS-101

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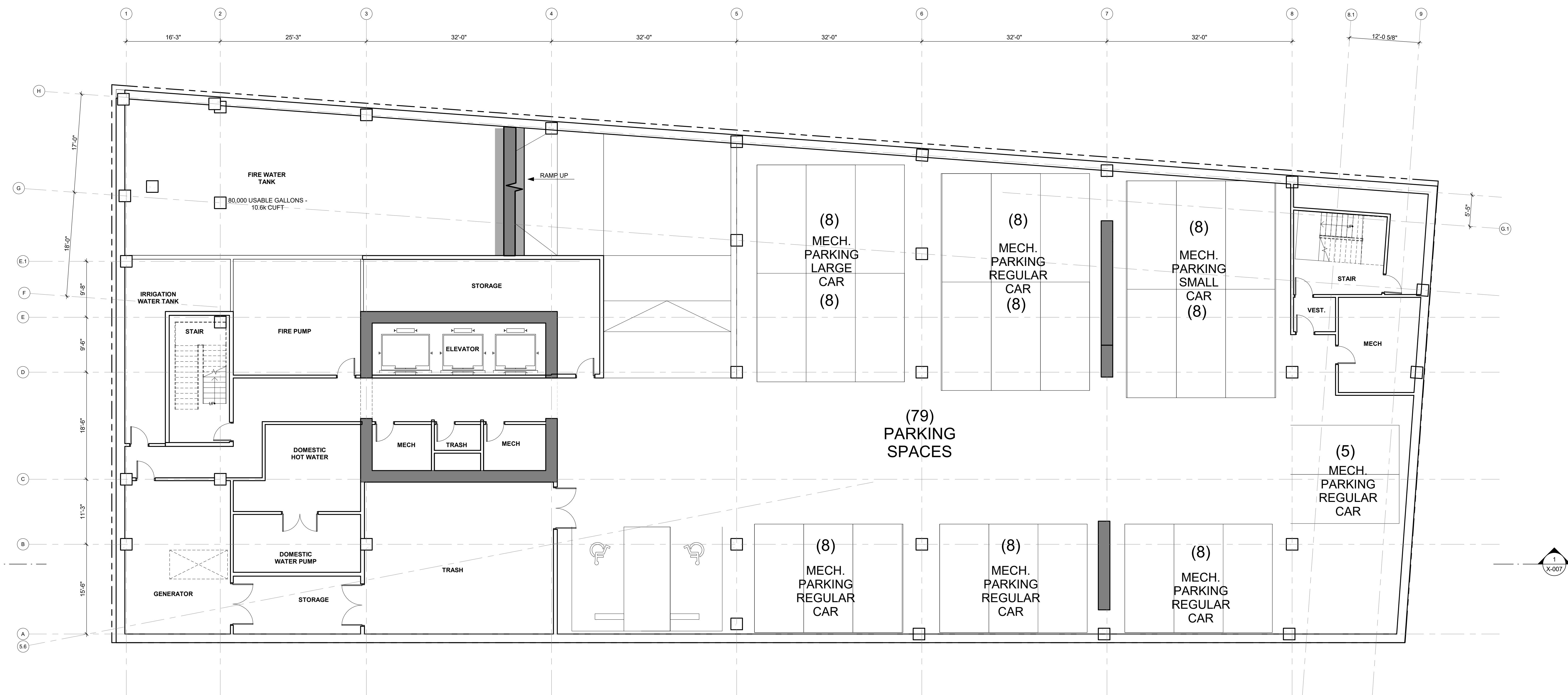
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411 BOREL AVENUE  
SUITE 405  
SAN MATEO  
CALIFORNIA 94402  
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PARKING SCHEDULE	
LEVEL B2	COUNT
REGULAR	0
TANDEM MECH LIFT	0
THREE TIERED MECH LIFT	77
ADA	2
LEVEL B1	COUNT
REGULAR	5
TANDEM MECH LIFT	15
THREE TIERED MECH LIFT	0
ADA	4
<b>TOTAL</b>	<b>103</b>

ISSUES	DATE
USE PERMIT SUBMITTAL	06/01/2016
PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
1 USE PERMIT COMMENTS 01	09/12/2016
4 USE PERMIT UPDATE	12/19/2016



### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**B2 PARKING**

SHEET NO.:

**A-100**

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS S-2

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**1** 100 B2 PARKING  
1/8" = 1'-0"



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411 BOREL AVENUE  
SUITE 405  
SAN MATEO  
CALIFORNIA 94402  
650-349-1224 TEL

PARKING SCHEDULE	
LEVEL B2	COUNT
REGULAR	0
TANDEM MECH LIFT	0
THREE TIERED MECH LIFT	77
ADA	2
LEVEL B1	COUNT
REGULAR	5
TANDEM MECH LIFT	15
THREE TIERED MECH LIFT	0
ADA	4
<b>TOTAL</b>	<b>103</b>

ISSUES	DATE
USE PERMIT SUBMITTAL	06/01/2016
PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
1 USE PERMIT COMMENTS 01	09/12/2016
4 USE PERMIT UPDATE	12/19/2016

### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

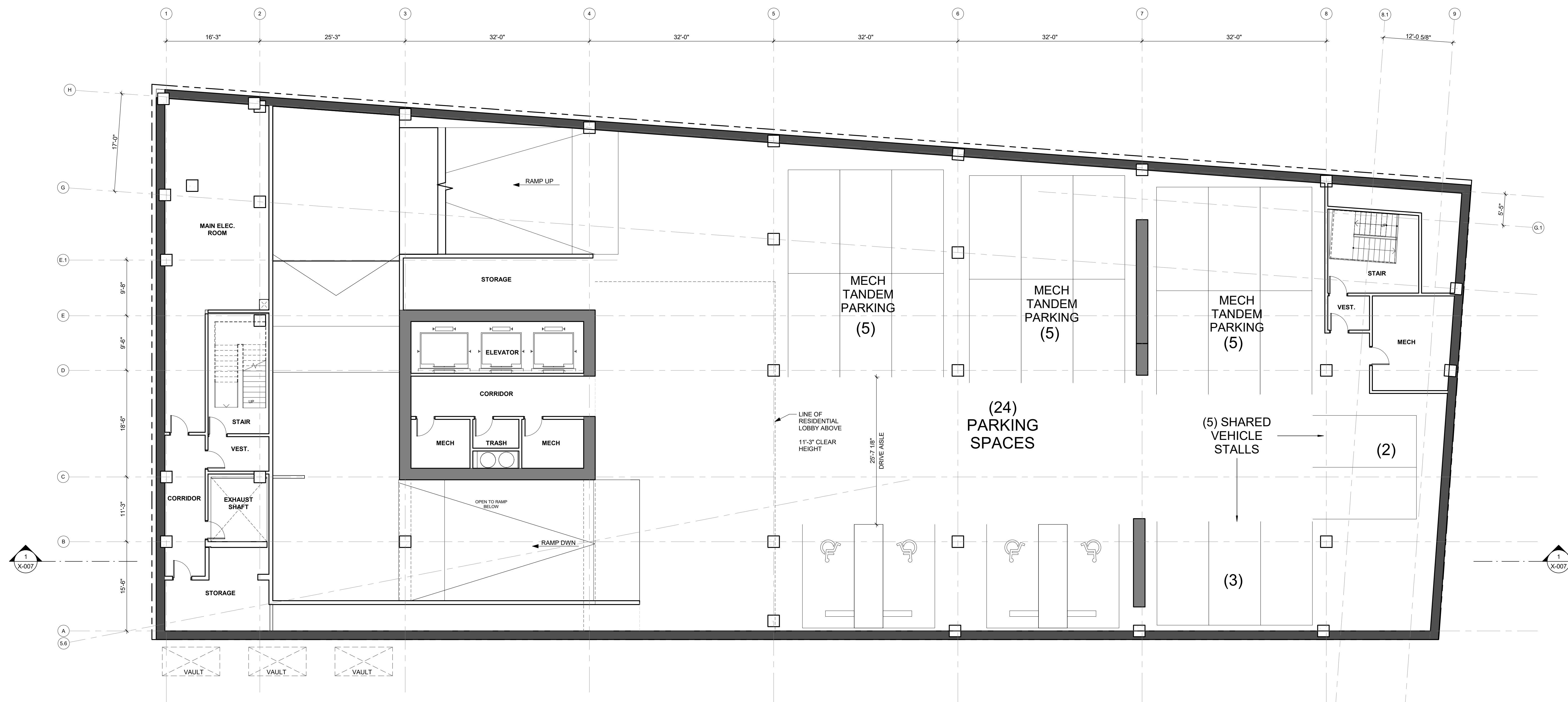
KEYPLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**B1 PARKING**

SHEET NO.:

**A-101**



**1** 100\_B1 PARKING  
1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS S-2

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ISSUES	DATE
USE PERMIT SUBMITTAL	06/01/2016
PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
1 USE PERMIT COMMENTS 01	09/12/2016
3 CEQA SUBMITTAL	9/26/2016
4 USE PERMIT UPDATE	12/19/2016

# SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 01**

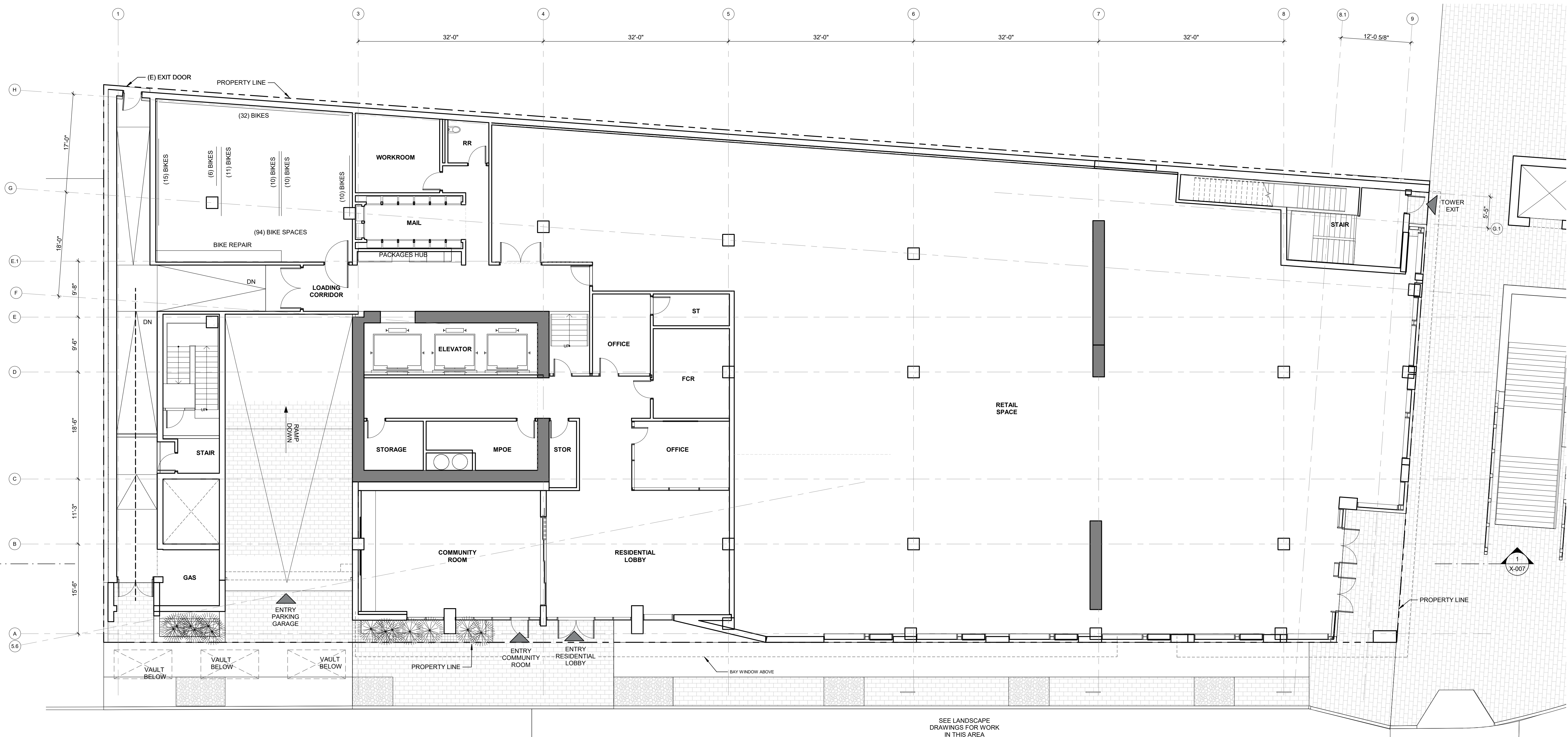
SHEET NO:

**A-102**

10/15/2018 11:53:55 AM

# 1 FLOOR PLAN - GROUND FLOOR

1/8" = 1'-0"



SEE LANDSCAPE  
DRAWINGS FOR WORK  
IN THIS AREA

GENERAL NOTE:  
 1. CONSTRUCTION IS TYPE 1  
 2. OCCUPANCY TYPES ARE GROUP M FOR RETAIL AREAS, GROUP A FOR  
 RESIDENTIAL LOBBY AND COMMUNITY ROOM, AND GROUP S FOR BIKE ROOM  
 If this drawing is not 3/4" x 42", then the drawing has been revised from its original size.  
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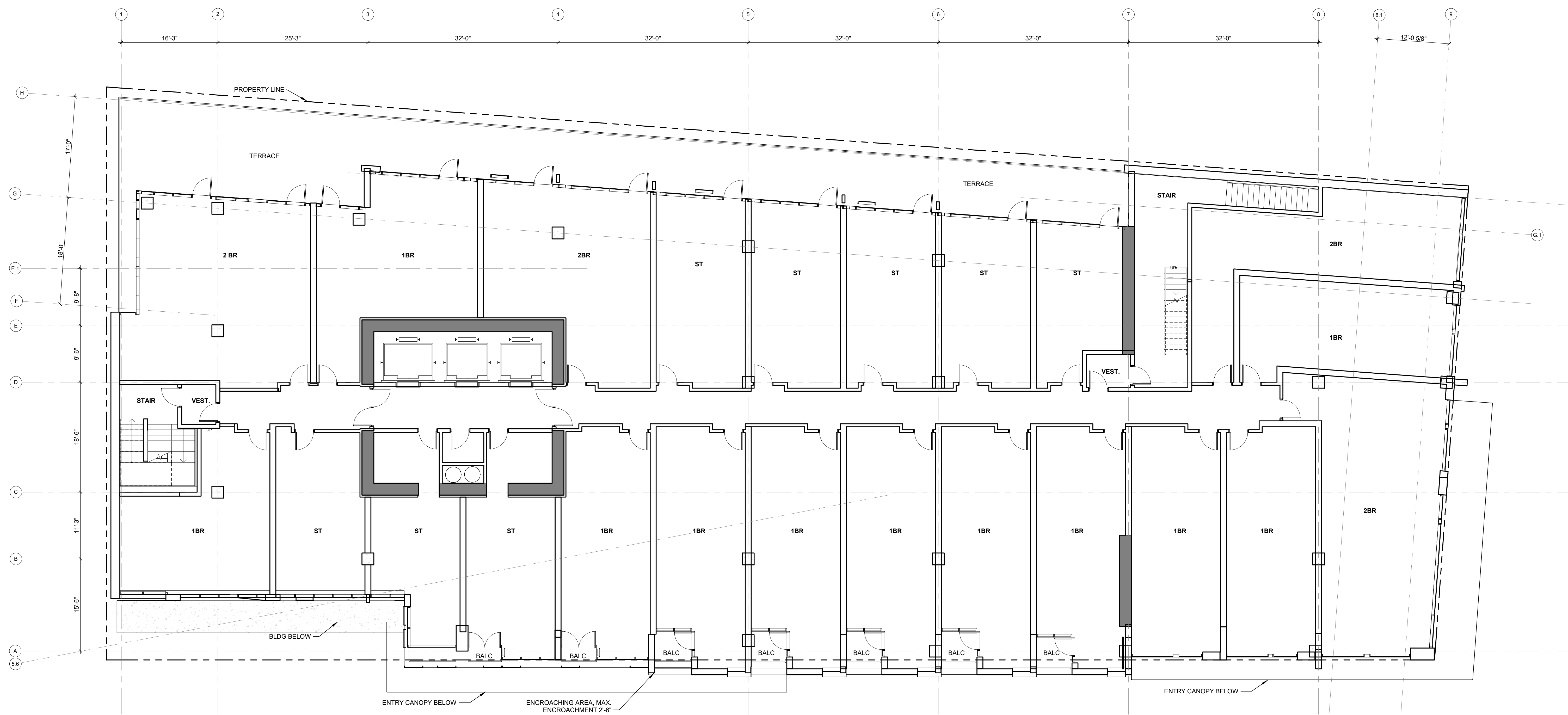
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DRC 5 - UPDATE DESIGN	04/19/2018
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4 USE PERMIT UPDATE	12/19/2016



### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEY PLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 02**

SHEET NO.:

**A-103**

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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## 1 FLOOR PLAN - LEVEL 02

1/8" = 1'-0"

### WRNS STUDIO

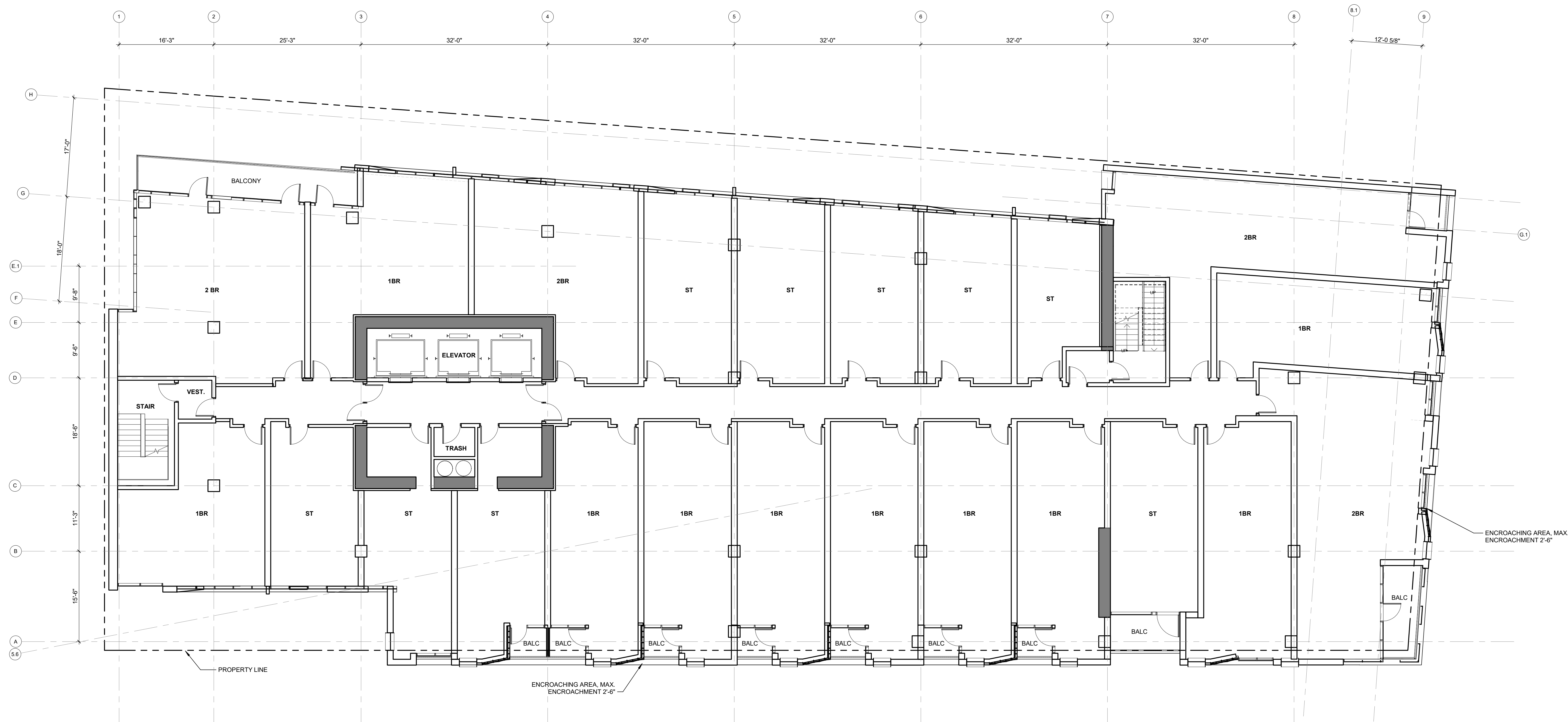
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DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
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REVISION LIST	DATE
4 USE PERMIT UPDATE	12/19/2016



10/15/2018 12:14:25 PM

## 1 FLOOR PLAN - LEVEL 03-06

1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEY PLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL  
03-06**

SHEET NO.:

A-104

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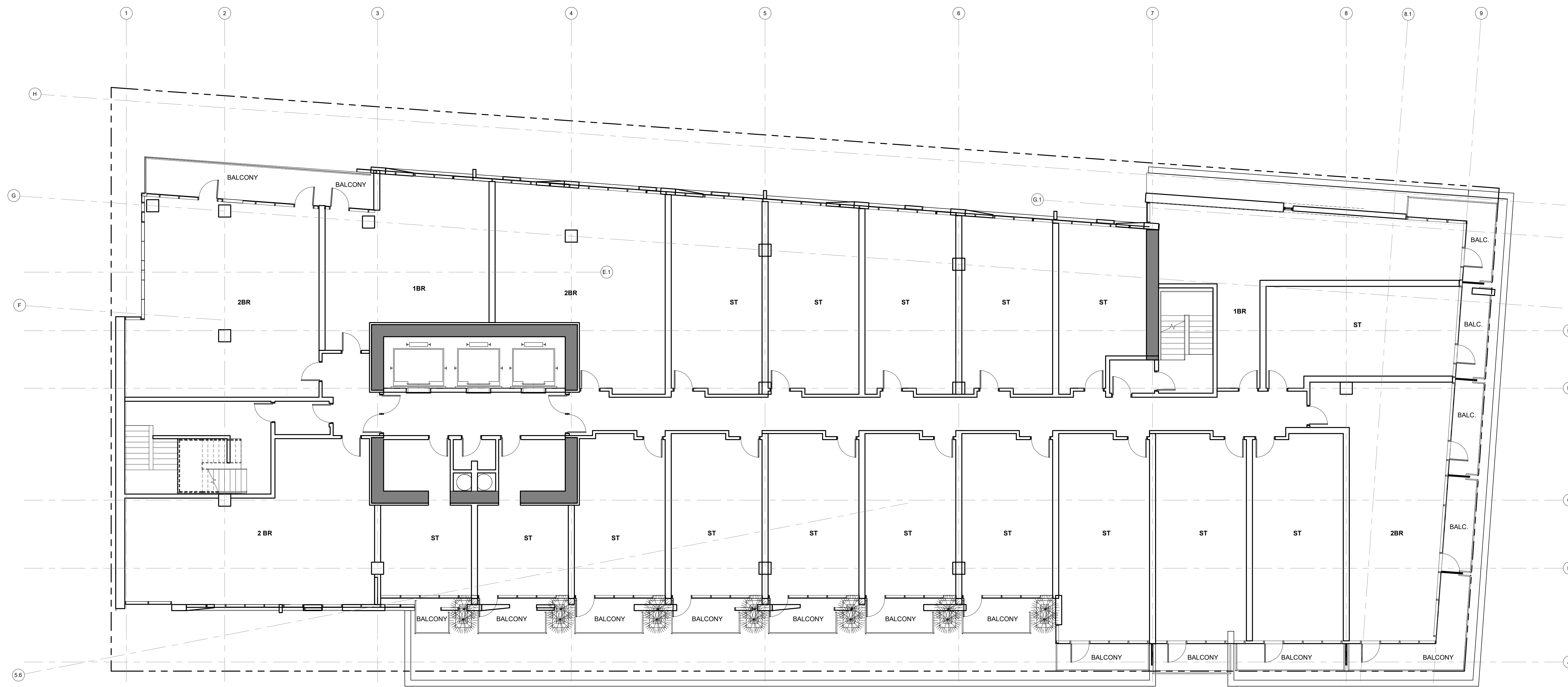
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DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
4 USE PERMIT UPDATE	12/19/2016



### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 07**

SHEET NO:

**A-105**

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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10/15/2018 11:58:31 AM

## 1 FLOOR PLAN - LEVEL 07

1/8" = 1'-0"

