

TRACHTENBERG ARCHITECTS

2421 Fourth Street  
Berkeley, California 94710  
510.649.1414  
www.TrachtenbergArch.com



**1201  
SAN PABLO  
MIXED-USE**

Berkeley, CA 94706

- 03.11.2021 SB-330 PRE-APPLICATION
- 04.29.2021 ZONING APPLICATION
- 07.13.2021 ZONING COMPLETENESS
- 08.30.2021 ZONING COMPLETENESS

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JOB: 1928

SHEET:  
**DENSITY BONUS  
DIAGRAMS**

**A0.3**

**DENSITY BONUS TABLE**

Base Project	Base	Base # Units	% VLI units	# VLI Units	# VLI Bonus Units	Bonus %	# DB Units	# DB Bonus Units	Maximum DB Project
sq. ft. - see calc. below	base project area / avg. unit size	Base Units/Max. Residential Density (rounds up)	VLI = Very Low Income <50% AMI	% VLI x Base # Units			% Bonus x Base # Units	% Bonus x Base # Units (rounded up)	% Bonus x Base # Units (rounded up)
32,865	49.46	50	10%	5.00	5.00	32.5%	16,250	17	67

Base Project Res. Area	Floor	Proposed Project Res. Area	%VLI	%DB
	Sixth	6,303	5%	20.00%
	Fifth	7,526	6%	22.50%
10,190	Fourth	9,244	7%	25.00%
10,190	Third	9,244	8%	27.50%
10,190	Second	9,244	9%	30.00%
2,295	Ground	2,295	10%	32.50%
<b>Total</b>		<b>43,856</b>		<b>35.00%</b>

Base Project # of Units	Floor	Proposed Project # of Units
	Sixth	9
	Fifth	12
16	Fourth	15
17	Third	15
17	Second	15
	Ground	
<b>Total</b>		<b>66</b>

**BASE PROJECT ZONING COMPLIANCE CHECKS**

**Base Project - FAR**

	Res. Area	Commercial	Total GFA
GFA	32,865	1,720	34,585
Site Area			13,000
FAR			2.660

**Base Project - Open Space**

	Units	Ratio	Total Area
Base Units	50	40	2000
Total Provided Open Space			2447
Podium Open Space			1692
Roof Deck			755