### WRNS STUDIO

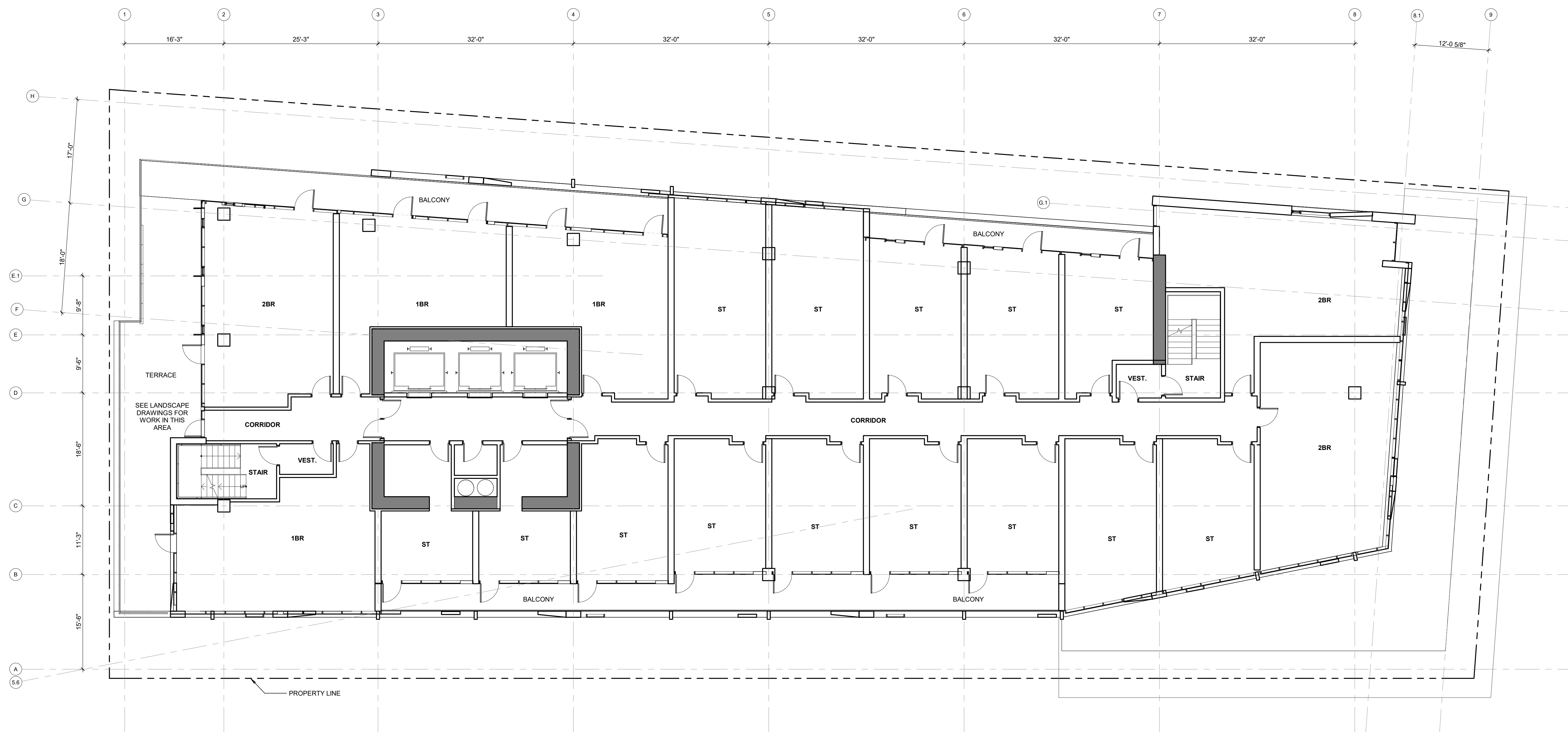
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DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

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4 USE PERMIT UPDATE	12/19/2016



### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEY PLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 08**

SHEET NO:

**A-106**

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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10/15/2018 11:59:24 AM

**1 FLOOR PLAN - LEVEL 08**  
1/8" = 1'-0"

### WRNS STUDIO

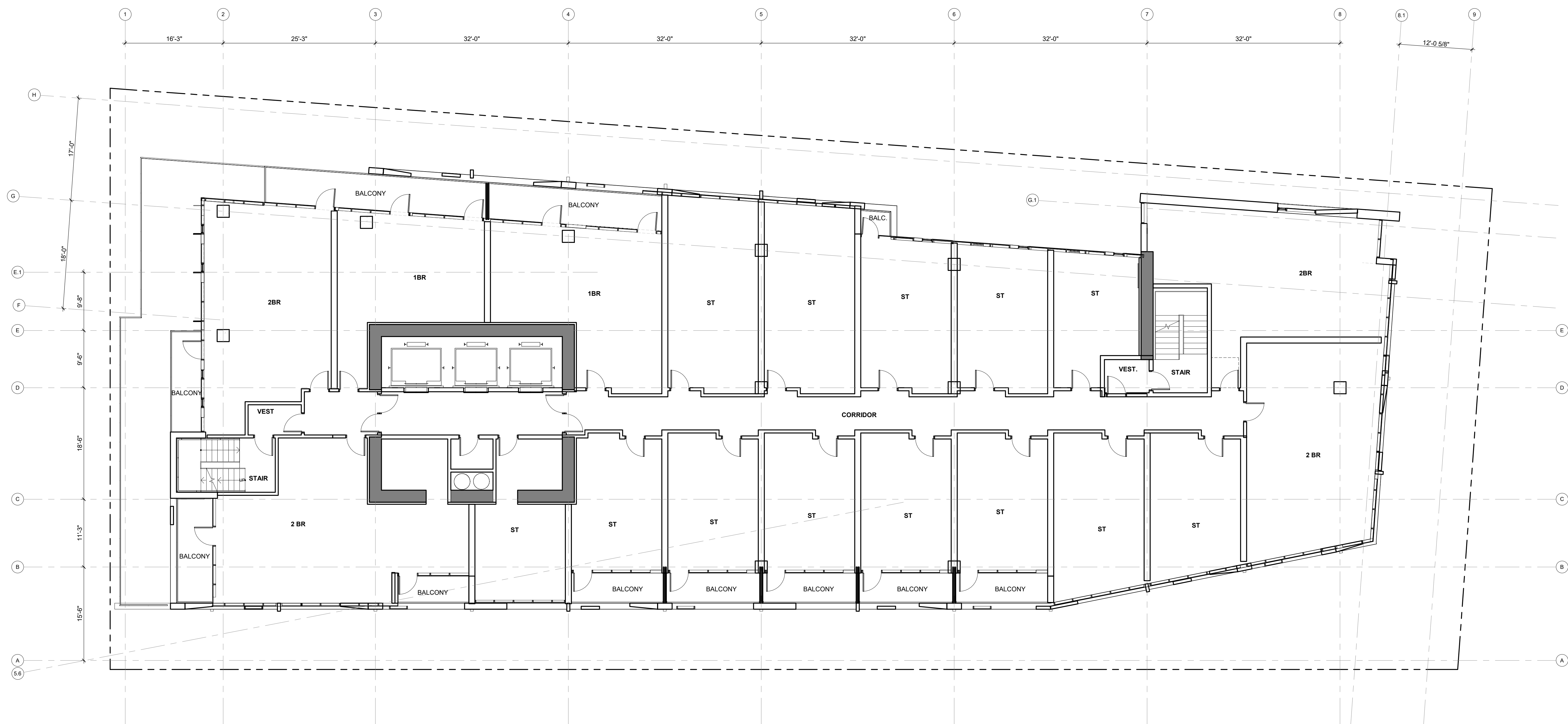
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DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEY PLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL  
09-11**

SHEET NO:

**A-107**

10/15/2018 12:00:20 PM

## 2 FLOOR PLAN - LEVEL 09-11

1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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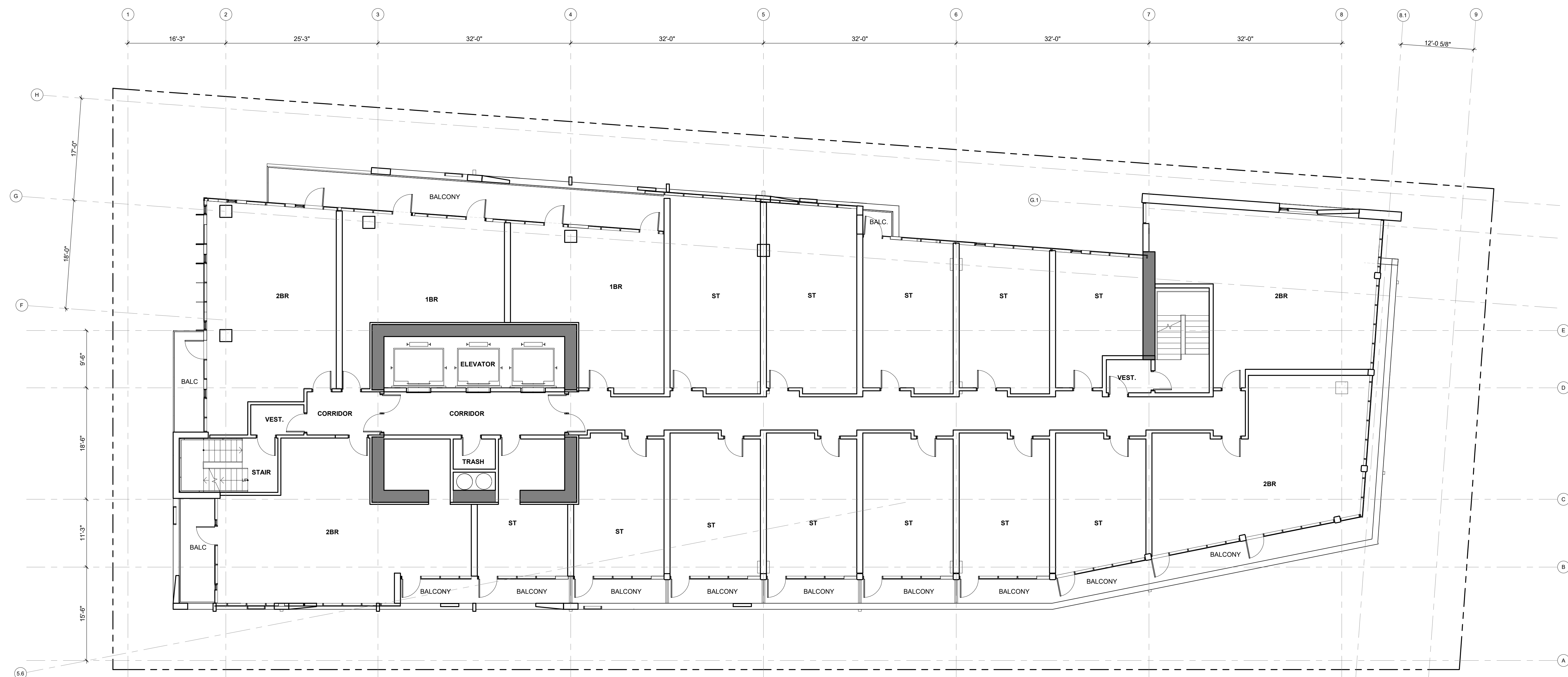
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ISSUES	DATE
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DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
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**SHATTUCK  
TERRACE GREEN  
APARTMENTS**  
2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 12**

SHEET NO.:

**A-108**

10/15/2018 12:01:12 PM

**1 FLOOR PLAN - LEVEL 12**  
1/8" = 1'-0"



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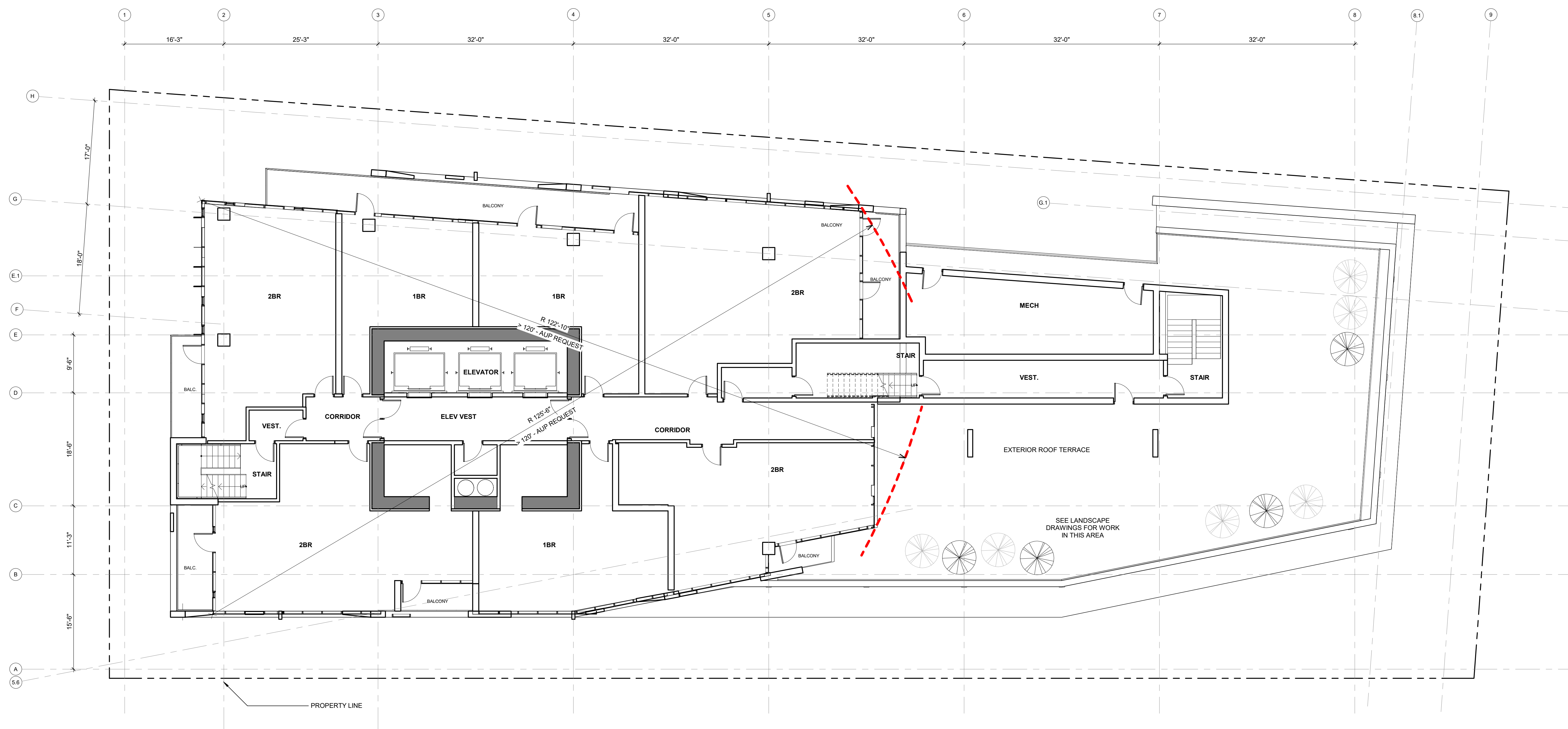
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DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
4 USE PERMIT UPDATE	12/19/2016



### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEY PLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 13**

SHEET NO:

**A-109**

10/15/2018 12:01:55 PM

### 1 FLOOR PLAN - LEVEL 13

1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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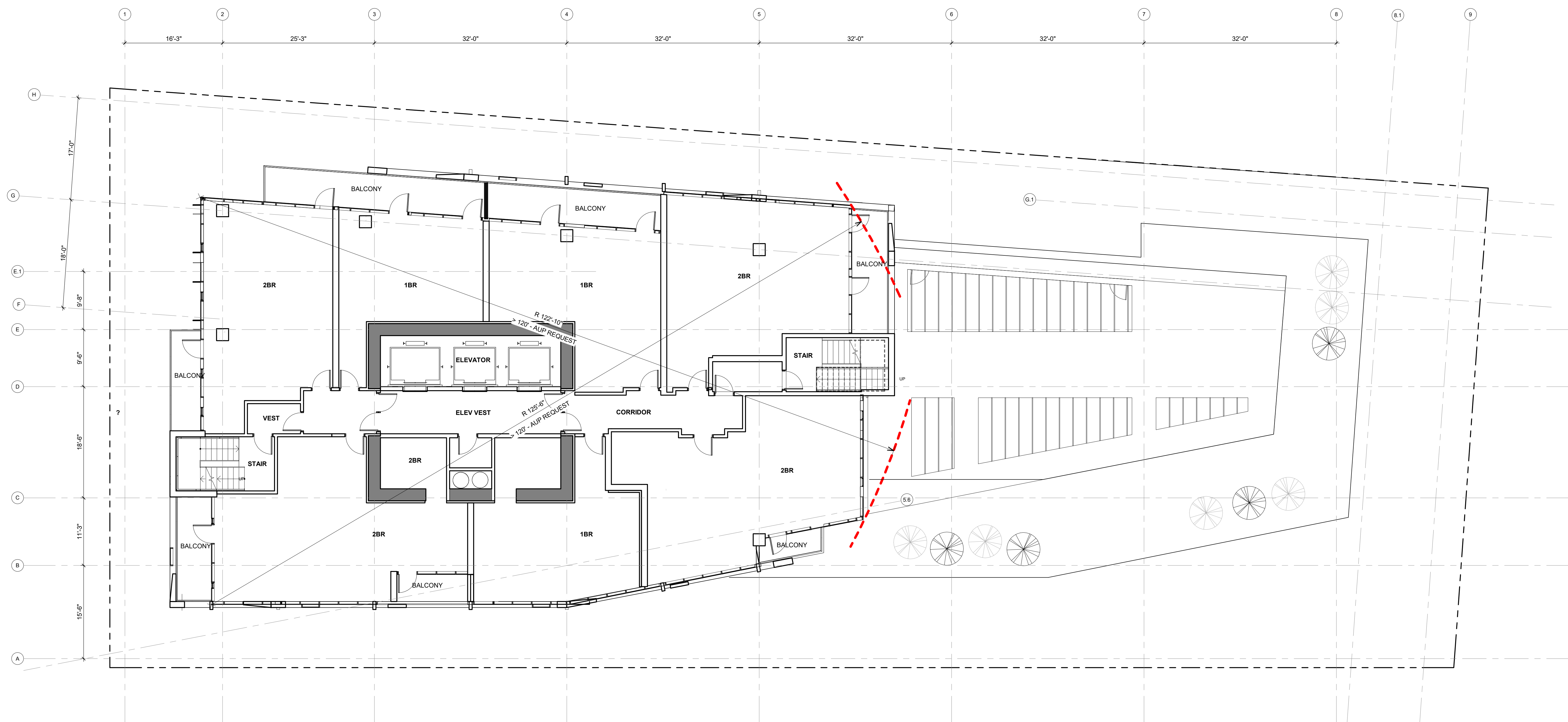
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CALIFORNIA 94402  
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DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
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REVISION LIST	DATE
1 USE PERMIT COMMENTS 01	09/12/2016
4 USE PERMIT UPDATE	12/19/2016



### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL  
14-17**

SHEET NO:

**A-110**

10/15/2018 12:03:11 PM

### 1 FLOOR PLAN - LEVEL 14-17

1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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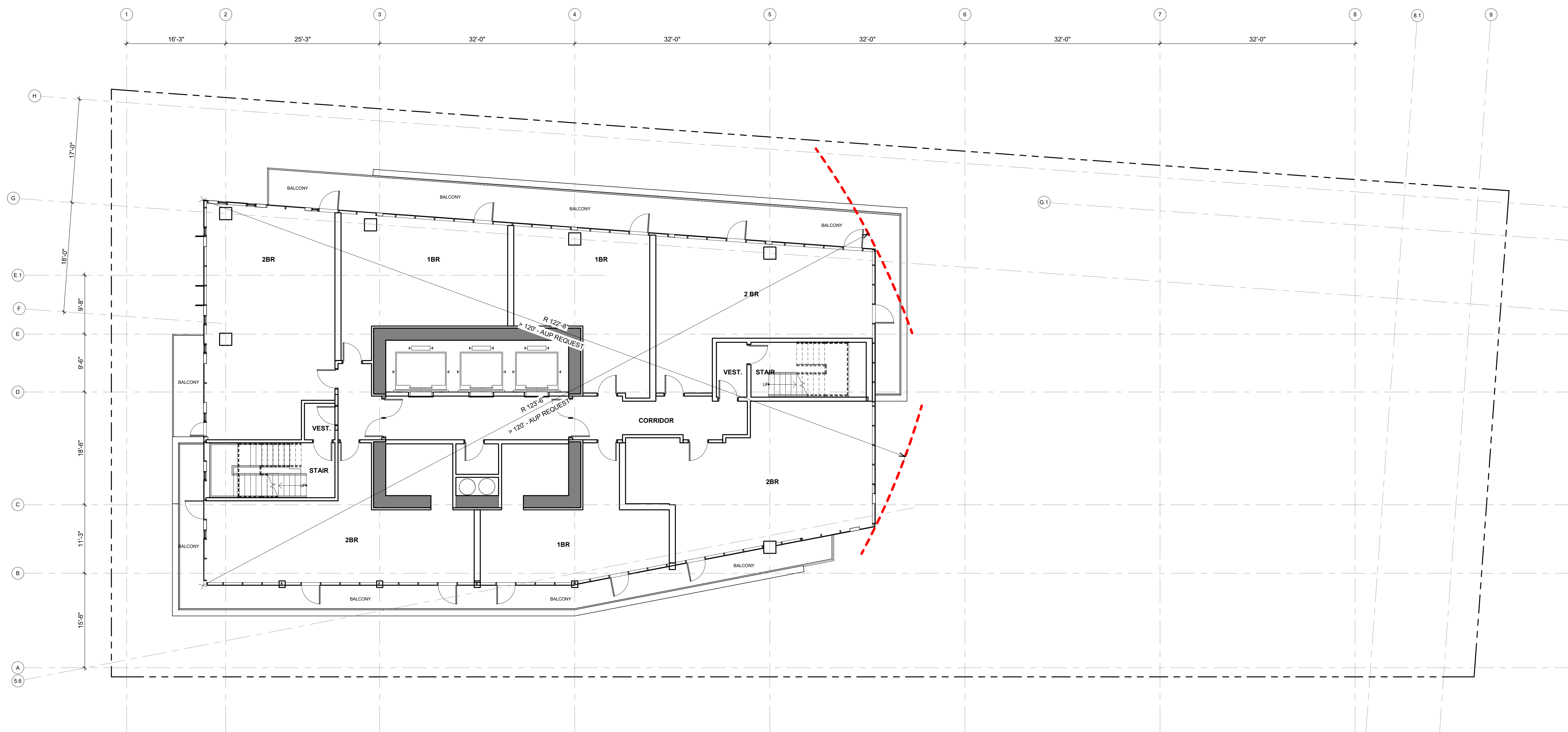
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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**FLOOR PLAN LEVEL 18**

SHEET NO:

**A-111**

10/15/2018 12:03:48 PM

**1 FLOOR PLAN - LEVEL 18**  
1/8" = 1'-0"

# WRNS STUDIO

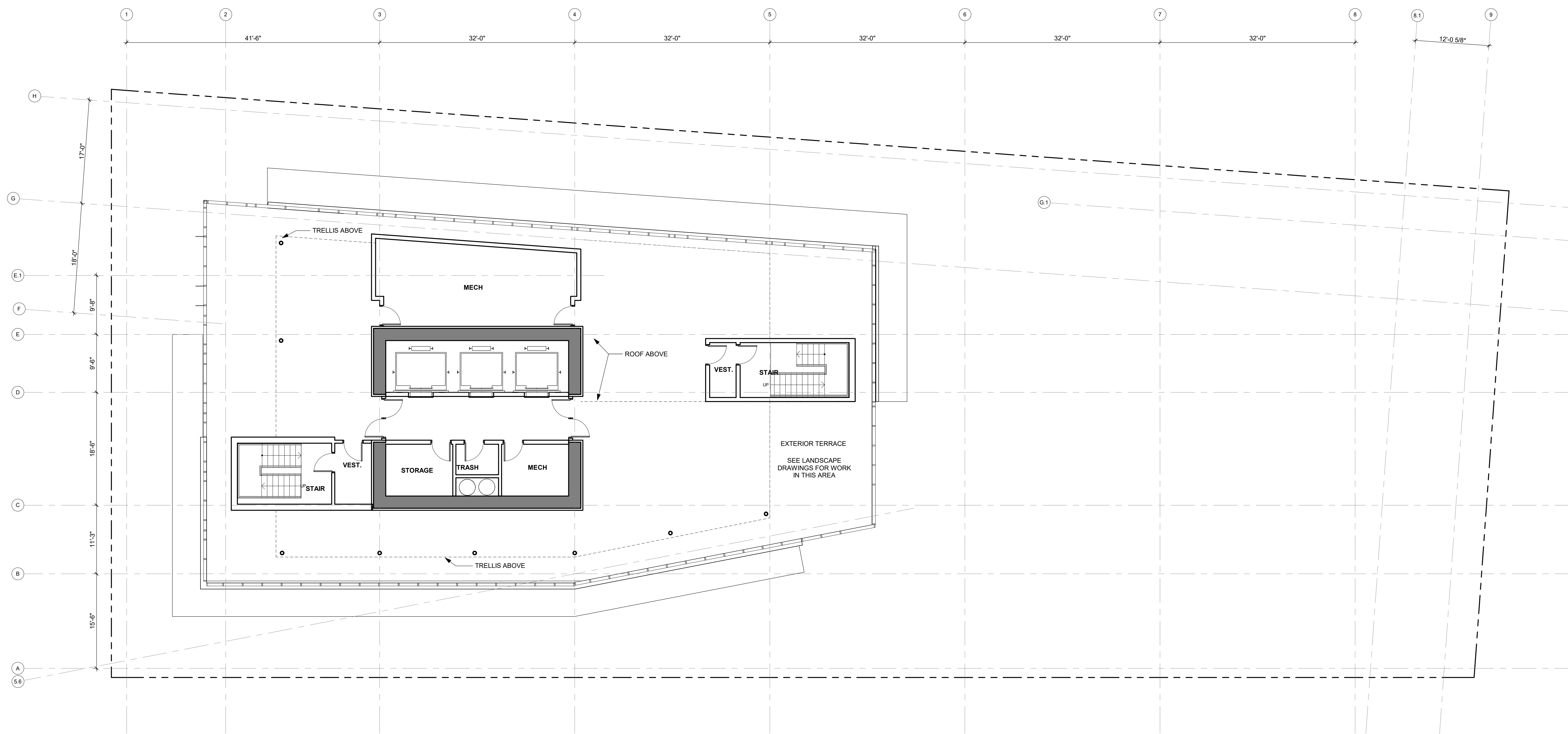
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## SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**ROOF PLAN**

SHEET NO:

**A-112**

10/12/2018 10:51:58 AM

### 1 FLOOR PLAN - ROOF

1/8" = 1'-0"

### WRNS STUDIO

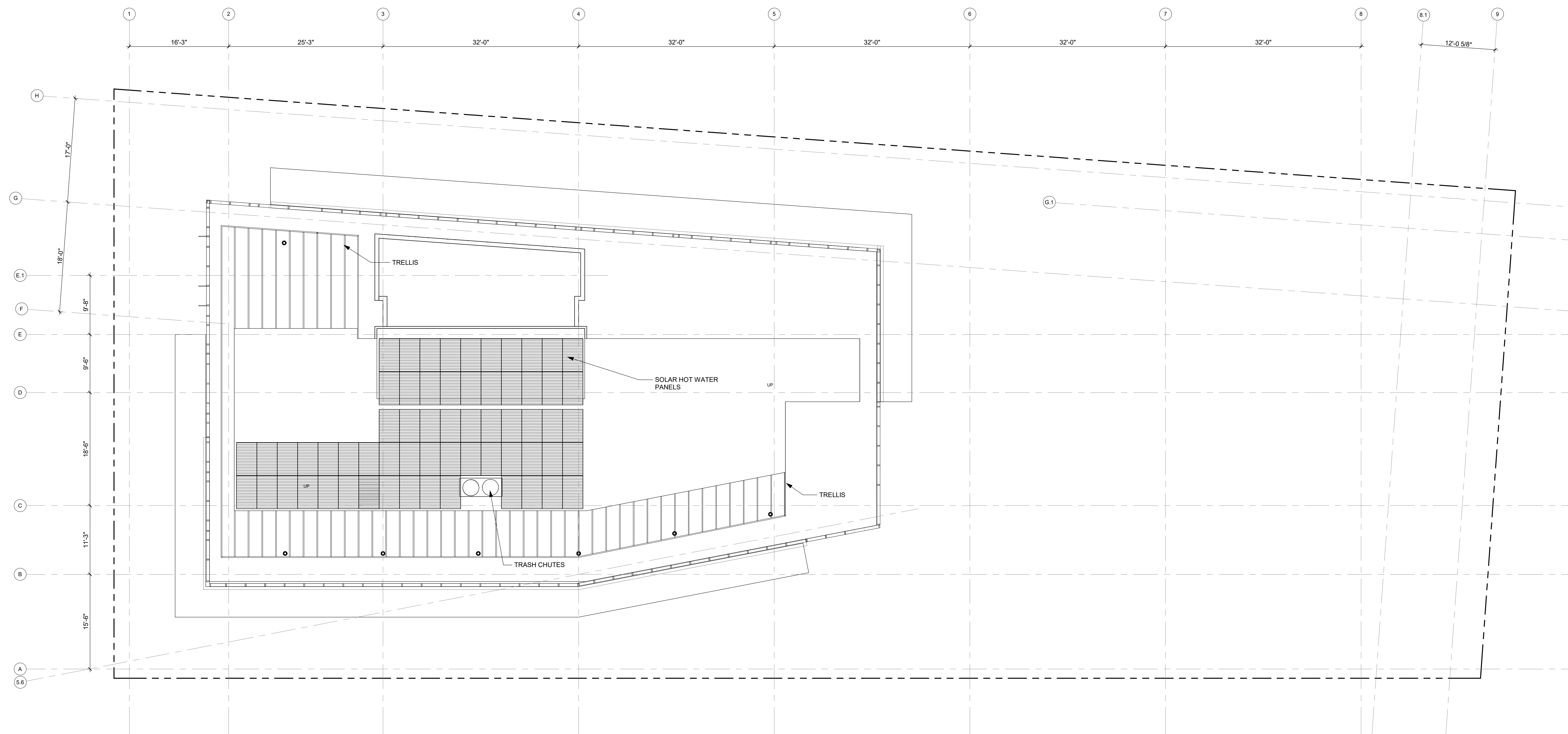
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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:

UPPER ROOF PLAN

SHEET NO:

A-113

10/15/2018 12:10:35 PM

### 1 FLOOR PLAN -UPPER ROOF

1/8" = 1'-0"

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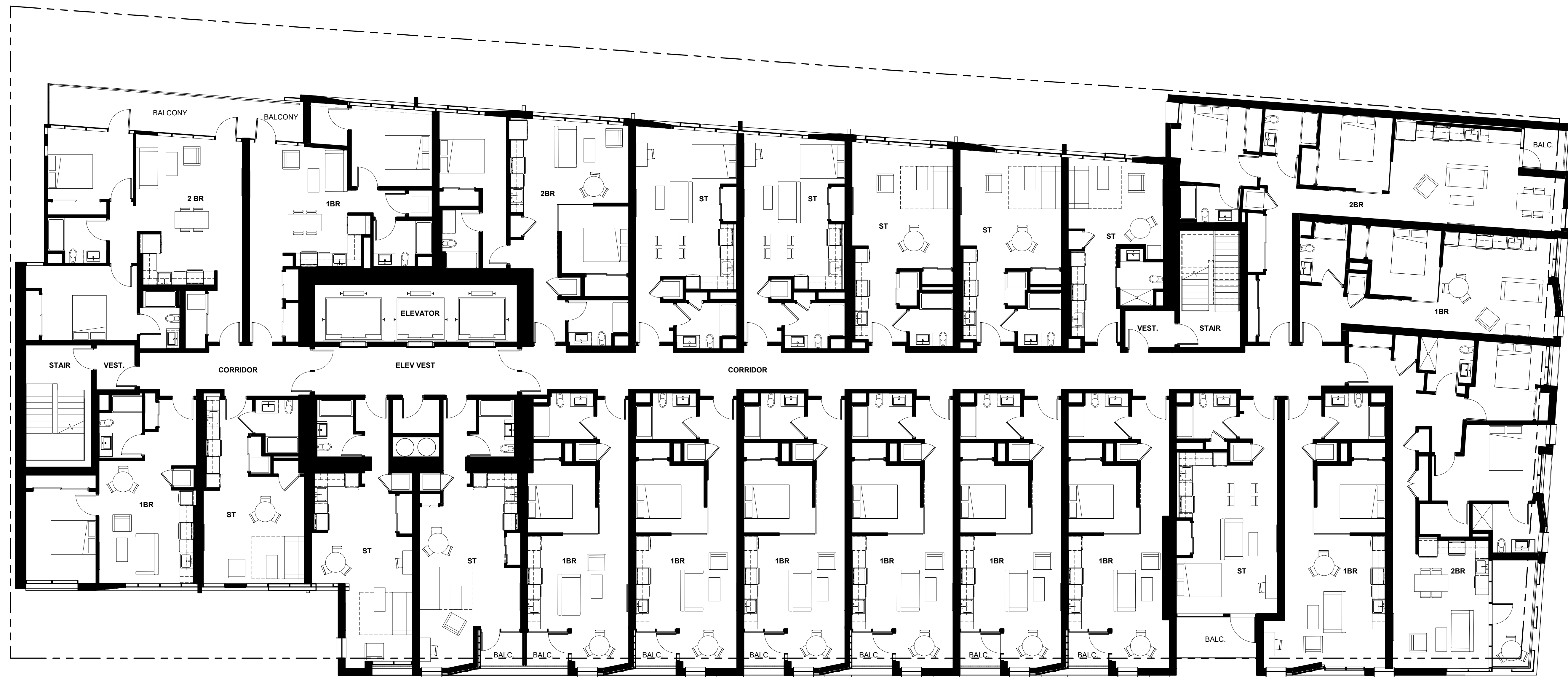
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**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:

**TYP. UNIT LAYOUT PLAN,  
LEVELS 03 - 06**

SHEET NO:

**A-131**

**1** TYP. UNIT LAYOUT PLAN, LEVELS 03 - 06  
1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:

**TYP. UNIT LAYOUT PLAN,  
LEVELS 09 - 11**

SHEET NO:

**A-132**

**1** TYP. UNIT LAYOUT PLAN, LEVELS 09 - 11  
1/8" = 1'-0"

GENERAL NOTE:  
1. CONSTRUCTION IS TYPE 1  
2. OCCUPANCY CLASSIFICATION IS RESIDENTIAL GROUP R-2

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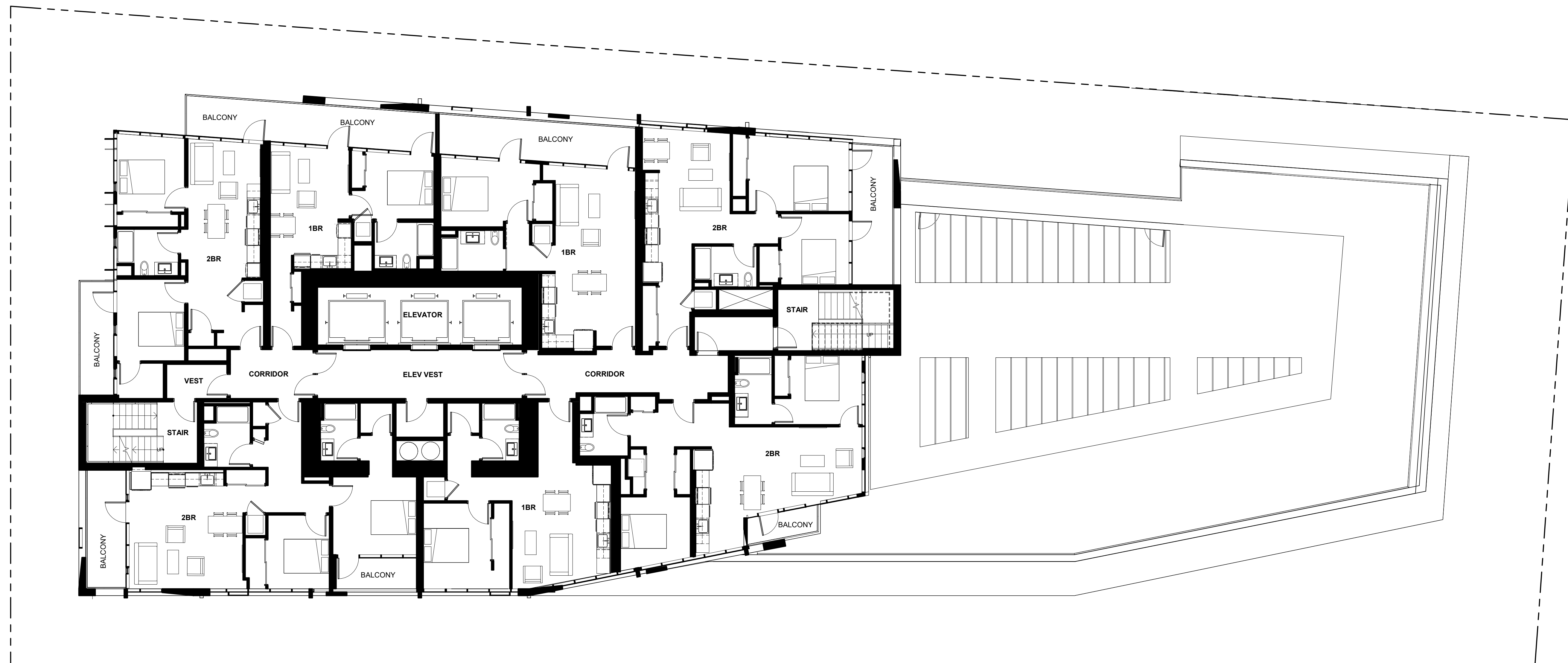
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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:

TYP. UNIT LAYOUT PLAN,  
LEVELS 14 - 17

SHEET NO:

A-133

10/11/2018 4:17:40 PM

1 TYP. UNIT LAYOUT PLAN, LEVELS 14 - 17  
1/8" = 1'-0"



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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**BUILDING ELEVATION -  
SOUTH**

SHEET NO:

**A-301**

10/11/2018 4:29:56 PM

## 1 SOUTH ELEVATION

1/8" = 1'-0"



- GLASS / FRITTED GLASS
- METAL FIN
- COMPOSITE WALL PANELS
- GLASS WINDOW WALL WITH OPERABLE WINDOW ELEMENTS
- GUARD RAIL GLASS PANELS WITH CABLE RAIL, TYP.
- LATTICE SCREENS
- GFRG OR COMPOSITE RAIN SCREEN

- GLASS WINDOW WALL WITH OPERABLE WINDOW ELEMENTS
- THIN-BRICK
- PATTERNED THIN BRICK

- ALUMINUM SCREENS
- ALUM. STOREFRONT, DARK BRONZE
- ART DISPLAY
- ART DISPLAY
- CANOPY, STEEL PTD
- ALUMINUM SCREENS

3'-6"	ELEV. OVERRUN	191'-8 7/8"	
1'-6"	UPPER ROOF 2	188'-2 7/8"	
	UPPER ROOF 1	186'-8 7/8"	
9'-0"	ROOF	177'-8 7/8"	FF LEVEL ROOF
			356.86
9'-6 7/8"	FF LEVEL 18	168'-2"	
9'-6 7/8"	FF LEVEL 17	158'-7 1/8"	
9'-6 7/8"	FF LEVEL 16	149'-0 1/4"	
9'-6 7/8"	FF LEVEL 15	139'-5 3/8"	
9'-6 7/8"	FF LEVEL 14	129'-10 1/2"	
9'-6 7/8"	FF LEVEL 13	120'-3 5/8"	FF LEVEL 13
			299.40
9'-6 7/8"	FF LEVEL 12	110'-8 3/4"	
9'-6 7/8"	FF LEVEL 11	101'-1 7/8"	
9'-6 7/8"	FF LEVEL 10	91'-7"	
9'-6 7/8"	FF LEVEL 9	82'-0 1/8"	
9'-6 7/8"	FF LEVEL 8	72'-5 1/4"	FF LEVEL 8
			251.55
9'-6 7/8"	FF LEVEL 7	62'-10 3/8"	
9'-6 7/8"	FF LEVEL 6	53'-3 1/2"	
9'-6 7/8"	FF LEVEL 5	43'-8 5/8"	
9'-6 7/8"	FF LEVEL 4	34'-1 3/4"	
9'-6 7/8"	FF LEVEL 3	24'-6 7/8"	
9'-6 7/8"	FF LEVEL 2	15'-0"	
15'-0"	FF LEVEL 01	0"	HIGHEST GRADE
			179.55
3'-6"	FF LOBBY	-3'-6"	AVERAGE GRADE
			176.86
			LOWEST GRADE
			174.38

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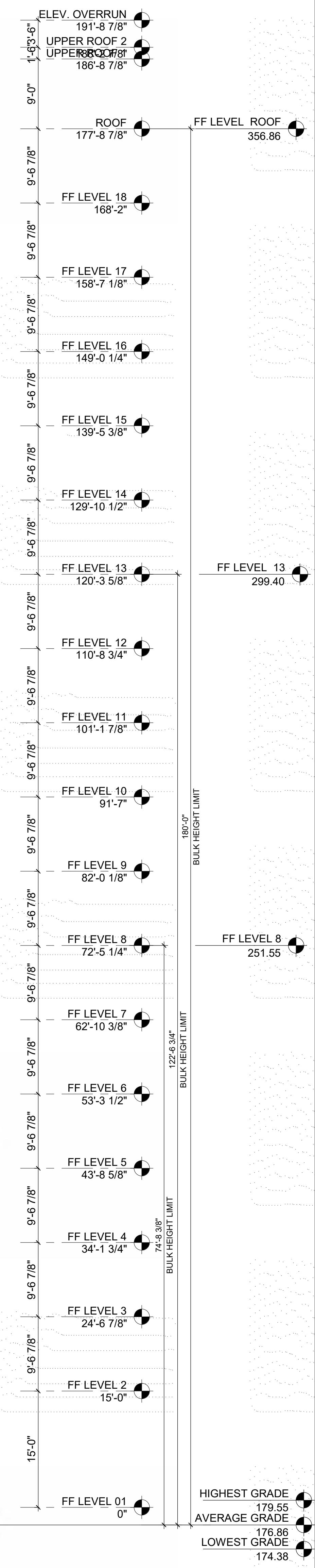
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- GAURD RAIL GLASS PANELS WITH CABLE RAIL, TYP.
- GFRG OR COMPOSITE RAIN SCREEN
- GLASS / FRITTED GLASS
- GLASS WINDOW WALL WITH OPERABLE WINDOW ELEMENTS
- LATTICE SCREEN
- METAL PANELS

GFRG OR COMPOSITE RAIN SCREEN

EXISTING BUILDING IN FRONT

THIN BRICK

TILE

**1** NORTH ELEVATION  
1/8" = 1'-0"

## SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**BUILDING ELEVATION -  
NORTH**

SHEET NO:

**A-302**

10/12/2018 10:59:16 AM

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REVISION LIST	DATE
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### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/8" = 1'-0"

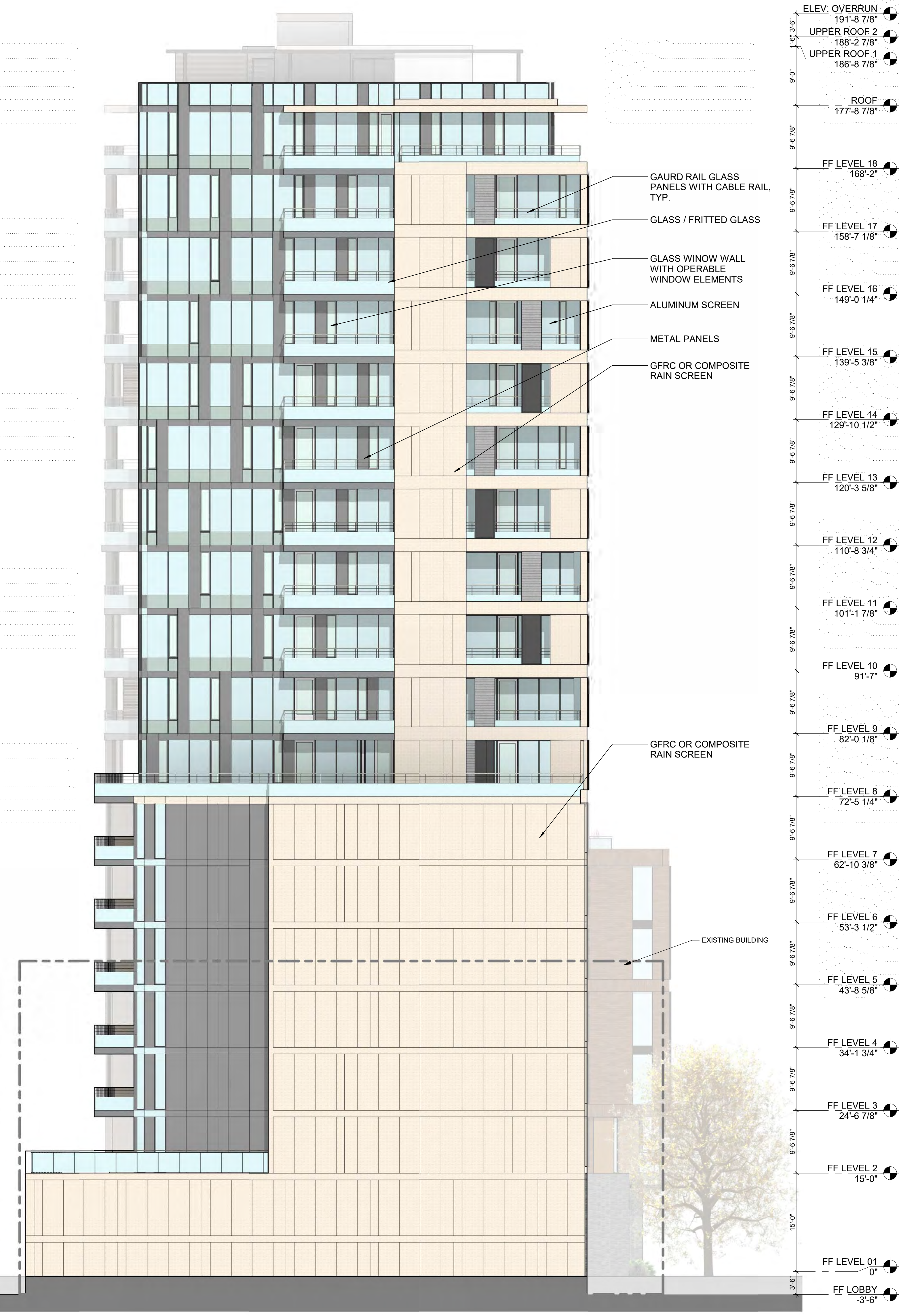
SHEET TITLE:  
**BUILDING ELEVATION -  
EAST - WEST**

SHEET NO:

**A-304**

10/12/2018 11:03:55 AM

## 2 WEST ELEVATION 1/8" = 1'-0"



## 1 EAST ELEVATION 1/8" = 1'-0"



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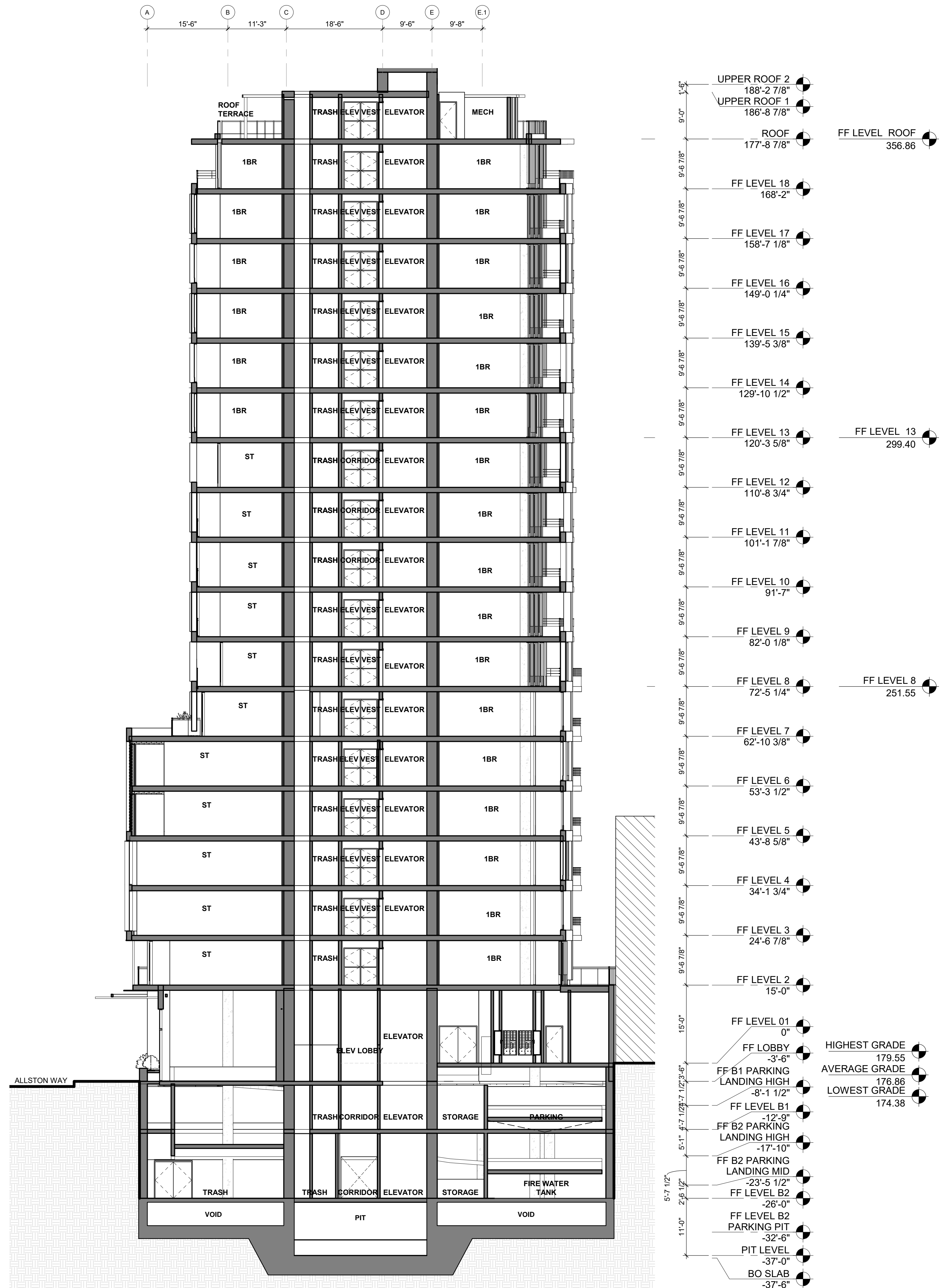
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1 North South Building Section  
3/32" = 1'-0"

## SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO.: 15.0022.00  
DATE: 10.25.2018  
SCALE: 3/32" = 1'-0"

SHEET TITLE:  
NORTH/SOUTH BUILDING  
SECTION

SHEET NO.:  
A-310

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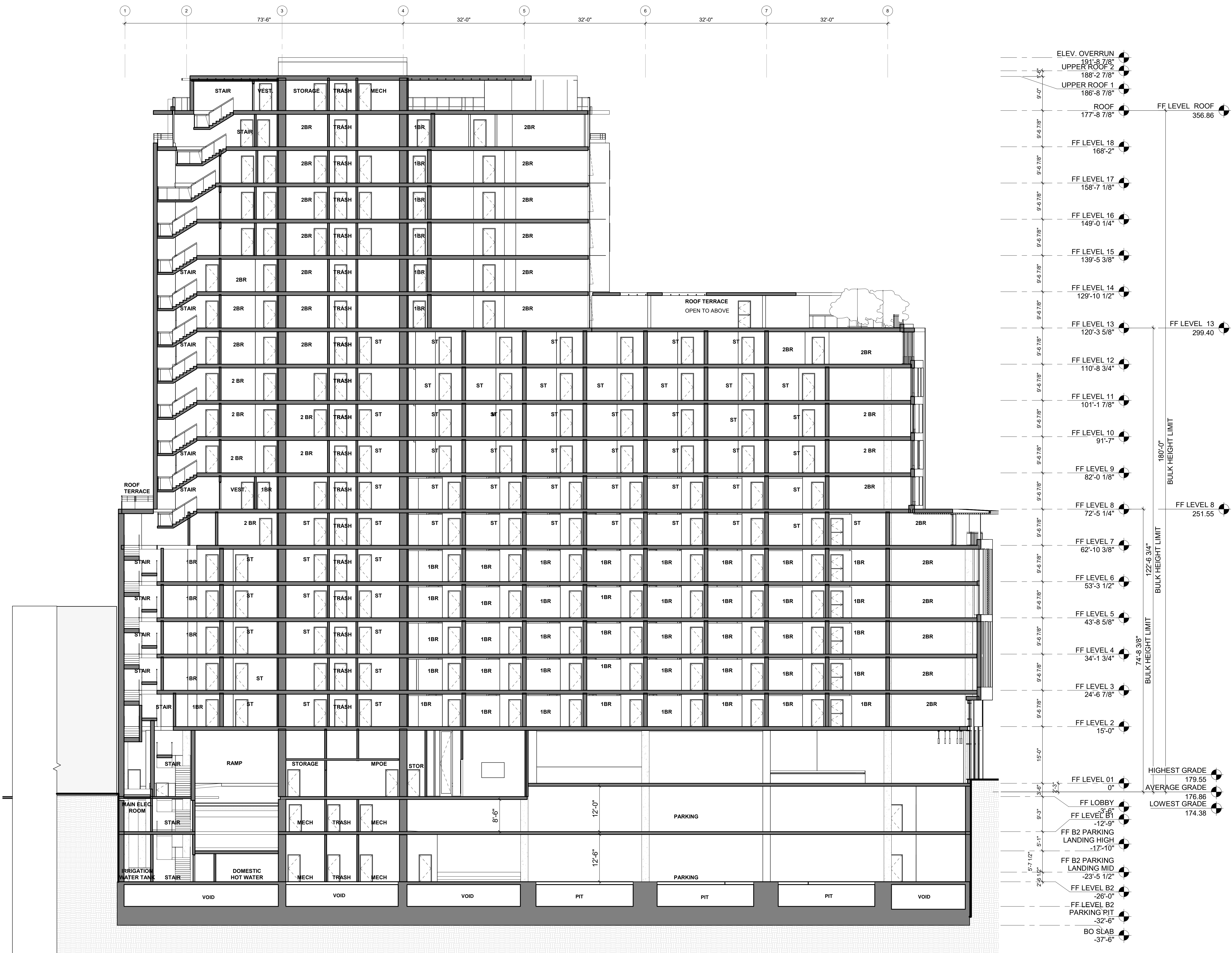
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# SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 3/32" = 1'-0"  
SHEET TITLE:

## EAST/WEST BUILDING SECTION

SHEET NO:

A-311

10/12/2018 11:04:01 AM

1 330 East West Section  
3/32" = 1'-0"

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2 East Street Elevations  
1" = 20'-0"



1 South Street Elevation  
1" = 20'-0"

### SHATTUCK TERRACE GREEN APARTMENTS

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1" = 20'-0"

SHEET TITLE:

STREETSCAPE  
ELEVATIONS

SHEET NO:

A-320

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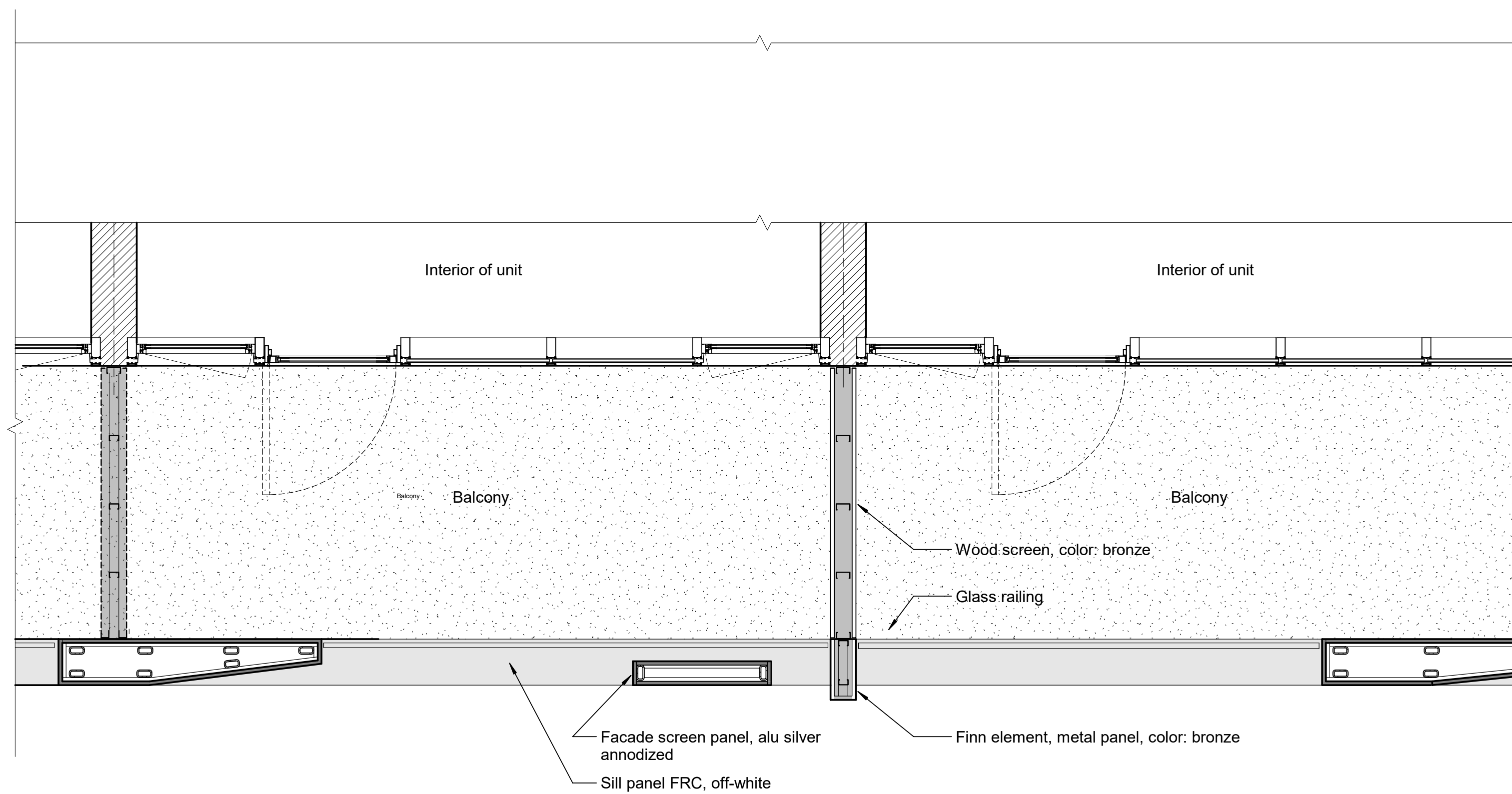
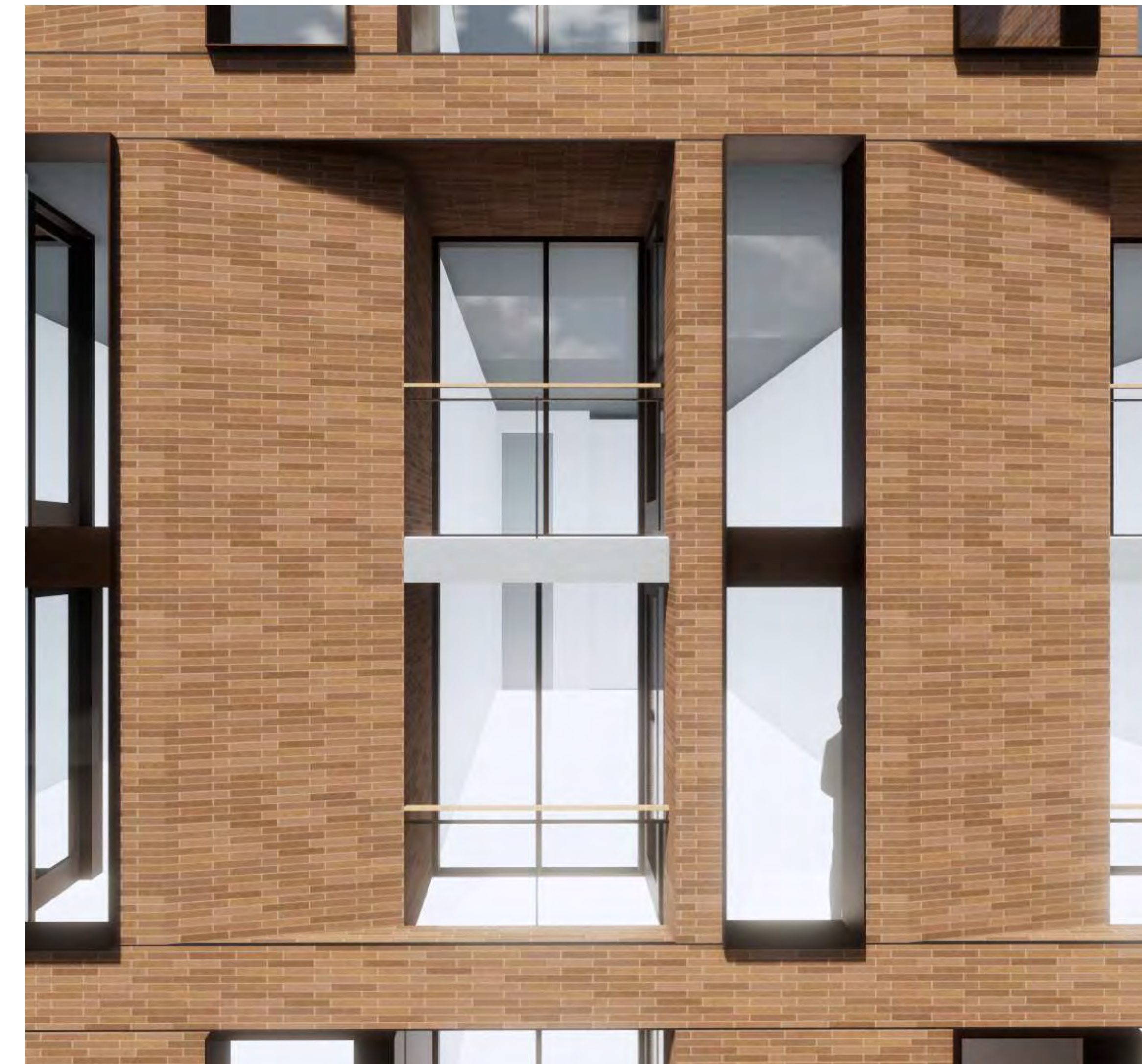
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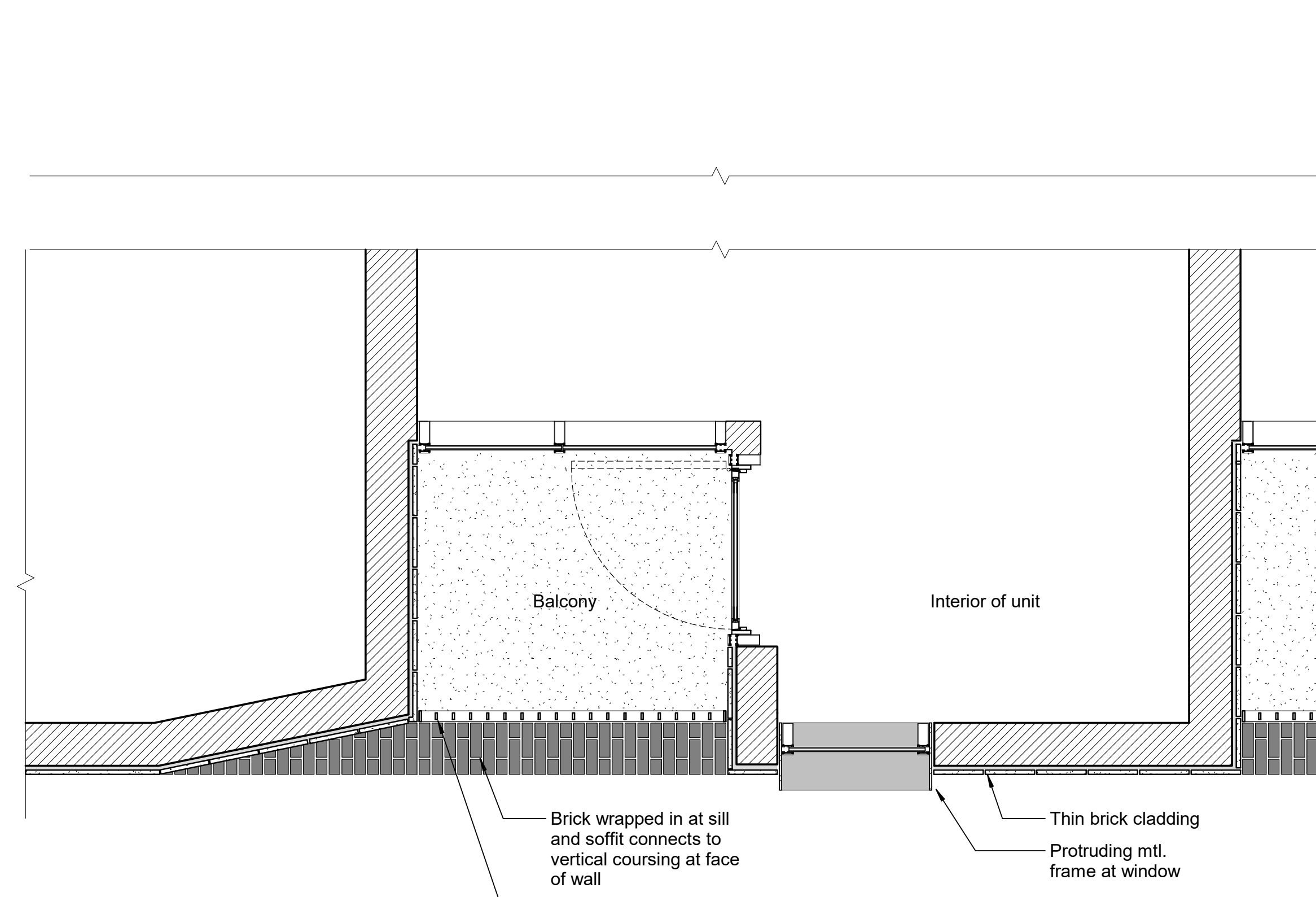
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650-349-1224 TEL

ISSUES	DATE
USE PERMIT SUBMITTAL	06/01/2016
PRELIMINARY DESIGN REVIEW SUBMITTAL	06/15/2017
DRC 3 - UPDATE DESIGN	03/15/2018
DRC 4 - UPDATE DESIGN	03/15/2018
DRC 5 - UPDATE DESIGN	04/19/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE



**2** Plan Detail GFRG at Tower  
1/2" = 1'-0"



**1** Plan Detail Brick at Balcony  
1/2" = 1'-0"

**SHATTUCK  
TERRACE GREEN  
APARTMENTS**

2190 SHATTUCK AVENUE, BERKELEY  
ZONING DISTRICT C-DMU CORRIDOR

KEYPLAN

PROJECT NO: 15.0022.00  
DATE: 10.25.2018  
SCALE: 1/2" = 1'-0"

SHEET TITLE:  
**FACADES - DETAILS /  
ENLARGED ELEVATIONS**

SHEET NO:

**A-400**

10/11/2018 4:56:47 PM

p:\wrs\studies\01 shattuck terrace apartments\graphics\autocad\l-100 roof terrace views.dwg | RCROCKETT | ARCH E1 (30,00 X 42,00 INCHES) | 4/18/2017  
5/26/2016 10:56:48 AM



02 LEVEL 18 ROOF TERRACE VIEW  
VIEW WEST



01 LEVEL 13 ROOF TERRACE VIEW  
VIEW EAST

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ISSUES	DATE
USE PERMIT SET	10/25/2016

REVISION LET	DATE
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**SHATTUCK  
TERRACE GREEN  
APARTMENTS / USE  
PERMIT SUBMITTAL**

2190 SHATTUCK AVENUE, BERKELEY

KEY PLAN

PROJECT NO.: 15102200  
DATE: 02/27/2016  
SCALE: 1/16" = 1'-0"

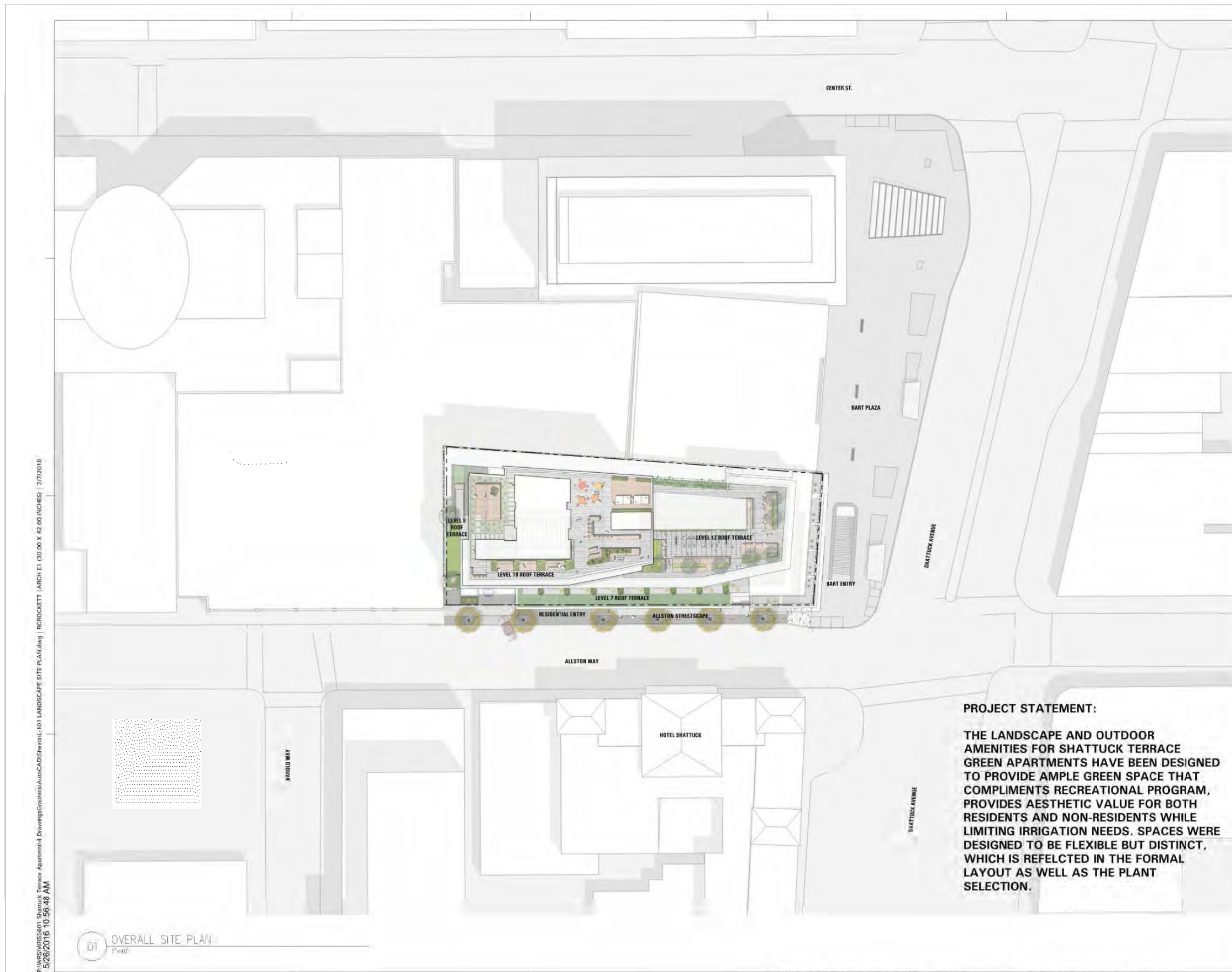
SHEET TITLE:  
ROOF TERRACE VIEWS

SHEET NO.  
**L-100**

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P:\WRNS\6101 Shattuck Terrace Apartments\Drawings\Graphics\AutoCAD\Sheets\LD1 LANDSCAPE SITE PLAN.dwg | RCROCKETT | ARCH E1 (30.00 X 42.00 INCHES) | 2/7/2018  
 5/26/2016 10:56:48 AM

01 OVERALL SITE PLAN  
1"=40'

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ISSUES	DATE
USE PERMIT SET	10/25/2018

REVISION LIST	DATE
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**SHATTUCK TERRACE GREEN APARTMENTS / USE PERMIT SUBMITTAL**  
 3180 SHATTUCK AVENUE, SF, 94107

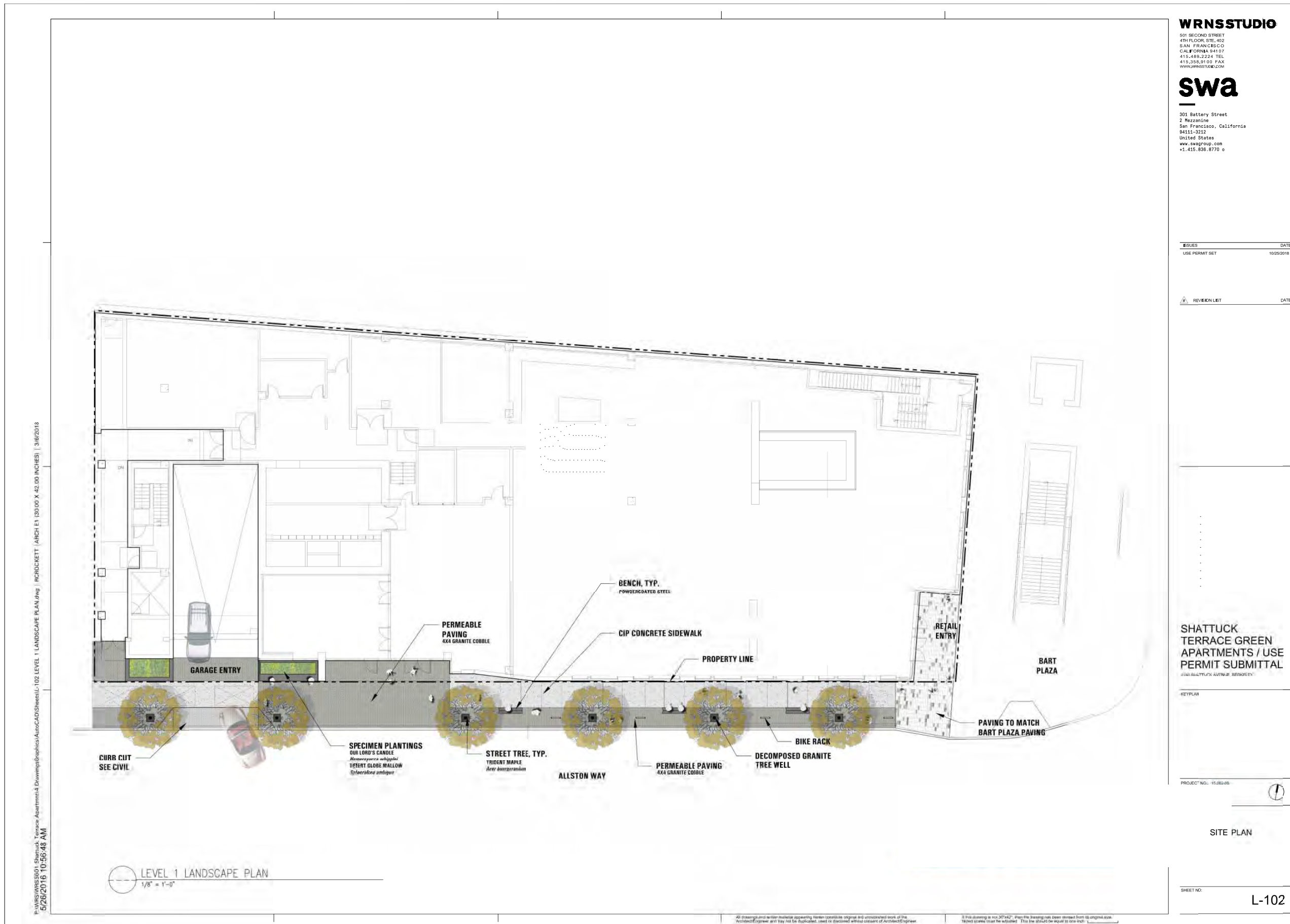
PROJECT NO.: 15-00230  
 DATE: 05/16/16  
 SCALE: 1/8" = 1'-0"

SHEET TITLE:  
**LANDSCAPE SITE PLAN**

SHEET NO.:  
**L-101**

**PROJECT STATEMENT:**  
 THE LANDSCAPE AND OUTDOOR AMENITIES FOR SHATTUCK TERRACE GREEN APARTMENTS HAVE BEEN DESIGNED TO PROVIDE AMPLE GREEN SPACE THAT COMPLIMENTS RECREATIONAL PROGRAM, PROVIDES AESTHETIC VALUE FOR BOTH RESIDENTS AND NON-RESIDENTS WHILE LIMITING IRRIGATION NEEDS. SPACES WERE DESIGNED TO BE FLEXIBLE BUT DISTINCT, WHICH IS REFLECTED IN THE FORMAL LAYOUT AS WELL AS THE PLANT SELECTION.