**Base Project - Parking**

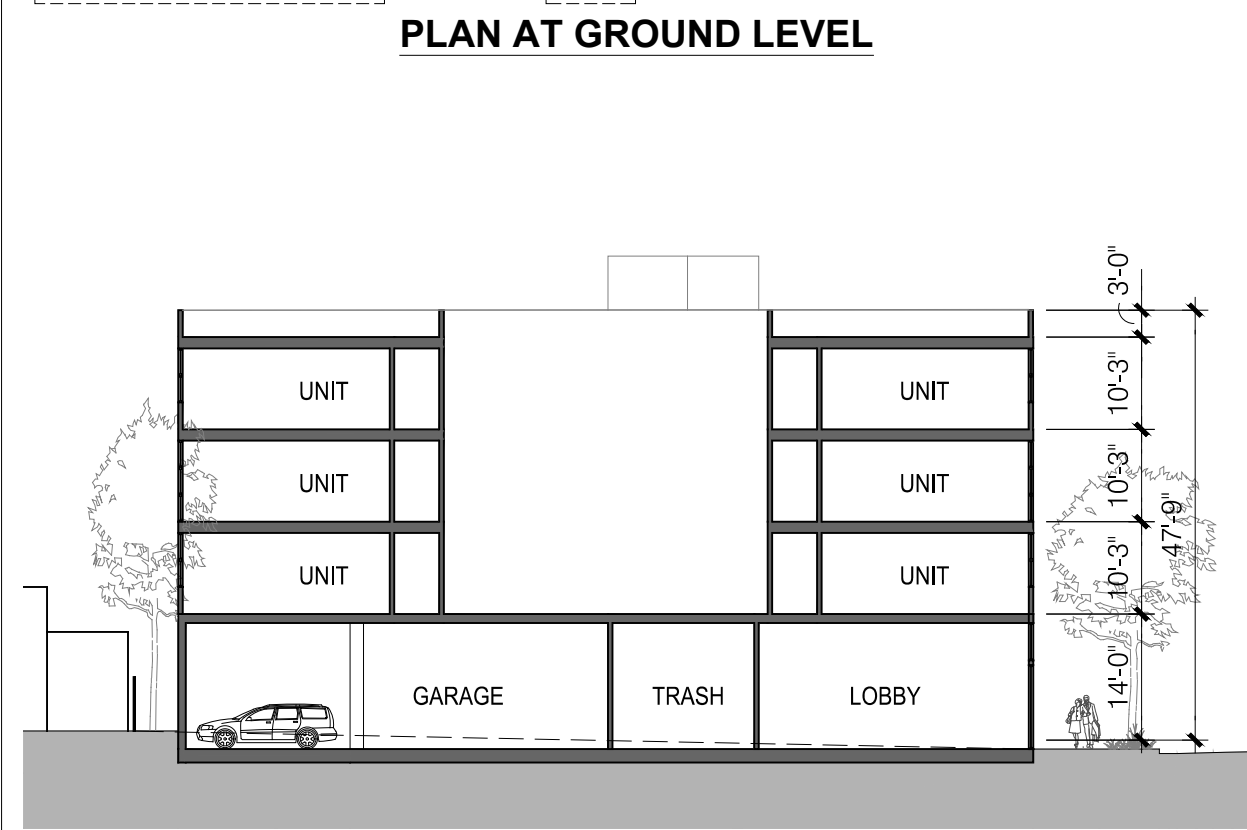