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P:\W\SR\SR01\Shattuck\_Terrace\_Apartments\Drawings\Graphics\AutoCAD\Sheets\L-102 LEVEL 1 LANDSCAPE PLAN.dwg | RCROCKETT | ARCH E1 | 30,000 X 42,000 INCHES | 3/6/2018 | 5/26/2016 10:56:48 AM

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 94111-3212  
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 +1.415.838.8770

ISSUES	DATE
USE PERMIT SET	10/25/2018

REVISION	DATE
----------	------

**SHATTUCK TERRACE GREEN APARTMENTS / USE PERMIT SUBMITTAL**  
 301 BATTERY AVENUE | BERTHOUD, CA

KEY PLAN

PROJECT NO.: 15-001-05

SITE PLAN

SHEET NO. L-102

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ISSUE	DATE
ISSUE 3 - UPDATE DESIGN	02/15/2018
ISSUE 4 - UPDATE DESIGN	03/15/2018
USE PERMIT SET	10/25/2018

REVISION LIST	DATE

**SHATTUCK TERRACE GREEN APARTMENTS / USE PERMIT SUBMITTAL**  
1100 SHATTUCK AVENUE ST. BERNARD, CA

KEY PLAN

PROJECT NO: 15-0020  
DATE: 08/19/2017  
SCALE: 1/8" = 1'-0"  
SHEET TITLE:  
**LEVEL 7 LANDSCAPE PLAN**

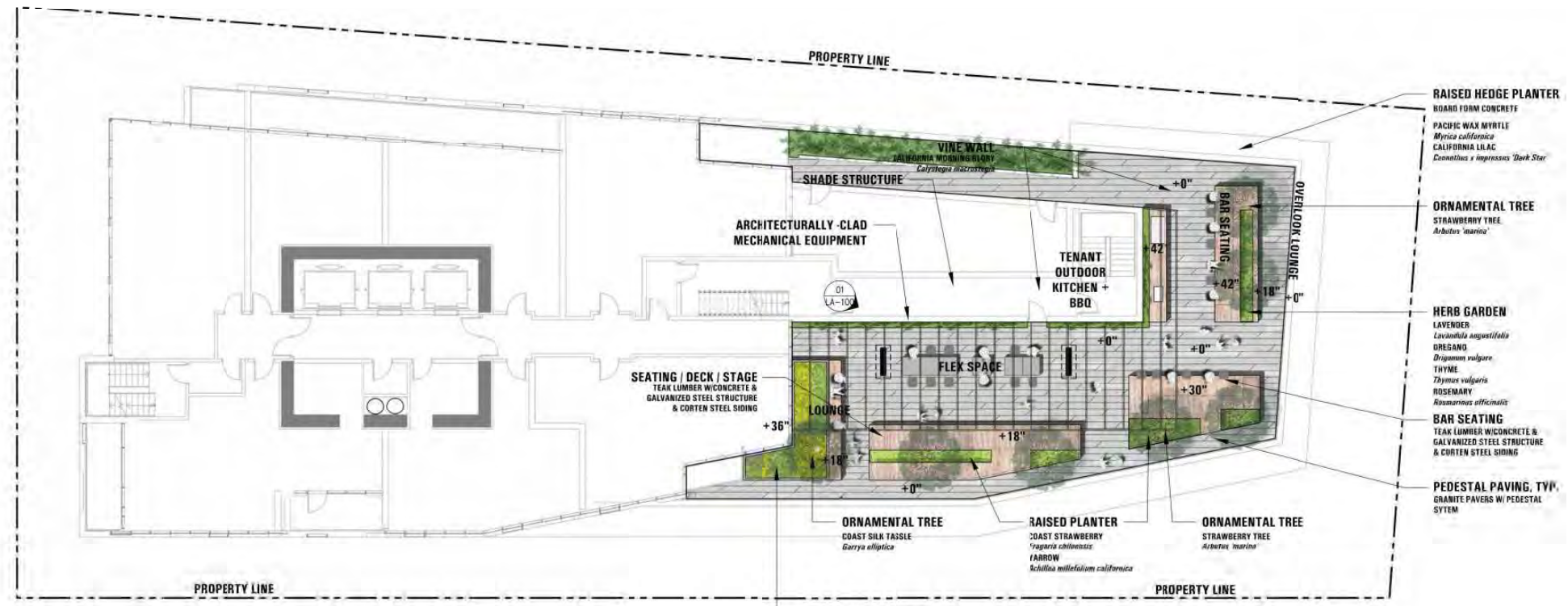
SHEET NO:  
**L-103**

P:\WRNS\STUDIO\Shattuck Terrace Apartments\Drawings\Graphics\AutoCAD\Sheets\L-103 LEVEL 7 LANDSCAPE PLAN.dwg | BIVALDO | ARCH E1 | 30.00 X 42.00 INCHES | 3/8/2018 | 5/26/2016 10:56:48 AM

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P:\WRNS\WRNS001 Shattuck Terrace Apartments\AutoCAD\Sheets\L-104 LEVEL 13 LANDSCAPE PLAN.dwg | BVALDDO | ARCH E1 (30,00 X 42,00 INCHES) | 2/7/2018 5/26/2016 10:56:48 AM

**01** LEVEL 13 LANDSCAPE PLAN  
1/16"=1'-0"



- RAISED PLANTER**  
BOARD FORM CONCRETE  
CALIFORNIA BUCKWHEAT  
*Eriogonum fasciculatum*  
DWARF LORDB'S CAULIFLOWER  
*Brassica oleracea var capitata*  
COAST SUNFLOWER  
*Helianthus scaberrimus*  
CALIFORNIA SAGE BRUSH  
*Artemisia californica*
- RAISED PLANTER**  
BOARD FORM CONCRETE  
PACIFIC WAX MYRTLE  
*Myrica californica*  
CALIFORNIA LILAC  
*Comanthus x impressus 'Dark Star'*
- ORNAMENTAL TREE**  
COAST SILK TASSLE  
*Garrya elliptica*
- RAISED PLANTER**  
COAST STRAWBERRY  
*Fragaria chiloensis*  
FARROW  
*Achillea millefolium californica*
- ORNAMENTAL TREE**  
STRAWBERRY TREE  
*Arbutus menziesii*

- RAISED HEDGE PLANTER**  
BOARD FORM CONCRETE  
PACIFIC WAX MYRTLE  
*Myrica californica*  
CALIFORNIA LILAC  
*Comanthus x impressus 'Dark Star'*
- ORNAMENTAL TREE**  
STRAWBERRY TREE  
*Arbutus menziesii*
- HERB GARDEN**  
LAVENDER  
*Lavandula angustifolia*  
OREGANO  
*Origanum vulgare*  
THYME  
*Thymus vulgaris*  
ROSEMARY  
*Rosmarinus officinalis*
- BAR SEATING**  
TEAK LUMBER W/CONCRETE &  
GALVANIZED STEEL STRUCTURE  
& CORTEN STEEL SIDING
- PEDESTAL PAVING, TYP.**  
GRANITE PAVERS W/ PEDESTAL  
SYSTEM

NOTES  
1. THIS PROJECT WILL MEET THE WATER EFFICIENCY REQUIREMENTS SET FORTH BY THE EAST BAY MUNICIPAL UTILITY DISTRICT SECTION 31

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ISSUES	DATE
DRG 3 - UPDATE DESIGN	02/15/2018
DRG 4 - UPDATE DESIGN	03/15/2018
USE PERMIT SET	10/25/2018

REVISION LET	DATE
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**SHATTUCK TERRACE GREEN APARTMENTS / USE PERMIT SUBMITTAL**  
2190 SHATTUCK AVENUE, BERKELEY

KEYPLAN

PROJECT NO.: 15-002-200  
DATE: 02/17/2018  
SCALE: 1/16" = 1'-0"

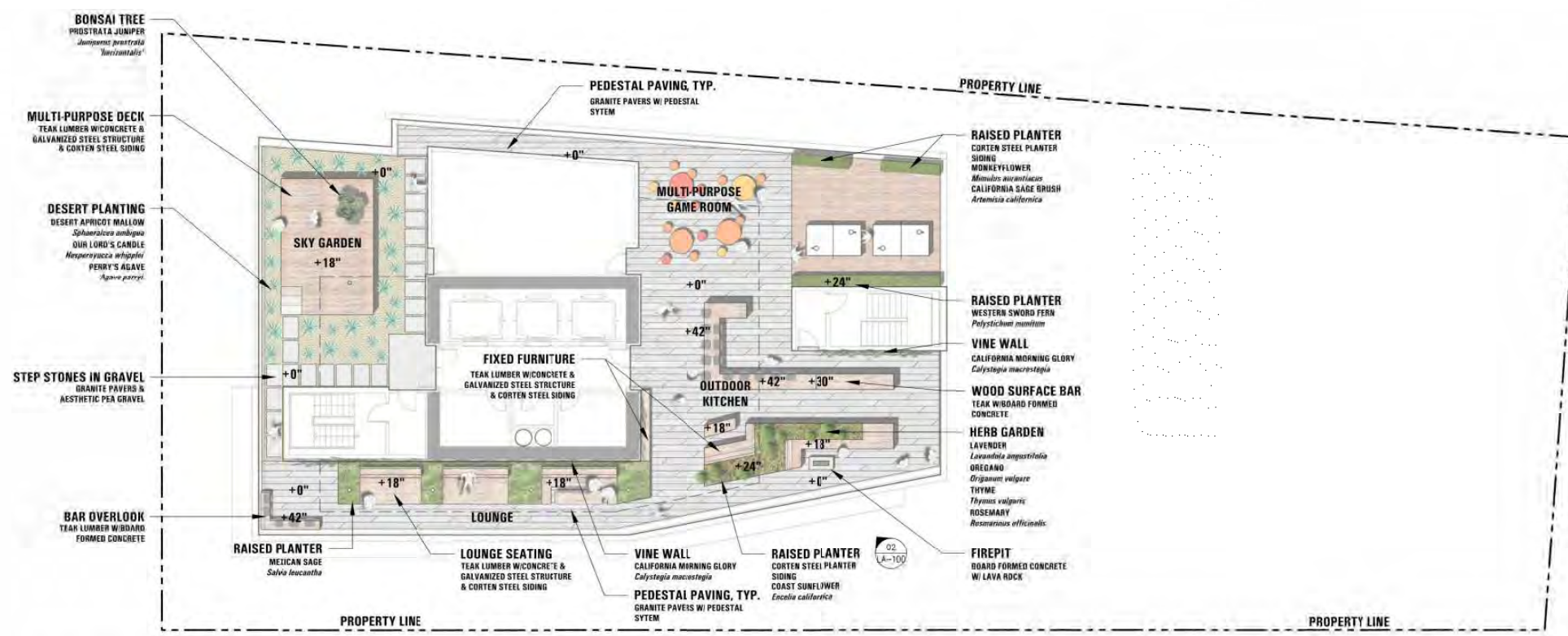
SHEET TITLE:  
**LEVEL 13 LANDSCAPE PLAN**

SHEET NO.:

**L-104**

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P:\WRS\WRS101\Shattuck\_Terrace\_Apartments\_L-105\Level\_18\_Landscape\_Plan.dwg | ARCH:ET | 30,000 X, 42,000 INCHES | 2/7/2018 | 5/26/2016, 10:56:48 AM



01 ROOF LANDSCAPE PLAN  
1/16"=1'-0"

NOTES  
1. THIS PROJECT WILL MEET THE WATER EFFICIENCY REQUIREMENTS SET FORTH BY THE EAST BAY MUNICIPAL UTILITY DISTRICT SECTION 31

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ISSUES	DATE
DRG 3 - UPDATE DESIGN	02/15/2018
DRG 4 - UPDATE DESIGN	03/15/2018
USE PERMIT SET	10/25/2018

REVISION LET	DATE
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SHATTUCK  
TERRACE GREEN  
APARTMENTS / USE  
PERMIT SUBMITTAL

PROJECT NO.: 15-06132  
DATE: 02/27/18  
SCALE: 1/16"=1'-0"  
SHEET TITLE:  
ROOF LEVEL  
LANDSCAPE PLAN

SHEET NO.:  
L-105

**SHRUBS**



**BUCKWHEAT**  
*Eriogonum fasciculatum*



**SAGE BRUSH**  
*Artemisia californica*



**COAST SUNFLOWER BUSH**  
*Encelia californica*



**MEXICAN SAGE**  
*Salvia leucantha*



**DESERT GLOBE MALLOW**  
*Sphaeralcea ambigua*



**CALIFORNIA LILAC**  
*Ceanothus x impressus*  
'Dark Star'



**MONKEYFLOWER**  
*Mimulus aurantiacus*



**WESTERN SWORD FERN**  
*Polystichum munitum*

**GROUNDCOVERS**



**YARROW**  
*Achillea millefolium*



**COAST STRAWBERRY**  
*Fragaria chiloensis*



**BEAR BERRY**  
*Arctostaphylos 'uva-ursi'*

**GRASSES AND REEDS**



**SMALL CAPE RUSH**  
*Chondropetalum tectorum*



**DEER GRASS**  
*Muhlenbergia rigens*

**AGAVES AND YUCCAS**



**PARRY'S AGAVE**  
*Agave parryi*



**OUR LORD'S CANDLE**  
*Hesperoyucca whipplei*

**VINES**



**CALIFORNIA MORNING GLORY**  
*Calystegia macrostegia*

**HERBS**



**ROSEMARY**  
*Rosmarinus officinalis*



**THYME**  
*Thymus vulgaris*



**OREGANO**  
*Origanum vulgare*



**LAVANDER**  
*Lavandula angustifolia*

**TREES**



**STRAWBERRY TREE**  
*Arbutus marina*



**COAST SILK TASSLE**  
*Garrya elliptica*



**TRIDENT MAPLE**  
*Acer buergerianum*



**JUNIPER**  
*Juniperus chinensis*

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ISSUES DATE  
USE PERMIT SET 10/25/2018

REVISION LET DATE

SHATTUCK  
TERRACE GREEN  
APARTMENTS / USE  
PERMIT SUBMITTAL  
2180 SHATTUCK AVENUE, BERKELEY, CA

KEYPLAN

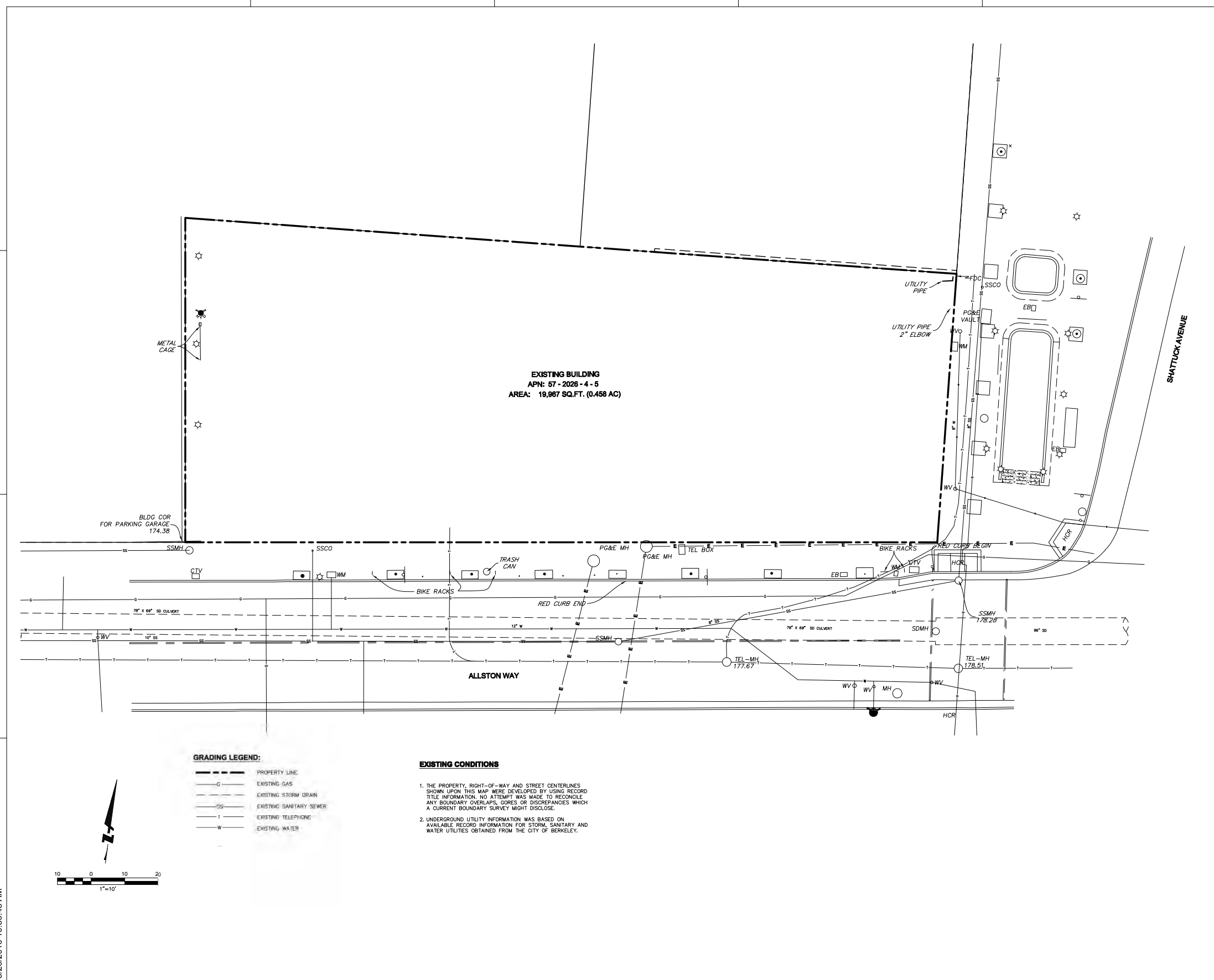
PROJECT NO.: 15.002.00  
DATE: 08-15-2017  
SCALE: 1/8" = 1'-0"  
SHEET TITLE:  
PLANT PALETTE

SHEET NO:  
**L-106**

P:\WRNS\WRNS501\Shattuck Terrace Apartments\Drawings\Graphics\AutoCAD\Sheets\L1, PLANT PALETTE.dwg | BVALDO | ARCH E1 (30.00 X 42.00 INCHES) | 3/14/2018  
5/26/2016 10:56:48 AM

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**BKF**  
 Edmund | Bulver | P. Leland  
 4670 WILLOW RD., SUITE 250  
 PLEASANTON, CA 94588  
 925/396-7700 (TEL)  
 925/396-7799 (FAX)



ISSUES	DATE
USE PERMIT SET	10/25/2018

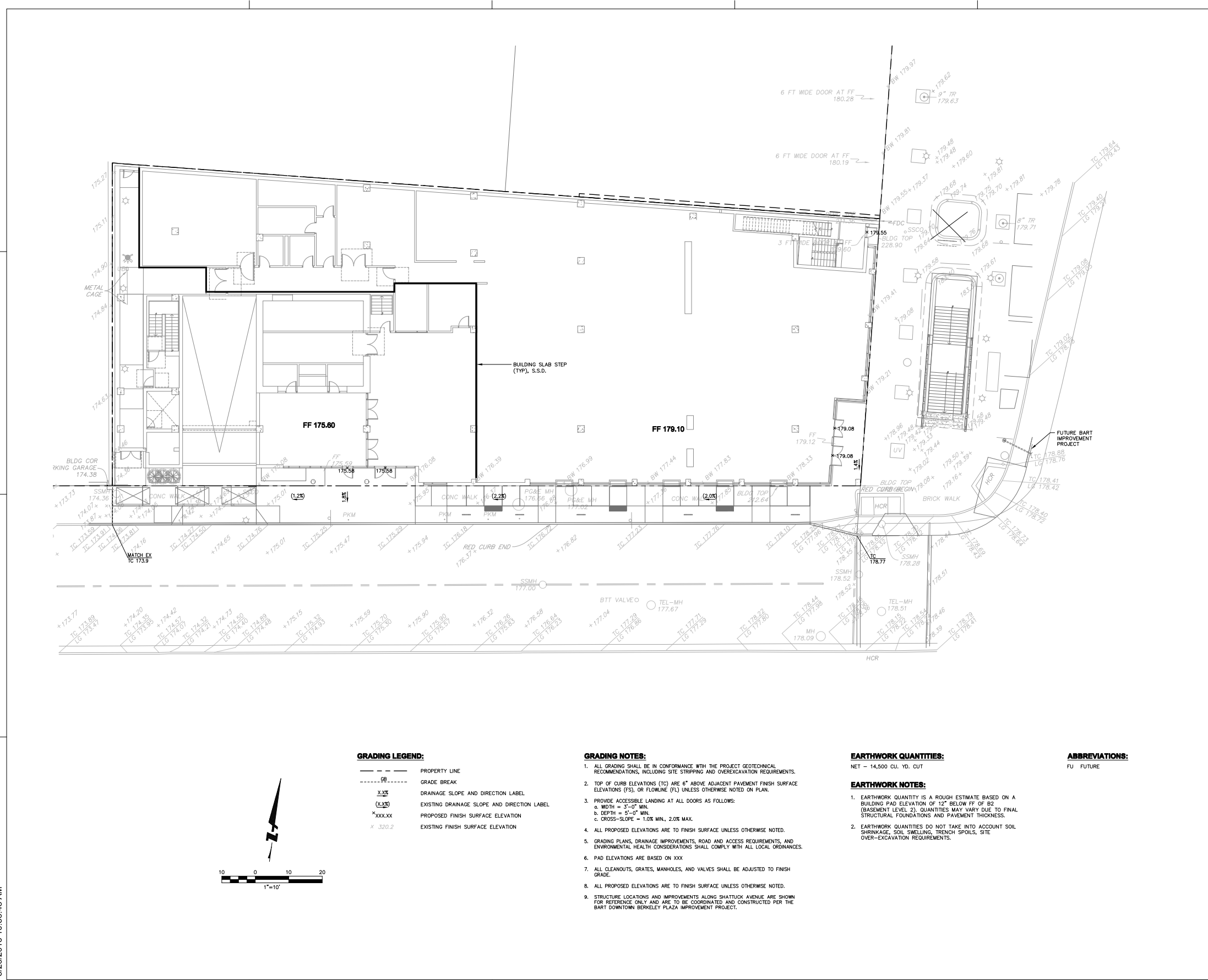
REVISION LET	DATE
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**SHATTUCK TERRACE GREEN APARTMENTS / USE PERMIT SUBMITTAL**  
 2190 SHATTUCK AVENUE, BERKELEY

PROJECT NO. 15J0220  
 DATE: 02/07/2018  
 SCALE: AS SHOWN  
 SHEET TITLE:  
**TOPOGRAPHIC SURVEY**

SHEET NO. **C-100**

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**GRADING LEGEND:**

- PROPERTY LINE
- - - - - GRADE BREAK
- X/S/D DRAINAGE SLOPE AND DIRECTION LABEL
- (X/S/D) EXISTING DRAINAGE SLOPE AND DIRECTION LABEL
- X/XXX/XXX PROPOSED FINISH SURFACE ELEVATION
- X 320.2 EXISTING FINISH SURFACE ELEVATION

**GRADING NOTES:**

1. ALL GRADING SHALL BE IN CONFORMANCE WITH THE PROJECT GEOTECHNICAL RECOMMENDATIONS, INCLUDING SITE STRIPPING AND OVEREXCAVATION REQUIREMENTS.
2. TOP OF CURB ELEVATIONS (TC) ARE 6" ABOVE ADJACENT PAVEMENT FINISH SURFACE ELEVATIONS (FS), OR FLOWLINE (FL) UNLESS OTHERWISE NOTED ON PLAN.
3. PROVIDE ACCESSIBLE LANDING AT ALL DOORS AS FOLLOWS:
  - a. WIDTH = 3'-0" MIN.
  - b. DEPTH = 5'-0" MIN.
  - c. CROSS-SLOPE = 1.0% MIN., 2.0% MAX.
4. ALL PROPOSED ELEVATIONS ARE TO FINISH SURFACE UNLESS OTHERWISE NOTED.
5. GRADING PLANS, DRAINAGE IMPROVEMENTS, ROAD AND ACCESS REQUIREMENTS, AND ENVIRONMENTAL HEALTH CONSIDERATIONS SHALL COMPLY WITH ALL LOCAL ORDINANCES.
6. PAD ELEVATIONS ARE BASED ON XXX
7. ALL CLEANOUTS, GRATES, MANHOLES, AND VALVES SHALL BE ADJUSTED TO FINISH GRADE.
8. ALL PROPOSED ELEVATIONS ARE TO FINISH SURFACE UNLESS OTHERWISE NOTED.
9. STRUCTURE LOCATIONS AND IMPROVEMENTS ALONG SHATTUCK AVENUE ARE SHOWN FOR REFERENCE ONLY AND ARE TO BE COORDINATED AND CONSTRUCTED PER THE BART DOWNTOWN BERKELEY PLAZA IMPROVEMENT PROJECT.