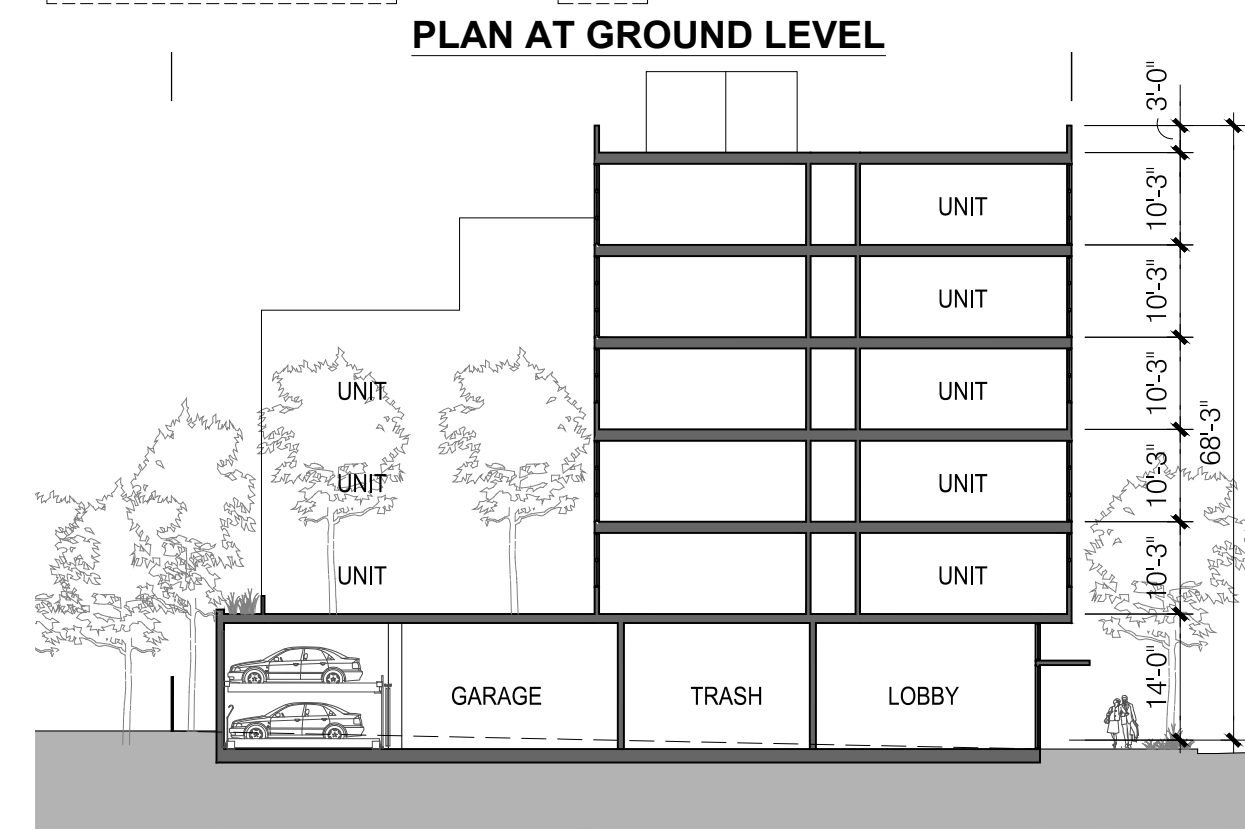