**EARTHWORK QUANTITIES:**

NET - 14,500 CU. YD. CUT

**EARTHWORK NOTES:**

1. EARTHWORK QUANTITY IS A ROUGH ESTIMATE BASED ON A BUILDING PAD ELEVATION OF 12" BELOW FF OF B2 (BASEMENT LEVEL 2). QUANTITIES MAY VARY DUE TO FINAL STRUCTURAL FOUNDATIONS AND PAVEMENT THICKNESS.
2. EARTHWORK QUANTITIES DO NOT TAKE INTO ACCOUNT SOIL SHRINKAGE, SOIL SWELLING, TRENCH SPOILS, SITE OVER-EXCAVATION REQUIREMENTS.

**ABBREVIATIONS:**

FU FUTURE

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925/396-7799 (FAX)



ISSUES	DATE
USE PERMIT SET	10/29/2016

REVISION LET	DATE
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**SHATTUCK TERRACE GREEN APARTMENTS / USE PERMIT SUBMITTAL**  
2190 SHATTUCK AVENUE, BERKELEY

KEYPLAN

PROJECT NO. 15J0220  
DATE: 02/07/2016  
SCALE: AS SHOWN  
SHEET TITLE:  
**GRADING PLAN**

SHEET NO.

C-200

5/26/2016 10:56:48 AM



2018 NOV 14 PM 12:13

November 14, 2018

Mark Numainville, City Clerk  
City of Berkeley  
2180 Milvia Avenue, First Floor  
Berkeley, CA 94704

**Subject: Appeal of Board of Adjustments Decision, 2190 Shattuck Avenue, Use Permit #ZP2016-0117**

Dear Mr. Numainville,

This letter constitutes an appeal of the Zoning Adjustments Board (ZAB) decision of October 25, 2018 regarding 2190 Shattuck Avenue, Use Permit #ZP2016-0117, and is submitted within the period mandated by the Berkeley Municipal Code, which the Notice of Decision describes as being November 14, 2018.

By this appeal, we are requesting that the City Council hold a public hearing to hear the concerns of the appellants and of the general public and deny the current application for 2190 Shattuck Avenue without prejudice allowing the applicant to amend the application within an expedited process at no further expense, or to remand the application back to the ZAB for further review, providing those Board members with all information regarding the historic resource status of Campanile Way and its View.

The reasons for this appeal are as follows:

**(1) Impacts of the Proposed Project at 2190 Shattuck Avenue Regarding the Historic Resource Campanile Way and its View Have Not Been Adequately Considered due to Misleading and Confusing Information:**

The landmark status of Campanile Way on the UC Berkeley campus with its historic view of the Bay, Golden Gate Bridge and Alcatraz Island is the key concern of hundreds of Berkeley residents who have significantly and undeniably demonstrated those concerns over at least the past four years. When ZAB approved Use Permit, ZP 016-0112 on October 25, 2018 for the proposed project at 2190 Shattuck Avenue, the context in which the decision was made had become so encumbered by significant amounts of misleading and confusing information that it was impossible to achieve a fair and objective hearing on its impacts on the historic resources, Campanile Way with all its features. This lack of definitive information about the historic resource status of a site that is eligible for listing on the National Registry of Historic Places will have an irreversible impact that harms not only the University of California Berkeley Campus but also the City of Berkeley, and is deserving of substantial consideration.

The importance of Campanile Way and its Viewshed has been well-documented by recognized experts since the 1800's as a national treasure. That importance made Campanile Way a Destination Point for the Campus and City attracting Berkeley residents, UC Berkeley Alumni and visitors to our City on a daily basis and bringing not only a sense of place from the experience of being there, but also untold economic benefits into our Downtown. The

Campanile Way View from the steps of Sather Tower to the Golden Gate has become the very symbol of the UC Berkeley Campus and of the City of Berkeley itself. There is no question that the proposed project at 2190 Shattuck Avenue threatens that View - see page 19 of the Staff Report to the ZAB – “*While the building would adversely affect views from Campanile Way - that concern is immediately dismissed with the statement that “it would not have a direct adverse effect on Campanile Way and the features within it on the UC Berkeley campus.”* Appellants maintain that is an incorrect conclusion that has not been substantiated by the evidence. Loss of the Campanile Way View does impact the preservation of Campanile Way itself, and also the economic and vitality benefits it brings to our City. Councilmembers should know that the UC Alumni Society recently distributed a 3-D puzzle of that view. It will be a tragedy if the next reiteration of that puzzle has to show how the City blocked that view forever. If City decision makers determine that there is no adverse impact, it is suggested that their names be printed on the picture depicting the blocked view for all to remember.

The actions that have contributed to creating the context in which the Zoning Adjustments Board (ZAB) made its decision on October 25, 2018 can best be illustrated by the various decisions that have been made over the past four years during which the issue of the historic resource status of Campanile Way and its Viewshed has been considered by the City.

April 2, 2015: LPC meeting to consider a petition submitted by at least 50 residents to designate Campanile Way as a Berkeley Landmark. Forty people testified and City Staff repeatedly informed Commissioners in writing and verbally that Campanile Way was already listed on the National Registry of Historic Places. Page 5, of the Staff Report, under the title, III Existing Designations, (1982) National Register of Historic Places, states “*The UC Berkeley Campus was listed on the National Register as a Multiple Resource Area in 1982 and includes Campanile Way....*”

However, the nomination form which was submitted and approved by the National Registry of Historic Places specifically lists 17 items, 16 of those items are identified structures and only one is a natural site, identified as Founder’s Rock. The words “Campanile Way” are listed on the nomination form as a category heading to identify the pathway (the same as you would list a street name) on which the identified nominated buildings, Sather Tower, South Hall, Durant Hall, Doe Library, etc., are located. Nowhere in the nomination form is Campanile Way described or in any way identified as a separate site.

City Staff also recommended to the Commission that the LPC should “*recognize the significance of Campanile Way as a currently designated historical resource....*” (Emphasis added.) The LPC approved Staff’s recommendation to “*disapprove Landmark designation*” and adopted the Finding that “*Campanile Way is listed on the National Register described in Section 4370A of Title 16 of the United States Code.*” The LPC decision was appealed to the City Council.

June 30, 2015: City Council meeting regarding the appeal. Staff recommended holding a public hearing and adopting a Resolution affirming the decision of the LPC to “*decline*” the Landmark Application (LMIN 2014-0005) for Campanile Way. The Staff Report for this meeting not only continued the message Campanile Way was already protected, but it emphasized that Campanile Way “*was a recognized historic resource under the stewardship of UCB and development within the view, falls under Downtown Area Policies – in other words that the view was separate from the Campanile Way pathway.*”

Staff also noted that *“the character-defining unobstructed view from the ground plan of Campanile Way toward San Francisco Bay and the Golden Gate is not located on the site and that the view would extend over Downtown Berkeley where the Downtown Area Plan goals and policies call for high rise housing.”* Note the acknowledgement that the view is “character-defining” to the Campanile Way corridor.

A motion to remand the issue back to the LPC for further consideration was defeated. Following no further action by the Council, the motion by the LPC to decline taking any action was affirmed 30 days after the closing of the public hearing.

April 5, 2018: Special meeting of the LPC to consider a new petition from 56 people to designate Campanile Way as a local landmark. (Note: the time delay was caused by City regulations prohibiting a similar application from being resubmitted within two years of the initial denial.) Listing on the agenda confused some residents as it gave the address for Campanile Way as 2301 Bancroft Way which is the general property address for the UC Campus.

The Staff Report, page 7, IV. Historic Resource Status, now states that *“The Campanile Way is not listed in the in (sic) the National Register of Historic Places (NR) as an individual building, structure or site. It is recognized as a feature within the Classical Core of the UC Campus, a cultural landscape is listed on the NR (nominated in 1982).”* (Emphasis added.) While it can legitimately be argued that this statement is puzzling in its composition, staff has clearly added a new explanation regarding why Campanile Way is not specifically mentioned on the National Registry, but which has a protected historic resource status that does not need local landmark designation. The same report states further, *“The UC campus was listed on the NR (1982) as a Multiple Resource Area, and includes Campanile Way and the Esplanade, located on the central campus...The nomination breaks the resources down into two main types: a. Individual Buildings or Structures, and b. Buildings or Groups of Buildings and Their Landscaped Settings. Campanile Way and the Esplanade are included under the second category...”*

Per the minutes of this meeting, the LPC approved granting City Landmark status to the property and amended the draft resolution language to move the item regarding “Views” from the “List of Features to be Preserved,” into a new category called “Views Are a Significant Contributing Element.”

June 12, 2018: City Council meeting, item 48 was placed on the agenda by Staff with the recommendation to *“Certify for Council review the decision of the Landmarks Preservation Commission to designate Campanile Way as a City landmark”* and set the matter for public hearing. Usually such LPC items appear on the agenda as a Report for Information. The Staff Report, pages 2-3 emphasized Staff’s opposition to the LPC action because the LPC refers to *“lines of sight”* which in 1866 *“informed the directional orientation and site design of the UC campus Classical Core. However, they are not objects or physical features within the Classic Core or the Campanile pathway to which the designation provisions of the LPO can be applied.”* It was recommended that references to ‘lines of sight’ and ‘significant contributing elements’ be *“avoided and omitted from the designation record because they incorrectly imply that: 1) preservation of the views from Campanile Way is within the purview of the LPC; and 2) the views have received an explicit or implied status as historic resources or significant contributors to a historic resource. Neither of these implied conditions are true or factual and, therefore, the*

*Campanile Way designation should be corrected.*” Staff recommended that this ‘correction’ should occur by holding a new public hearing “*at which time it could consider adopting a revised designation resolution that would not reference the view corridors seen from Campanile Way. This action would avoid endowing the views with any implied or explicit status related to historic resources or preservation practices, and it would eliminate ambiguities related to limiting or affecting development with the Downtown.*”

The report also offered the opportunity for Council as a whole, or for individual Councilmembers to stay the proceedings by filing an appeal before the appeal period expired on June 13, 2018. According to the annotated agenda, the Council took no action and referred the matter to the Agenda Committee as “Unfinished Business.”

June 13, 2018: Kristina D. Lawson, of the law firm of Hanson Bridgett, who has represented the owners of the 2190 Shattuck Avenue property in previous meetings, filed an appeal “*on behalf of property owners affected by the Landmarks Preservation Commission’s approval of an application to designate Campanile Way, including the view corridor therefrom, as a City of Berkeley Landmark...*” The reasons for the appeal follow the material in the June 12, 2018 Staff Report. Ms. Lawson’s appeal was challenged as not being filed by any of the specific categories listed in the LPO eligible to file a decision of the LPC. The LPO requires signatures to be “verified.” Per Staff, the signatures were “checked” but not verified. The appeal was accepted but questions of whether it conforms to City requirements remain a matter of concern.

September 20, 2018: City Council meeting to hear the appeal from the April 5, 2018 LPC decision. Staff presented a 16-page document responding to each of five appeal issues. The three most pertinent to this document are listed below with the Staff response:

1. “*The City has no legal authority to designate a view as a local landmark. The LPO lists structures, portions or groups of sites, landscape elements, works of art and districts. Scenic views aren’t specifically listed.*”
2. “*Historic preservation is not a proper mechanism for view protection.*” Advance planning involving regulatory controls that limit or redirect development is needed. The adopted resolution for Campanile Way suggests building limits that conflict with the current Zoning Ordinance.
3. “*Campanile Way is already ascribed the highest level of preservation consideration as a part of a site listed on the National Register of Historic Places.*” A decision to overturn the LPC would not place the Campanile Way in danger. The Staff recommendation regarding this specific issue was that it “*is irrelevant to this case and without merit, and dismiss it.*”

The influence on the Council’s decision of statements about the historic resource status of Campanile Way is further illustrated by the following quotes in the captioner’s transcript of this meeting provided by the City Clerk.

- “*It’s on the National Register and Campanile (Way) is listed for the designation on the Register.*”
- “*The Classical Core of the UC Campus is in the National Register. Within that nomination, the Campanile Way as well as the tower are listed as elements of the Classical Core....they are within the site and the site is on the National Register.*”
- Remark made by Councilmember Wengraf: “*What value is there in making it a City Landmark beyond what it already has as being on the National Register?*”

- Remarks made by Mayor Arreguin: *“This is already on the National Register of Historic Places. If it has a designated status already, there is no necessity for the City to designate it and it’s on the University land. So if it wasn’t already designated, or has say sort of historical significance, I think there would be value for the City of Berkeley to designate it. Given that it is, I think it’s redundant.”*

According to the Annotated Agenda, the Council voted to adopt Resolution No. 68,601-N.S. reversing approval of the Campanile Way City Landmark designation and upholding the appeal.

The operative whereas clause of Resolution No. 68,601-N.S. finds that *“in the opinion of this Council, the facts stated in, or ascertainable from the public record, including comments made at the public hearing, warrant upholding the Appeal because: (1) the Landmark application does not satisfy the standards of BMC Section 3.24.060 for consideration as a City Landmark because views are not listed among the items to which designation status may be granted, and (2) the purview of the LPO is limited to historic preservation, according to the standards of BMC 3.24.070, and does not include scenic view protection.”*

October 25, 2018: ZAB meeting to consider Use Permit ZP2016-0117 for a proposed 18-story building on the northwest corner of Shattuck Avenue and Allston Way, 2190 Shattuck Avenue. Page 13 of the Staff Report makes clear the project is *not* subject to the provisions of the Housing Accountability Act regarding what must be documented when a City determines that a smaller building would be preferred. Further on pages 14-18, Staff advises the proposed development meets the purposes of the District and is compatible with the historic resources that exist in nearby buildings.

On page 19, Staff acknowledges that the proposed building *“...would adversely affect views from Campanile Way....”* And again, on pages 21 – 22, *“..the project would partially block views of the Bay, Alcatraz Island, and the Golden Gate Bridge...obstruction would range from 0 to approximately 75 percent of the view.....Obstruction of views would be greatest from the upper portion of Campanile Way to the steps of the Campanile tower.* (Emphasis added.) And further that *“The westward view that would be altered is a character-defining feature of a historic resource (Campanile Way) that has been identified as a contributing element to the historic cultural landscape of the Classical Core of the UC Berkeley campus. Although the project would partially obstruct this view, it would not materially impair Campanile Way or the Classical Core of the UC Berkeley campus itself. Therefore, the obstruction of views would not significantly degrade the historic cultural landscape.* (Emphasis added.) Referencing Downtown Area Plan Policy UD-31 to avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge and Alcatraz Island, Staff acknowledges the proposed project would be inconsistent but dismisses this without further statement that *“the required findings for approval of the project can still be made.”* ZAB voted to approve the project.

**This history clearly indicates that the City’s focus has been to approve development in the Downtown. That focus has granted priority to Downtown development, over-riding the consideration of the impact of specific development on the existing, special environment of historic resources that have been reflective of community values for more than 100 years.**

There are five major categories given by the City as to why this has happened leading to the approval of 2190 Shattuck Avenue.

**1. Campanile Way may be an historic resource, but its View is not:**

A summary of the City's position on the historical resource status of Campanile Way is that Campanile Way: (1) is included in the 1982 nomination of Campus Sites to the National Register of Historic Place, the Classical Core of the Campus determined in 2004 and the current University of California Long Range Development Plan; (2) Campanile Way does not need a City of Berkeley Landmark designation because it is already protected in the National Registry ; and (3) such protection does *not* include the View of San Francisco Bay and the Golden Gate. Campanile Way and its View are separate entities.

In all of the meetings and deliberations about this issue, the overwhelming response from the public has been that Campanile Way *and* its View are cherished historical resources that they want preserved. Impressive as that is regarding community response, four individuals who by any definition must be regarded as "experts" have written letters contrary to the City's position:

- Letter from Charles Birnbaum, FASLA, FAAR, on behalf of The Cultural Landscape Foundation, December 1, 2014. He worked on the Landscape Heritage Plan for the Berkeley campus, and makes the following comments:

Other key campus corridors have been compromised or lost through insensitive development in the 1960s so that Campanile Way "*is now the only place that a visitor walking through the campus can pause, see, and understand from the ground level the view that inspired generations ....*" And "*..it is my opinion that the proposed project would detrimentally and unequivocally compromise Campanile Way's iconic historic view and, by extension, the Classical core of the campus.* He describes that development impacts on historic view corridors have arisen elsewhere in the country and gives as a pertinent example the proposed development that would have blocked the view of the Statue of Liberty in New York which was successfully defeated.

- Letters from Harvey Helfand, Architect, UC Planner (1878-93), November 16, 2014, October 18, 2018 and March 27, 2018. He authored "University of California, Berkeley: "The Campus Guide". He states:

In reference to 2211 Harold Way (Nov. 2014), the proposed intrusion into this vista is "*blatantly inappropriate*" and would "*degrade the quality of experiences of thousands of daily occupants of the campus....as well as additional thousands of campus visitors and tourists.*"

In reference to 2190 Shattuck Avenue (Oct and March 2018), Campanile Way is described as "*One of the nation's best examples of American Beaux-Arts Planning... with careful alignment to natural features, vistas, and focal points that extend beyond the campus grounds. The major organizing influence in this layout is its principal westward orientation to the Golden Gate.... This orientation is of fundamental importance not only physically and visually, but also symbolically and culturally, as was proclaimed in 1858:*

*'In full view, towards the ocean...The Golden Gate lies lapped in the glorious light that gave it its prophetic name. And the last glance of the future student of California as he leaves his native shore—his first returning glance as he welcomes home—shall fall on the spires of his own Alma Mater.'*

*And at the dedication of the site in 1866, this westward draw of the Golden Gate inspired the name of the city when Trustee Frederick Billings evoked this passage by George Berkeley, Bishop of Cloyne: Westward the course of empire.....” He wonders “...how the city’s planners could have designated such development for this site without taking into account this significant view corridor.”*

*Other pertinent information he conveys in all of his letters is that it is important “to understand that this important view corridor is inseparable from Campanile Way itself. They are connected conceptually and visually, the axial Gold Gate view being the inspiration and focal point for Campanile Way, as well a for the Beaux-Arts plan of the entire campus. In my opinion, this relationship is a sacrosanct one, and it should be respected as such. I believe that intrusion upon this view corridor, as the project would cause, could negatively affect the eligibility of a future historic listing for Campanile Way.*

*(Emphasis added.)*

While two of the letters mention above were submitted in regard to the 2211 Harold Way project, the statements about the import of Campanile Way and its View are equally applicable to 2190 Shattuck Avenue.

- *Letter from Michael R. Corbett, Architectural Historian, September 25, 2017. He submitted with his comments a detailed resume of 40 years of experience, including work on the UC Berkeley campus, numerous publications and awards and list of memberships and affiliations: He comments on the need for a better understanding of the larger picture, i.e., the vision of the founders of the campus as expressed in 1860 that the Berkeley Campus would influence the nation and the world. This relationship was described as running in two directions – the original vision that “*The view west from the campus toward the Golden Gate represented the movement of ideas from the university to the world beyond. And the view east from the Golden Gate toward the campus represented the world’s recognition of the power of the university and the character of the State of California.*” He points out that the DEIR states that Campanile Way is part of a cultural landscape that is eligible for the National Register and the view is a character defining feature of the cultural landscape. He concludes that “Substantially blocking the view from Campanile Way to the Golden Gate by construction of 2190 Shattuck Avenue, as currently designed, would change the meaning of the significant property and would result in a loss of integrity and a loss of eligibility to the National Registry.” (Emphasis added.)*
- An earlier letter dated March 27, 2015, from faculty members Gray Brechin, Ph.D., Department of Geography, UC Berkeley, advised the City that “*The importance of this viewshed cannot be overemphasized. The view of the Campanile up the axis is one of the most photographed by visitors to the campus, and on any evening Howard’s broad staircase to the Campanile Esplanade is crowded with students enjoying sunsets as if on a bleacher built for that purpose.*”
- A letter from Dr. Nadesan Permaul, October 19, 2017, Adjunct Faculty in Rhetoric and Political Science, UC Berkeley writes: “*Thousands of visitors come to the campus annually and most go to the West steps to the Sather Tower esplanade and stand to view the magnificent view that John Galen Howard planned and executed.*” And, “*I often take visiting school children on tours which always stop there, and my department—Political Science holds its graduation reception on the Esplanade..*”

- A letter from Virginia Jansen, FSA, Professor Emerita of History of Art & Visual Culture, UC, Santa Cruz writes as a teacher of courses on campus planning and architecture, *“I strongly support the application to designate Campanile Way as well as its view of the Golden Gate a City of Berkeley Landmark. The Berkeley campus, as is very well known throughout the United States, was designed in the 1860s by one of the most famous landscape architects of our country, Frederick Law Olmsted. He meant the campus to focus on the view west through the Golden Gate. This selection is not simply an aesthetic decision, but was central to the meaning in creating a university on the West Coast. It is intrinsic to the greatness of the University of California as an institution of learning for California.”* (Emphasis added.)

The import of these letters from acknowledged experts seem to have been largely ignored as while mentioned at times by members of the public, they have not been included in Staff Reports. It is noted page 10, Topical Response B: Historic Resources Impacts, Final EIR, 2190 Shattuck Avenue that the LPC at its April 2, 2015 *“rejected the proposal to landmark Campanile Way, adopting Cits staff’s recommendation to recognize the significance of Campanile Way as a currently designated historical resource contributing to the significance of the UC Berkeley campus and decline to individually designate the property as a City Landmark”* And, in July, 2015 Berkeley City Council declined to overturn the LPC’s decision on appeal. Accordingly, the view itself is not considered a local landmark for CEQA purposes.”

This was not questioned, but instead was immediately followed, as additional background information on page 11:

*“Portions of the UCV Berkeley campus were listed on the National Register as a Multiple Resource Area (MRA) in 1982. Multiple Resource Area is an obsolete classification that has since been replaced with the Multiple Property Submission (MPS) system. According to NPS(\*) standards, an MPS submission consists of a Multiple Property Documentation Form accompanied by one or more individual nominations. The 1982 University of California MRA does not follow this format and historical resources are not automatically considered to be individually listed on the National Register by virtue of being identified in the MRA. The 1982 University of California MRA identified sixteen structures and one natural feature... ..Campanile Way is not identified in the University of California MRA nomination as an individually significant historic feature.”*  
(Emphasis added. Note: \* NPS refers to National Park Service)

The conclusion arrived at in the Final EIR which was reviewed by Staff and certified by ZAB on January 5, 2018 was that *“the westward view is a character-defining feature of a historic resource (Campanile Way) that has been identified as a contributing element to a historic cultural landscape.”* Further that the views have changed over the years and *“the proposed project would constitute a change to, but not the elimination of, a character-defining feature (the view) of Campanile Way, which as a contributor to the historic cultural landscape of the Classical Core of the UC Berkeley campus, is considered a historic resource. But because this change would not materially impair Campanile Way or the Classical Core of the UC Berkeley campus itself, the impact would be less than significant.”*

By completely ignoring the letters from nationally recognized experts in the field, this statement is based upon a perspective that seeks to justify earlier Staff statements that Campanile Way is protected by way of the 1982 nomination to the National Register, and while there would be blockage of the westward view from Campanile Way by the proposed 2190 Shattuck Avenue



project, such blockage should not be considered because those impacts do not directly affect the Campanile Way pathway itself, and its associated importance to the Classical Core of the UC Berkeley campus.