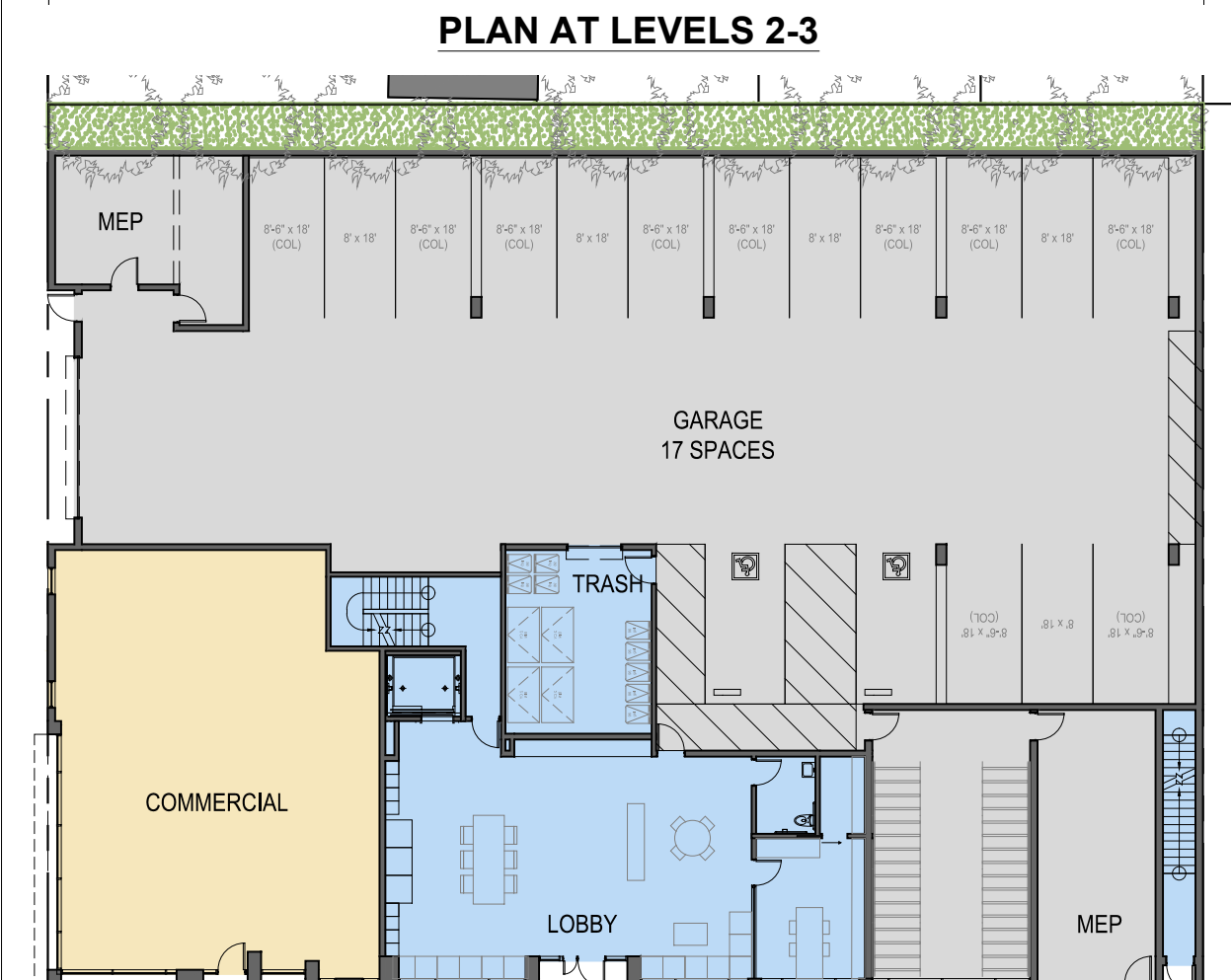
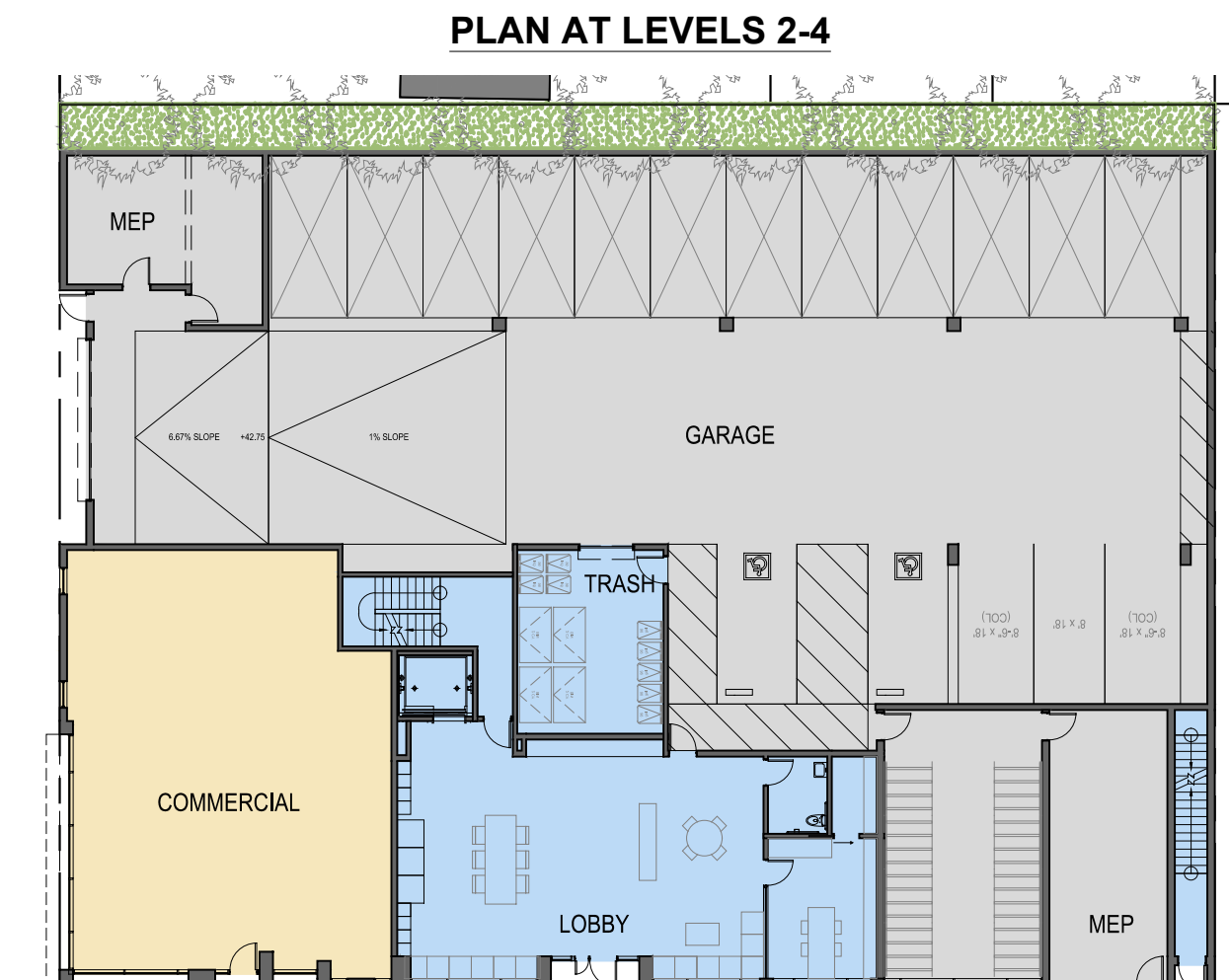