**2. The Landmarks Preservation Ordinance (LPO), Berkeley Municipal Code 3.24.060, doesn't allow landmarking of either Campanile Way or its View:**

First, it should be noted that the LPC did NOT recommend that the Campanile Way View be landmarked. The Commission, in an attempt to respond to Staff concerns, specifically moved language about the View from the proposed list of "*Significant Features to be Preserved*" and placed it into a separate category that stated "*Views are significant contributing elements*" to Campanile Way. This language was carefully crafted by the LPC to acknowledge the actual fact that the existing view is historic and contributes to the historic significance of Campanile Way which should be designated as a City of Berkeley Landmark to clear up any confusion about its historic resource status under the National Register. Had such action occurred, it would have clearly established Campanile Way as a landmark and provided through public testimony and letters from experts such as those cited above, the opportunity for a fair and objective evaluation of the impacts of the development at 2190 Shattuck Avenue on the westward view from Campanile Way, and how that affected the landmarked Campanile Way pathway.

Could the City of Berkeley designate Campanile Way as a landmark? The correct answer is "Yes". Section A of BMC 3.24.06 states that the LPC may "*Designate, after public hearings, structures, sites and areas including single structures or sites, portions of structures, groups of structures, manmade or natural landscape elements, works of art, or integrated combinations thereof, having a special character, or special historical, architectural, or aesthetic interest or value*" (Emphasis added.) The primary definition of "landscape" in the *American Heritage Dictionary* is "*A view or vista of scenery on land.*" The Council also received testimony from a co-author of the LPO that it was the intent of the Ordinance to encompass such matters as views and from a member of the LPC that Berkeley has no less than seven historic trees or groupings of trees designated as landmarks, none which were controversial. In addition, several Berkeley parks are also official City landmarks, including many of their physical features such as pathways, fountains and plantings. The LPC has also designated dozens of University buildings and sites, including buildings on the main campus as well as at least seven different landscape features that are part of campus properties, and the entire Clark Kerr Campus.

Furthermore, the State Office of Historic Preservation, defines one of the categories of historic properties as structures. That office gives "highways" as an example of a structure. Pathways such as Campanile Way certainly qualifies under that category. Under the category of "sites" they list "natural features" with the additional information that "*A site may be a natural landmark strongly associated with a significant historic event or patterns of events if the significance of the natural feature is well documented through scholarly research.*"

There is no question under these definitions that the action taken by the LPC was legal and appropriate.

**3. The City cannot legally regulate the development of properties by considering its impact on a view unless there are specific mechanisms to do so that currently do not exist:**

This advice from City Staff is very confusing. It is ironic that on the same date of the Special Meeting of the City Council, September 9, 2018, there were two items heard, both of which

involved views. Approximately 1.5 to 2 hours were spent by the Council on the first item, affirming the ZAB decision and the wording regarding that decision to preserve the view from an historic home on Yosemite Road from intrusion by proposed development on Contra Costa Avenue. The historic home had been designed by Julia Morgan and documented that her design was “all about the view.” In this instance, proposed development on another property was regulated through the action of preserving the view of another property. The view in question clearly extended to the Bay.

Hundreds of such cases have come before ZAB and the Council in the past, and at no time has there been any objection that the City could not legally regulate property through view consideration because of the City had not adopted a special mechanism that allowed it to take such an action. This objection was not raised in the Contra Costa Avenue case and the proposed denial of appropriate use permits was upheld. All of these cases have involved views from private property.

However, such objection was raised in the case immediately following it, the appeal of Campanile Way Landmark designation (LMIN 2017-0006). This case involved protection of an historic, some 100-year old public view, which would be transferred to residents of 2190 Shattuck Avenue, as their exclusive, private view to the Bay from westward facing windows and balconies, or the residents only extensive roof garden planned for that development.

This point was mentioned to the Council at the time, but it did not generate an explanation as to why views can regulate property in instances that involve private properties, but cannot regulate property when public views are at stake.

**4. How would the Downtown Area Plan and the Policy to build transit oriented development be affected if the LPC recommendation regarding Campanile Way was considered:**

There is wide-spread agreement that housing, particularly low and moderate-income housing, is needed and that it is highly desirable to construct such housing near transit centers. Appellants do not disagree with these statements. The Campanile Way View Corridor affects at most a thin slice of two or three blocks in the Downtown which covers an area of more than 20 blocks. The Downtown Plan allows for only three voter-approved 180 buildings, two of which are already entitled with one of those two currently under construction. Specific sites for these buildings were never identified within the Plan, and no others may be constructed, after these receive permits. Certainly, within the Downtown area there are sites, nearby the Downtown BART Station, that would accommodate the third, 180 foot building.

No data has been provided as to the number of housing units within the Downtown which could be provided in this transit-rich area if new buildings were constructed in a scenario that included a lower height only in the very narrow area needed to accommodate the Campanile viewshed, while other buildings in the Downtown were constructed at established height limits, plus the three 180 foot tall buildings. Since the Campanile Corridor is on a westward downslope toward the Downtown, on September 25, 2017, the Berkeley Architectural Heritage Association requested as part of the EIR process, that such information about lower heights in the Campanile Viewshed be undertaken. That request was dismissed.

A large, dense building – quite possibly what would be the largest apartment building in Downtown containing residences for hundreds of people could be built at 2190 Shattuck Avenue and still lie below the view. It is evident from the design, that most of the density in the building proposed for that site is contained in these lower floors. To reduce costs to the developer in

compensation for not developing a taller building, one of the floors of resident parking could be eliminated.

No one opposes such a building, including supporters of the Campanile Way landmark designation. The problem is not with a **large** building, but a **too tall** building. Appellants maintain that it is possible to accommodate housing many people while at the same time respecting Campanile Way and its westward view.

**5. The City has no discretionary authority in this matter:**

This is not an accurate statement. The March 2015 Final EIR for 2211 Harold Way, Responses to Comments, beginning on page 9, addresses the issue of view obstruction by stating it *“would be inconsistent with General Plan Policy UD-31, which states that ‘Construction should avoid blocking significant views especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island....’* And while *“aesthetic impact is recognized, described and disclosed in the Draft EIR,”* it concluded that there was no significant impact on Campanile Way or its View by the Harold Way project.

However, the document most importantly, doesn’t stop with that conclusion. It further informs readers of the following: *“However, it is further noted that, as required by California State law (Senate Bill 743, 2013, which says that aesthetic impacts of a mixed-use project on an infill site within a transit priority area may not be considered significant impacts on the environment), although recognized as adverse, this impact cannot be considered under CEQA, and the discussion of such impacts in the Infill Environmental Checklist is for informational purposes only. Nevertheless, lead agencies continue to maintain the authority to consider aesthetic impacts pursuant to local design review or other discretionary powers, and commenters’ concerns regarding the issue will be forwarded to the City’s decision makers for their consideration. In addition, the Draft EIR considered potential impacts to the views from Campanile Way under Section 4.1 Cultural Resources, and, as discussed there, the westerly views from Campanile Way are character-defining features of a landscape element (Campanile Way) that has been identified as a contributor to a cultural landscape (the Classical Core of the UC Berkeley Campus).”* (Emphasis added.)

There is no indication that in addition to a link being buried in hundreds of pages of administrative records, decision-makers (Council, ZAP or LPC) were clearly and consistently advised they had such broad authority.

**(II). The Second Cause for the Appeal is That the Proposed Project at 2190 Shattuck Avenue Barely Meets the Requirements to Achieve a LEED Gold Rating:**

The proposed development at 2190 Shattuck Avenue has only one point above the minimum required for a rating of LEED Gold. This rating was achieved basically from its location. When questioned as to the reasons for this at the public hearing on October 25, 2018, representatives of the developer stated that they had to achieve a *“balance”* that included offering tenants a lush and significantly planted roof garden, and that they would *“consider”* including other factors that would achieve a higher rating sometime in the future, as they went along.

This is not acceptable. The City of Berkeley should be seeking to achieve and include in its findings and conditions, specific measures identifying and ensuring that the building meets the highest feasible green ratings.

As noted in the purposes of the LPC mentioned in BMC 3.24.010, A states that *“It is found that structures, sites and areas of special character or special historical, architectural or aesthetic interests or value have been and continue to be unnecessarily destroyed or impaired.... and Section B states “It is further found that prevention of such needless destruction and impairment is essential to the health, safety and general welfare of the citizens of the City.” This is essentially what must be found in order to issue or deny use permits for proposed developments.*

There can be no question that it has been well-documented over approximately 100 years that:

- a. Campanile Way meets the criteria for a site that has special historical, architectural and aesthetic values; and
- b. The westward view from Campanile Way is an essential part (contributing factor) to the values that apply to Campanile Way; and
- c. Campanile Way and its Viewshed are the last and only remaining example of the work of world famous planners; and
- d. Hundreds of people use Campanile Way on a daily basis enjoying and celebrating the importance of the UC Berkeley Campus and bringing an economic benefit to the City of Berkeley; and
- e. The City of Berkeley’s goal is to create a Downtown that is vibrant, economically sound area that provides housing people near public transportation, while at the same time also respecting our confirmed historic resources, in buildings constructed to the highest feasible green standards.

Meeting such goals as expressed above is essential to the health, safety and general welfare of residents as has been expressed over and over again regarding this matter.

In addition to our appeal, we wish to call to the attention of the City that the Proof of Service, Notice of Appeal packet regarding this matter, dated October 31, 2018, contains language that seems to be inaccurate. The footnote in the heading, “EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)<sup>2</sup> - November 15, 2018, states:

“Pursuant to BMC Section 23B.32.030, the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB’s decision is issued....”

The City’s website indicates this provision was repealed and replaced by Ordinance 7350 N.S. Further that procedures in 7350 N.S. were amended to provide for automatic scheduling for public hearing for ZAB appeals filed in a timely fashion. Wording on the form should be reviewed and, if found to be inaccurate, changes should be made.

Appellants submit this appeal and reserve the right to modify and/or add additional information prior to its being considered by the City Council.

Respectively submitted:

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

FOR BOARD ACTION  
OCTOBER 25, 2018

## 2190 Shattuck Avenue

Use Permit #ZP2016-0117 to redevelop a 19,967 square-foot (0.46-acre) site at the northwest corner of Shattuck Avenue and Allston Way with a proposed 18-story building with 274 residential units above approximately 10,000 square feet of ground floor retail space. One hundred and three (103) parking spaces would be provided in a two-level subterranean garage accessed from Allston Way.

### I. Background

#### A. Land Use Designations:

- [General Plan](#): Downtown (DT)
- [Downtown Area Plan](#): Downtown Mixed-Use District, Core
- Zoning: [Downtown Mixed-Use District](#) (C-DMU) Core Sub-Area

#### B. Required Permits:

- Use Permit for construction for demolition of a non-residential building, under BMC 23C.08.050.A
- Use Permit for construction of a new main building with mixed-use development, under BMC 23E.68.030;
- Use Permit for construction of >10,000 sq. ft. gross floor area, under BMC 23E.68.050
- Use Permit to allow a maximum height of up to 180 feet, under BMC 23E.68.070.B
- Use Permit to allow a reduction in the required 5 foot rear yard setback for the portion of the building between 20 and 75 feet in height, under BMC 23E.26.070.C
- Use Permit to allow that portion of the building over 120 feet to be greater than 120 feet in width when measured at the widest point on the diagonal in plan view, under BMC 23E.68.070.C
- Use Permit to allow a reduced vehicle parking space requirement, under BMC 23E.68.080.D
- Use Permit for reduction of required parking spaces through payment of an in-lieu fee to be used to provide enhanced transit services, under BMC 23E.68.080.D
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, under BMC 23E.04.020.C

**D. CEQA Determination:** An Environmental Impact Report (EIR) was prepared to evaluate the potentially significant environmental impacts of the proposed project, pursuant to Article 7 the California Environmental Quality Act (CEQA). The public review and comment period for the Draft EIR (DEIR) began on August 10, 2017 and ended on September 25, 2017. The Responses to Comments Document (RTC) was distributed on January 4, 2018. The ZAB certified the Final EIR (FEIR), which is composed of the DEIR and RTC, on January 25, 2018.

**E. Parties Involved:**

- Applicant                      Mill Creek Residential, Don Peterson, 411 Borel Avenue, Suite 405, San Mateo, CA 94402
- Property Owner              PR III Shattuck LLC, 2190 Shattuck Avenue, Berkeley, CA 94704
- Lead Agency                      City of Berkeley, Planning and Development Department, Land Use Planning Division, 1947 Center Street, 3rd Floor, Berkeley, CA 94704

**F. Application Materials, Staff Reports, Correspondence, and CEQA documents are available on the Internet:**

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/2190\\_Shattuck.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2190_Shattuck.aspx).

Figure 1: Vicinity Map



Imagery provided by Google and its licensors © 2016.

IEC Fig 2 Project Location v2



Figure 2: Proposed Site Plan/Ground Level Floor Plan

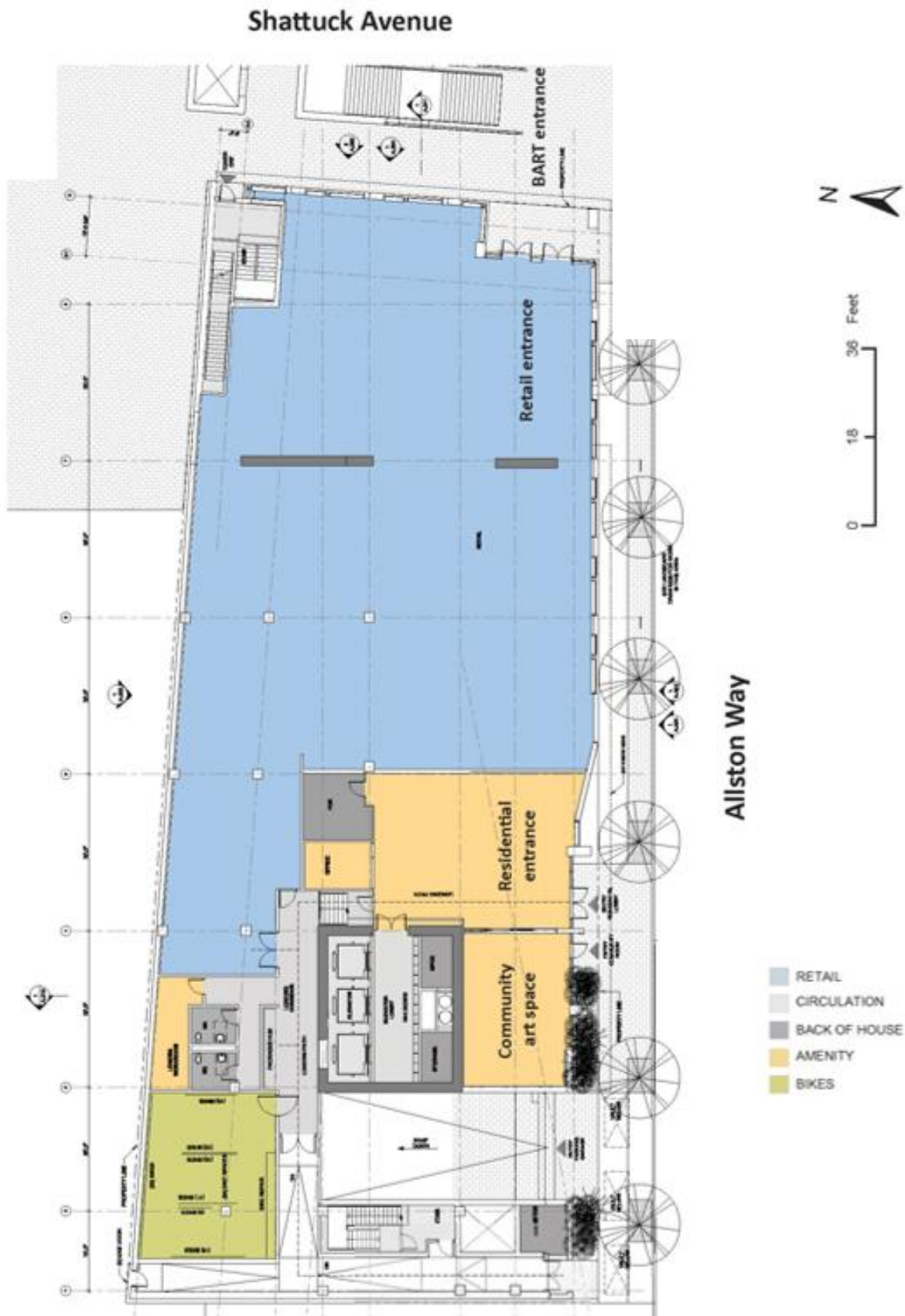


Figure 3: Proposed South (Allston Way) Elevation



Figure 4: Proposed East (Shattuck Avenue) Elevation



**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Retail/Commercial	C-DMU, Core	Downtown
Surrounding Properties	North	Restaurant/Office	C-DMU, Core	Downtown
	South	Hotel	C-DMU, Core	Downtown
	East	Retail	C-DMU, Core	Downtown
	West	Parking/Retail/Food Service	C-DMU, Core	Downtown

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	The project does not involve construction of a building with a net increase of more than 7,500 square feet of commercial space.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	The project does not involve construction of a building with a net increase of more than 7,500 square feet of commercial space.
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	The project is subject to the affordable housing provisions of BMC 22.20.065 because it includes 5 or more dwelling units.
Housing Accountability Act (Gov't Code Section 65589.5)	No	The project is a "housing development project" consisting of a mixed-use building, but requests modifications to development standards. Therefore, the Act's findings would <i>not</i> apply to this project if the City disapproved it or imposed a condition requiring a lower-density development. See Section VI.H for discussion.
Alcohol Sales/Service	No	No incidental service of beer and wine is proposed in the commercial space.
Creeks (BMC Section 17.08.045)	Yes	The project involves construction within 25 feet of the culverted Strawberry Creek. An investigation that confirms the distance between the edge of the project site and the culverted creek is required. Pursuant to Mitigation Measure GEO-1 in the certified Final EIR, excavation and temporary shoring will be designed to protect the culvert's stability.
Green Building Score	Yes	Minimum score is 60 for the required LEED Gold rating, and Maximum score is 110. Proposed project scores 61 points on the LEED checklist for New Construction and Major Renovations checklist.
Historic Resources	Yes	The new building would affect the setting of the proposed Shattuck Avenue Downtown Historic District, including the adjacent Shattuck Hotel, which is a City of Berkeley Landmark. However, the certified Final EIR determined that associated impacts would be less than significant with mitigation incorporated.
Oak Trees	No	None present.

Characteristic	Applies to Project?	Explanation
Rent Controlled Units	No	The building proposed to be demolished does not include residential units. Newly constructed rental units would not be subject to rent control.
Residential Preferred Parking	No	The site is not in a RPP zone. Thus, the project would not be eligible for RPP permits.
Seismic Hazards (SHMA)	No	The project site is not subject to seismic hazards related to liquefaction, fault rupture, or landsliding, according to a Geotechnical Feasibility Report prepared for the project by ENGEO, Inc. in October 2016.
Soil/Groundwater Contamination	Yes	The project site is located in the City's Environmental Management Area and subject to subject to the City's Standard Conditions of Approval (SCA) for Toxics that requires preparation of a Soil and Groundwater Management Plan (SGMP).
Transit	Yes	The project site is served by multiple bus lines (local, rapid, and transbay) that operate along Shattuck Avenue and other nearby roadways, and is adjacent to the Downtown Berkeley BART Station.

**Table 3: Project Chronology**

Date	Action
June 13, 2016	Application submitted
January 5, 2017	Notice of Preparation (NOP) released
January 26, 2017	EIR scoping session at ZAB
February 6, 2017	End of 30-day NOP comment period
August 10, 2017	Publication of Draft EIR and Notice of Availability
August 17, 2017	Preliminary design review at DRC
September 7, 2017	Draft EIR discussion item at LPC
September 14, 2017	Draft EIR comment hearing at ZAB
September 25, 2017	Close of Draft EIR comment period
January 4, 2018	Publication of Response to Comment Document
January 25, 2018	ZAB hearing on Final EIR certification
February 15, 2018	Continued preliminary design review at DRC
March 15, 2018	Continued preliminary design review at DRC
April 19, 2018	Continued preliminary design review at DRC, favorable recommendation received
August 28, 2018	Application Deemed Complete
October 10, 2018	Public Hearing Notices mailed/posted

October 25, 2018

ZAB hearing on Use Permit

**Table 4: Development Standards**

Standard		Existing	Proposed	Permitted/Required
BMC Sections 23E.68.070-080				
Lot Area (sq. ft.)		19,967	19,967	--
Gross Floor Area (sq. ft.)		38,700	211,590	--
Floor Area Ratio		1.94	10.6	--
Total Dwelling Units		0	274	--
Building Height (ft.)	Maximum	≈22	180	60 + 5 parapet 180 + 5 parapet (with Use Permit)
	Maximum Architectural Projection	unknown	14	(With Administrative Use Permit) <sup>(1)</sup>
	Stories	2	18	--
Building Setbacks	Front (Shattuck)	0	0	Building height ≤20': 0 - 5 max. Building height >20'≤75': 0 min. Building height >75'≤120': 15 Building height >120'≤180': 15
		0	0	
		n/a	15	
		n/a	98	
	Rear (west)	5	0	Building height ≤20': 0 Building height >20'≤75': 5 Building height >75': 15
		n/a	0 <sup>(2)</sup>	
Street Side (Allston)	0	0	--	
Interior Side (distance from lot frontage)	0-65'	0	0	Building height ≤75': 0 Building height >75'≤120': 5 Building height >120': 15
		n/a	5	
	n/a	n/a		
	>65'	0	0	
n/a		10		
n/a	n/a	15		
Lot Coverage (%)		92	92	--
Usable Open Space (sq. ft.)	Residential	n/a	21,952	80 per unit 21,920 total
	Commercial (privately owned public open space)	0	252	1 per 50 sq. ft. 200 total
Parking	Automobile	0	103	91 for DUs: 1:3 units 15 for commercial: 1.5:1K sqft
	Vehicle Sharing	0	5	4
	Bicycle	0	99	5 for commercial: 1:2K sqft

(1) No such architectural element shall represent more than fifteen percent (15%) of the average floor area of all of the building's floors; and no tower or similar structure shall be used as habitable space or for any commercial purpose, other than that which may accommodate the mechanical needs of the building (BMC §23E.04.020.C)

(2) All setbacks may be modified with a Use Permit (BMC §23E.68.070.C)

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located on the northwest corner of Shattuck Avenue and Allston Way, in the Downtown area. The site has frontage on Shattuck Avenue and Allston Way, and is adjacent to the southern edge of the Bay Area Rapid Transit (BART) Plaza associated with the Downtown Berkeley BART station. The project site is surrounded primarily by Downtown Berkeley commercial and institutional development in buildings ranging in height from one story (the Fresco Mexican Grill building at 2177 Shattuck Avenue) to 14 stories (the 180-foot First Savings/Great Western Building at 2150 Shattuck Avenue). Currently under construction is a 16-story hotel at 2129 Shattuck Avenue, at the northeast corner of Shattuck Avenue and Center Street. In 2015, an 18-story mixed use building was approved by the City one block south, on a site at 2211 Harold Way; this site is generally on the western portion of the block defined by Harold Way, Allston Way, Shattuck Avenue and Kittredge Street.

**B. Site Conditions:** The 19,967 square-foot (0.46-acre) project site is entirely covered by a two-story, approximately 38,700 square-foot retail and office building currently occupied by a Walgreens store on the ground floor. The first floor has retail space occupied by a drug store and pharmacy (Walgreens) and the second floor has administrative office (roundCorner) and electronics development and administration (Nokia) uses. The basement was occupied by Fast Response, a paramedics and phlebotomy training center, until December 2016, and is currently vacant.

## III. Project Description

The project would involve demolition of the existing retail and office building and construction of an 18-story, approximately 211,590 square-foot mixed-use building. On the ground floor, the proposed building would have commercial retail space with a floor area of approximately 10,000 square feet, a residential lobby, and an adjacent 677 square-foot community art space that would be available for community events. The retail space would front on the BART Plaza and wrap around to Allston Way. The applicant anticipates that Walgreens would return to the site after construction and occupy the ground-floor retail space. On the upper floors, the building would have 274 apartment units, ranging in size from micro-units to two-bedroom units (see Table 5). The upper floors would step back from Shattuck Avenue.

**Table 5: Residential Unit Summary**

Unit Type	Count	Average Floor Area (square feet)
Micro	57	389
Studio	63	554
1 Bedroom	93	611
2 Bedroom	61	889

Total	274	
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Motor vehicle parking would be provided in a two-level underground garage with 103 parking spaces, including five car share spaces. Access would be provided from a driveway off Allston Way. Mitigation Measure T-4 from the certified Final EIR would require the inclusion of safety features at the driveway: a minimum sight distance and signage for drivers exiting the garage, pavement markings, convex mirrors for improved visibility, and visual/audio warning devices. Ninety-nine (99) bicycle parking spaces would be provided, including 94 spaces for residents and five for commercial users, along with a bicycle repair shop on the ground floor.

The project would include 21,952 square feet of residential open space on rooftop terraces and gardens and private balconies for residents, 449 square feet of public open space on the site's Allston Way frontage adjacent to the driveway and residential lobby, and 252 square feet of private commercial open space at the retail entrance. Other improvements within and facing the public right-of-way would include enhanced stone paving, trees, planters, and benches on the sidewalk; and glass display cases along the building's sidewalk frontage for art. In addition, seating and other pedestrian amenities may be provided at the BART Plaza in coordination with improvements planned by BART at that site.

#### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting this application to the city, the applicant invited interested neighborhood organizations as well as owners and occupants within 300 feet of the project to a project preview meeting. The meeting was held on May 26, 2018 and attended by two people. Later, a pre-application poster was erected by the applicant in June 2016.

As part of the CEQA process, the community has had multiple opportunities to provide input on the project and its environmental impacts. On January 5, 2017, the City mailed the Notice of Preparation (NOP) for an EIR to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. On January 26, 2017, the City held a scoping session for the EIR at the ZAB. The City issued a Notice of Availability of the Draft EIR on August 10, 2017, followed by a hearing to take comments on the Draft EIR at the ZAB on September 14, 2017. On January 25, 2018, the City held a public hearing for certification of the Final EIR.

On October 10, 2018, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. Since the writing of this staff report, staff has received two letters in opposition. All public correspondence can be found in Attachment 7.



**B. Committee Review:**

1. **Landmarks Preservation Commission:** On November 3, 2016, the project was referred to the Landmarks Preservation Commission (LPC) regarding demolition of a building greater than 40 years old, pursuant to BMC Section 23C.08.050.C. The LPC took no action to initiate a Landmark or Structure of Merit designation for the existing building on-site.
2. **Design Review Committee:** On March 17, 2016, the Design Review Committee previewed the project and issued advisory comments with respect to neighborhood context, views, building design, and streetscape design. Beginning on August 17, 2017, and continuing through three subsequent meetings to April 19, 2018, the Committee conducted a preliminary design review of the project. It provided advisory recommendations on building design refinements for the project to best fit into its urban and historic Downtown context. Among other modifications response to the Design Review Committee's recommendations, the project team modified the massing at the southeast corners of both the midrise and upper levels. The corners have been clipped along the axis of the view corridor to narrow the profile of the building as seen from Campanile Way. At the April 19, 2018 meeting, the project received a favorable recommendation to ZAB for the building design, with several conditions (Attachment 6).

**V. Final Environmental Impact Report**

An Environmental Impact Report (EIR) was prepared in accordance with the California Environmental Quality Act. The ZAB certified the Final EIR on January 25, 2018.

The certified Final EIR identified significant environmental impacts that would result from implementation of the project and, where feasible, recommends mitigation measures to reduce impacts to a less-than-significant level. Impacts determined to be less than significant without mitigation were identified for the following topics: Aesthetics, Agriculture and Forest Resources, Biological Resources, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Population and Housing, Public Services, Recreation, and Utilities and Service Systems.

Impacts were determined to be less than significant with the implementation of mitigation measures for the following topics: Air Quality, Cultural Resources, Geology and Soils, Land Use and Planning, Noise (excluding construction noise), Transportation and Traffic, and Tribal Cultural Resources,

The EIR identified one significant and unavoidable impact from construction activity that would intermittently expose residences and businesses to elevated noise levels. This impact is consistent with the Downtown Area Plan EIR's determination that new development in the Downtown Area as a whole would have a significant and unavoidable impact from construction noise.

The CEQA Findings and Mitigation Monitoring and Reporting Program are attached to this document as Attachment 1, Exhibit A and B

## VI. Issues and Analysis

**A. Housing Accountability Act:** The Housing Accountability Act §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;<sup>1</sup> 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.

Staff Analysis: The project would not meet all applicable development standards because it would require use permits to grant exceptions for a diagonal greater than 120 feet in width above 120 feet in height, for a reduced rear yard setback for the portion of the building between 20 and 75 feet in height, for reduced parking, and for rooftop architectural projections exceeding the height limit of 180 feet, and to allow the maximum height of 180 feet. Therefore, §65589.5(j) does not apply to this project as proposed.

**B. Demolition of Existing Building:** The proposed project includes the demolition of the commercial building currently located on-site. Pursuant to BMC Sections 22.12.060 and 23C.08.050, the demolition of a commercial structure requires a demolition permit granted by the ZAB. In addition, pursuant to BMC Section 23C.08.050.C, any application for a permit to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the LPC for review prior to the consideration of the use permit.

Staff Analysis: The applicant anticipates that the existing retail tenant in the commercial building to be demolished, a Walgreens drug store and pharmacy, would temporarily relocate offsite during construction and then return after construction to occupy a proposed ground-floor commercial space of similar scale (10,000 square feet). This would provide continued operation by Walgreens after project construction. The LPC also reviewed the existing building and did not raise concerns about its historical value. Staff believes that the ZAB can find that the demolition of the commercial building would not be materially detrimental to the financial needs of the neighborhood or the City because the proposed project would provide replacement floor area on-site, as well as adding residential units Downtown to further activate the area and enhance local commercial activity.

Analysis by staff concludes that the ZAB may make the necessary Use Permit findings of non-detriment for demolition of the existing structure under BMC Section

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<sup>1</sup> As used in the Act, a “specific, adverse impact” means a “significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, polices, or conditions as they existed on the date the application was complete.

23C.08.050.D. The proposed conditions of approval require that demolition of the existing building may not occur until complete construction plans are submitted to the City for the replacement building.

**C. Mixed Use Development:** BMC Section 23E.68.030.A allows mixed-use development in the C-DMU District subject to the approval of a Use Permit and the ZAB making a finding of Non-Detriment listed in BMC Section 23B.32.040, and the findings listed in BMC Section 23E.68.090. The ZAB may rely on these findings to consider the building as a whole (specific features of this project are addressed later in this report). In order to approve this Use Permit the ZAB must find that the proposed use or structure would:

1. Be compatible with the purposes of the District; and
2. Be compatible with the surrounding use and buildings.

The required findings are evaluated as follows:

**#1: *Be compatible with the purposes of the District.***

Staff Analysis: The Project is within the C-DMU Downtown Mixed Use District, and as per Provisions of the BMC, the purpose of this district is to implement the vision and goals of the Downtown Area Plan (adopted 2012), which include: Environmental Sustainability, Land Use, Access, Historic Preservation and Urban Design, Streets and Open Space, Housing and Community Health and Services, and Economic Development.

1. **Environmental Sustainability:** DAP Goals ES-1, ES-4, and ES-5 pertain to environmental sustainability and would apply to the project.
  - Goal ES-1: Integrate environmentally sustainable development and practices in Downtown, and in every aspect of the Downtown Area Plan.
  - Goal ES-4: Promote “green” buildings.
  - Goal ES-5: Promote ecologically beneficial landscaping and stormwater features throughout the Downtown, to filter pollutants found in urban runoff, protect and restore the health of connected watersheds, reduce downstream stormwater flows, and express the community’s commitment to environmental sustainability.

Consistent with the above DAP goals, the project would integrate environmentally sustainable development and practices in the Downtown area. The project is on track to attaining a LEED Gold or equivalent certification. Evidence for such certification would be provided prior to issuance of building permits.

2. **Land Use:** Policies under DAP Goals LU-1 and LU-2, which encourage a thriving and livable Downtown that is a focal point for the city and a major destination for the region, would apply to the project.

- Policy LU-1.1: Encourage uses that allow people who live, work and learn in Downtown to meet daily needs on foot.
- Policy LU-2.2: Developers of buildings in excess of 75 feet must provide significant community benefits beyond what would otherwise be required. These may include: affordable housing, supportive social services, green features, open space, transportation demand features, job training, and/or employment opportunities. The applicable public benefit requirements shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.

Consistent with Policy LU-1.1, the project would provide encouraged retail commercial (10,000 square feet) and multi-family residential uses (274 units) in the Downtown Area. These uses would allow people who live, work and learn in Downtown to meet daily needs on foot. Consistent with Policy LU-2.2, the new mixed-use development would contribute its fair share toward Downtown improvements. It is anticipated that the project would generate approximately \$12.0 million in impact fees for affordable housing, schools, arts, and street and open space improvements.

- 3. Access:** Several DAP Goals related to access (AC-1, AC-2, AC-4, and AC-5) would apply to the project.
- Goal AC-1: Improve options that increase access to Downtown on foot, by bicycle, and via transit. Make living, working, and visiting Downtown as car-free as possible.
  - Goal AC-2: Give pedestrians priority in Downtown, and make walking Downtown safe, attractive, easy and convenient for people of all ages and abilities.
  - Goal AC-4: Promote transit as an efficient, attractive choice and as a primary mode of motor-vehicle travel.
  - Goal AC-5: Maintain and enhance safe, attractive and convenient bicycle circulation within Downtown, and to and from surrounding areas, for people of all ages and abilities. Promote bicycling Downtown.

Consistent with the above goals, the project would contribute towards making the Downtown area as car-free as possible. The project is located adjacent to the Downtown Berkeley BART station and multiple AC Transit lines run on Shattuck Avenue and Allston Way. This setting would allow for the proposed retail commercial use to encourage the use of transit services as primary modes of transportation for both their employees and patrons. A total of 99 bicycle parking spaces would be provided. In addition, transit passes would be provided to every employee and residential unit on-site, reducing demand for motor vehicle use and parking.

- 4. Historic Preservation and Urban Design:** DAP Goals HD-2, HD-3, and HD-4 are intended to preserve historic resources and would apply to the project.

- Goal HD-2: Enhance areas of special character in Downtown, such as clusters of historic resources.
- Goal HD-3: Provide continuity and harmony between the old and the new in the built environment.
- Goal HD-4: Improve the visual and environmental quality of Downtown, with an emphasis on pedestrian environments that are active, safe and visually engaging. Encourage appropriate new development Downtown.

Consistent with the above goals, the proposed building would be designed with ground-floor storefronts and continuous building street walls except for architectural expression at the site's southeast corner and for usable open space. These features would provide for greater compatibility with nearby historic buildings in the proposed Shattuck Avenue Downtown Historic District. In addition, implementation of Final EIR Mitigation Measures CR-1a through CR-1e would enhance the compatibility of the proposed building's cladding, void to wall patterns, roofline, and storefront windows with the adjacent, historic Shattuck Hotel.

Figure HD-3 lists the project site as a Building called Contributing or Significant by BAHA Report, 1990 Downtown Plan, LPC List, or Design Guidelines. However, a Historical Resources Technical Report prepared for the project found that the existing commercial building on-site does not possess architectural merit and/or cultural, education, or historic interest or value. Therefore, its demolition would not have an adverse effect on historic preservation.

**5. Streets and Open Space:** DAP Goal OS-1 promotes public open spaces and would apply to the project.

- Goal OS-1: Enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster an exceptional sense of place. In particular, create new public gathering places that support nearby uses and Downtown as a destination.

Consistent with DAP Goal OS-1, the project would enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster an exceptional sense of place. In particular, it would create new public gathering places that support nearby uses and Downtown as a destination. Streetscape improvements such as glass display cases for art and enhanced stone paving would strengthen Allston Way as a destination. A 677 square-foot community art space next to the residential lobby also would be available for community events. Sidewalks would be rebuilt consistent with the adopted Streets and Open Space Improvement Plan (SOSIP), and the project would pay its SOSIP fee, dedicated to public enhancement in the downtown.

**6. Economic Development:** Several DAP goals to promote economic development would apply to the project. Goal ED-1, ED-3, ED-6, and ED-11:

- Goal ED-1: Serve the needs of the neighborhood and the city. Make Downtown a more attractive regional destination, by building on Downtown's unique blend of cultural, historic, entertainment, art, educational, and community institutions – and by promoting successful retail businesses and other attractions with daytime and nighttime populations to support them.
- Goal ED-3: To make Downtown more attractive and economically successful, encourage place-making through the preservation of historic buildings, street and open space improvements, and high-quality new construction. Goal ED-6: Invest in civic improvements (such as streets, open spaces, and community facilities) to enhance Downtown as a place to live, work, and visit.
- Goal ED-11: Provide access to Downtown, which supports retail, restaurants, entertainment, hotels and cultural uses.

Consistent with Goal ED-1, the project would serve the needs of the neighborhood and the City by building on Downtown's unique blend of cultural, historic, entertainment, art, educational and community institutions – and by promoting successful retail businesses and other attractions, with daytime and night-time populations to support them. The proposed glass display cases for art at the building's Allston Way frontage and community art space would serve as destinations for artists and viewers. The project would replace the retail space in the existing building with a new ground-floor retail space of similar scale (10,000 square feet), enabling Walgreens to relocate to the project site after construction.

Consistent with Goals ED-3 and ED-6, the project would enhance Downtown as a place by streetscape improvements and high-quality new construction. The site's Allston Way frontage would feature glass display cases for art integrated in the retail commercial storefront, enhanced stone paving on the sidewalk and along the curb, benches, planted trees, and bike racks. In addition, the project would provide direct financial support for affordable housing, schools, and street improvements through required fees and indirectly through increased economic activity. The project also would be required to pay its SOSIP fee, dedicated to public enhancement in the downtown.

Consistent with Goal ED-11, the project would provide new residents with access to Downtown, which supports retail, restaurants, entertainment, hotels and cultural uses.

For the reasons outlined above, staff believes that the project is consistent with the findings in BMC Section 23E.68.090.B.1.

***#2: Be compatible with the surrounding uses and buildings.***

Staff Analysis: The project would maintain continuity with and respect for the surrounding urban environment. Street wall height, cornice lines, human-scaled openings, and material would complement downtown's traditional fabric. The building's wall treatments would complement those of the adjacent, historic Shattuck Hotel. The street-level scale of neighboring buildings would be respected, as the

project would maintain a continuous street wall at the edge of the abutting streets up to where the building would step back toward the interior of the site. As shown in Figure 3, at a height of approximately 72 feet (seven stories) above street level, the building would step back 15 feet from Shattuck Avenue and Allston Way. Above the 12th floor, the building would step back an additional 65 feet from Shattuck Avenue. This stepped massing is intended to minimize sight lines of the proposed 18-story tower from the perspective of people on Shattuck Avenue. The project's proposed retail and multi-family residential uses also are already found in Downtown Berkeley.

For the reasons outlined above, staff believes that the project is consistent with the finding in BMC Section 23E.68.090.B.2.

**D. Construction of Over 10,000 Square Feet of New Floor Area:** In order for any Use Permit to be granted under BMC Section 23E.68.050 for new floor area, the ZAB must find that the project meets the findings noted in BMC Section 23E.68.090.D of the Zoning Ordinance, which requires that:

1. The addition or new building is compatible with the visual character and form of the District; and
2. No designated landmark structure, structure of merit, or historic district in the vicinity would be adversely affected by the appearance or design of the proposed addition.

Staff analysis: The project site is near the center of a dense downtown with buildings of varying heights, including two of similar height. Although most buildings around the project site range from two to five stories, two have similar height to the proposed 180-foot building (the 180-foot First Savings/Great Western Building at 2150 Shattuck Avenue and the 173-foot Chamber of Commerce Building at 2140–2144 Shattuck Avenue). Construction of buildings in Downtown Berkeley has been ongoing for over one hundred years, with changes, modernizations and rehabilitations of older buildings and development of newer buildings at various points in time. New construction is part of an evolving downtown. The new building would retain retail façades at street level and have varied massing that would step back from Shattuck Avenue on upper floors. In addition, the proposed glass display cases for art and amenities like stone paving, planters, and benches would improve the Allston Way streetscape for pedestrians. Based on these characteristics, the DRC voted 5-1-0-0 on April 19, 2018, to forward a favorable recommendation on the project's design to ZAB, with several conditions included (Attachment 6). Therefore, the new building would be compatible with the visual character and form of the District.

No nearby Landmark buildings would be adversely affected by the appearance and design of the proposed structure. The EIR reviewed the project's design to evaluate its possible impact on adjacent historic resources and concluded that the project created no significant adverse impact on these adjacent and nearby historic resources.

The new 18-story building would be visible from Campanile Way. While the building would adversely affect views from Campanile Way, it would not have a direct adverse effect on Campanile Way and the features within it on the UC Berkeley campus.

Therefore, Staff concludes that the ZAB may find that the project is compatible with the visual character and form of the District and that no designated landmark in the vicinity would be adversely affected.

**E. Community Benefits: Exceedance of Building Height Limit of 120 Feet:** Pursuant to BMC Section 23E.68.070.B, the ZAB may issue Use Permits for up to five buildings that exceed the limits set forth in BMC Section 23E.68.070.A if it makes the finding in BMC Section 23E.68.090.E.

In order to approve a Use Permit for buildings over 75 feet in height, the ZAB must find that the project would provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City (BMC Section 23E.68.090.E). These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities. The applicable public benefit requirements must be included as conditions of approval, and the owner shall enter into a written agreement that would be binding on all successors in interest.

The applicant's proposal may be found in Attachment 4, and is summarized below:

- **Project Labor Agreement.** An agreement with all twenty eight member trades of the Alameda County Building Trades Council, without any trade or work exclusions. Value: \$5,547,020. Based on 5% of estimated construction costs, as per City Council Resolution 67,172 – N.S.
- **Community Space.** A 677 square-foot community art space next to the residential lobby that would be available for community events.

**Staff Analysis:** As a result of immediate access to BART, multiple bus lines, and walk-to conveniences, provisions for the C-DMU District in the DAP's Core Area allow three buildings up to 180 feet in height. The proposed project is the third application submitted for the three potential buildings over 120 feet (but not more than 180 feet) to be considered in the Core area.

On July 14, 2015, City Council provided direction for determining significant community benefits (Resolution #67,172-NS). On August 13, 2018, the applicant submitted its community benefits proposal consistent with Option B of the City Council Resolution.

Strategic Economics was commissioned by the City to peer review the applicant's community benefits proposal and presented its results in a memorandum dated August 28, 2018 (see Attachment 5). This review found that it is not reasonable to expect that the project could contribute additional community benefits fees beyond those



proposed by the applicant. Therefore, the project would provide significant community benefits to the City.

- F. Reduced Rear Setback for Portion of Building Between 21 and 75 Feet in Height:** BMC 23E.68.070.C requires a Use Permit to allow a modification to the prescribed setbacks, subject to the required findings in 23E.68.090.F.

Staff Analysis: The project proposes a 0' rear yard (west) setback for the portion of the building at the height between 21 and 75 feet (levels three through seven) where a minimum of 5 feet is required. Up to 11 residential units on each of these floors would encroach into the southern interior side setback. As the portion of the building that encroaches into the prescribed setback is narrow (five feet in width), located on floors three through seven, and located north of Allston Avenue and away from Shattuck Avenue, the massing encroachment would provide a negligible increase in solar access on the public sidewalk. Shadow diagrams presented in Appendix A of the Draft EIR indicate that the building would partially shade Allston Way at street level during summer mornings, while partially shading Allston Way, the north side of the Shattuck Hotel, and a retail commercial building east of the hotel during summer afternoons. The setback encroachment would have a minimal contribution to these shadows. Therefore, Staff believes that it would not unreasonably limit solar access.

The Wind and Comfort Impact Analysis in the Draft EIR prepared for the project found that wind accelerations generated by the building would be located over rooftops of adjacent buildings or at decks and terraces within the building itself. It is not expected that the building would significantly affect ground-level winds. Therefore, Staff believes that the building's extension beyond setback standards would not significantly increase winds on the public sidewalk. The request for a reduced rear yard setback between 21 and 75 feet above grade is consistent with the finding in 23E.68.090.F.

- G. Diagonal Greater than 120 Feet in Width at 120 Feet Above Ground:** The project requires a Use Permit under BMC Section 23E.68.070.C for the portion of the building above 120 feet in height that exceeds 120 feet in width (for floors 13 through 18). By code, the portion of a building over 120 feet in height must be less than 120 feet in width when measured at the widest point on the diagonal in plain view, unless approved with a Use Permit, subject to the Board making a finding noted in Section 23E.68.090.F of the Zoning Ordinance, which states that modified setbacks will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.

Staff Analysis: Staff has determined that the ZAB could find that the project would comply with Section 23E.68.090.F. Shadow modeling diagrams included in Appendix A of the Draft EIR for the project show that the new building would not unreasonably limit solar access. In addition, the Wind and Comfort Impact Analysis determined that the project would not substantially increase ground-level winds.

- H. Parking Waiver, Parking In-Lieu Fee:** In order to approve a Use Permit to allow a reduction of required vehicle parking spaces required by BMC Section 23E.68.080.D,

the ZAB must find that the applicant will pay an in-lieu fee to a fund established by the City that provides enhanced transit services.

Staff Analysis: The project would provide 103 parking spaces for residential use and zero parking spaces for commercial use. The 103 parking spaces for residential use exceed the required 91 spaces (based on a ratio of 1 parking space per 3 dwelling units pursuant to BMC Section 23.68.080.B). The project would not provide the required 15 commercial parking spaces (based The Zoning Ordinance allows payment of an in-lieu fee as an alternative to meeting parking demand on-site. The fee schedule adopted by the Council by resolution (66,178 – N.S) sets the fee at \$15,000 per space for spaces 1-5 waived or reduced and \$20,000 per space for spaces 6-15 waived or reduced. Payment of the fee for a reduction of 15 spaces is required as a Condition of Approval. The money would be deposited in the parking in-lieu fee fund created for this purpose and managed by the Transportation Planning Division, Public Works Department. The project meets the finding required in BMC 23E.68.090.H to waive the parking as the project would pay the required in-lieu fee for the shortfall in parking spaces, which would finance improved transit services.

- I. Rooftop Architecture, Height Modification:** BMC Section 23E.04.020.C requires an Administrative Use Permit for rooftop projections including mechanical penthouses, elevator equipment rooms and other architectural features which exceed a District's height limit. No such structure shall represent more than fifteen percent (15%) of the average floor area of all the building's floors; and no tower or similar structure shall be used as habitable space or for any commercial purposed, other than that which may accommodate the mechanical needs of the building.

Staff Analysis: The proposed elevator and stairwell enclosures would exceed the height limit of 180 feet by up to approximately 10 feet. In addition, solar hot water panels would be installed on top of the elevator enclosure and a stairwell enclosure. These panels would not substantially exceed the height of enclosures. The elevator extension and stairwell enclosures are necessary to serve maintenance of the building. The solar hot water panels would reduce the building's energy demand and assist in attainment of LEED Gold certification. An Administrative Use Permit may allow the height of these projections if their enclosed area is less than 15% of the average floor area of the building. Enclosed rooftop structures exceeding the height limit would total 1,236 square feet, which is approximately 9% of the average floor area. The AUP to approve the rooftop projections is, therefore, permissible.

- J. Views:** The City received a number of public comments on the Draft EIR expressing concerns about the project's effect on scenic views of the Bay and the Golden Gate from the historic Campanile Way. The certified Final EIR included detailed topical responses to these comments. In summary, the project would partially block views of the Bay, Alcatraz Island, and the Golden Gate Bridge from various points at the base of the Campanile and along Campanile Way. Although the view would not be completely blocked from any viewpoint, obstruction would range from zero to approximately 75 percent of the view depending on the viewpoint location. Obstruction

of views would be greatest from the upper portion of Campanile Way to the steps of the Campanile tower.

The westward view that would be altered is a character-defining feature of a historic resource (Campanile Way) that has been identified as a contributing element to the historic cultural landscape of the Classical Core of the UC Berkeley campus. Although the project would partially obstruct this view, it would not materially impair Campanile Way or the Classical Core of the UC Berkeley campus itself. Therefore, the obstruction of views would not significantly degrade the historic cultural landscape.

DAP Policy UD-31 – Views states that construction “should avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island...” As the project would partially obstruct scenic views toward the bay from Campanile Way, it would be inconsistent with this policy to some extent. Nevertheless, as discussed above, staff believes that the required findings for approval for the project can still be made.

## VI. Recommendation

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

- A. ADOPT CEQA associated findings, statement of overriding considerations and the mitigation monitoring and reporting program (see Attachment 1, Exhibit A & B); and
- B. APPROVE Use Permit ZP2016-0117, pursuant to BMC Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
  - Exhibit A: Findings of Fact Regarding Environmental Impacts, Mitigation Measures, Alternatives and Overriding Considerations
  - Exhibit B: Mitigation Monitoring and Reporting Program
2. Project Plans, dated October 25, 2018
3. Notice of Public Hearing
4. Community Benefits Proposal, dated August 13, 2018, with associated Feasibility Analysis Memorandum prepared by EPS, dated August 10, 2018
5. Peer Review of Community Benefits Proposal, prepared by Strategic Economics, dated August 28, 2018
6. Design Review Committee Recommendation, dated April 19, 2018
7. Correspondence Received

**Staff Planner:** Leslie Mendez, Senior Planner, [lmendez@CityofBerkeley.info](mailto:lmendez@CityofBerkeley.info), (510) 981-7426



Administrative Record  
ZAB Appeal:  
2190 Shattuck Ave

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,  
1231 ADDISON STREET**

**ZAB APPEAL: USE PERMIT #ZP 2016-0117, 2190 SHATTUCK AVENUE**

Notice is hereby given by the City Council of the City of Berkeley that on **THURSDAY JANUARY 31, 2019 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Use Permit #2016-0117, to redevelop a 19,967 square-foot (0.46-acre) site at the northwest corner of Shattuck Avenue and Allston Way with a proposed 18-story building with 274 residential units above approximately 10,000 square feet of ground floor retail space.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 24, 2019**

For further information, please contact Leslie Mendez, Project Planner at (510) 981-7426. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed: January 17, 2019

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will*

*be available at the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.*



# Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

## **City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

## **Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF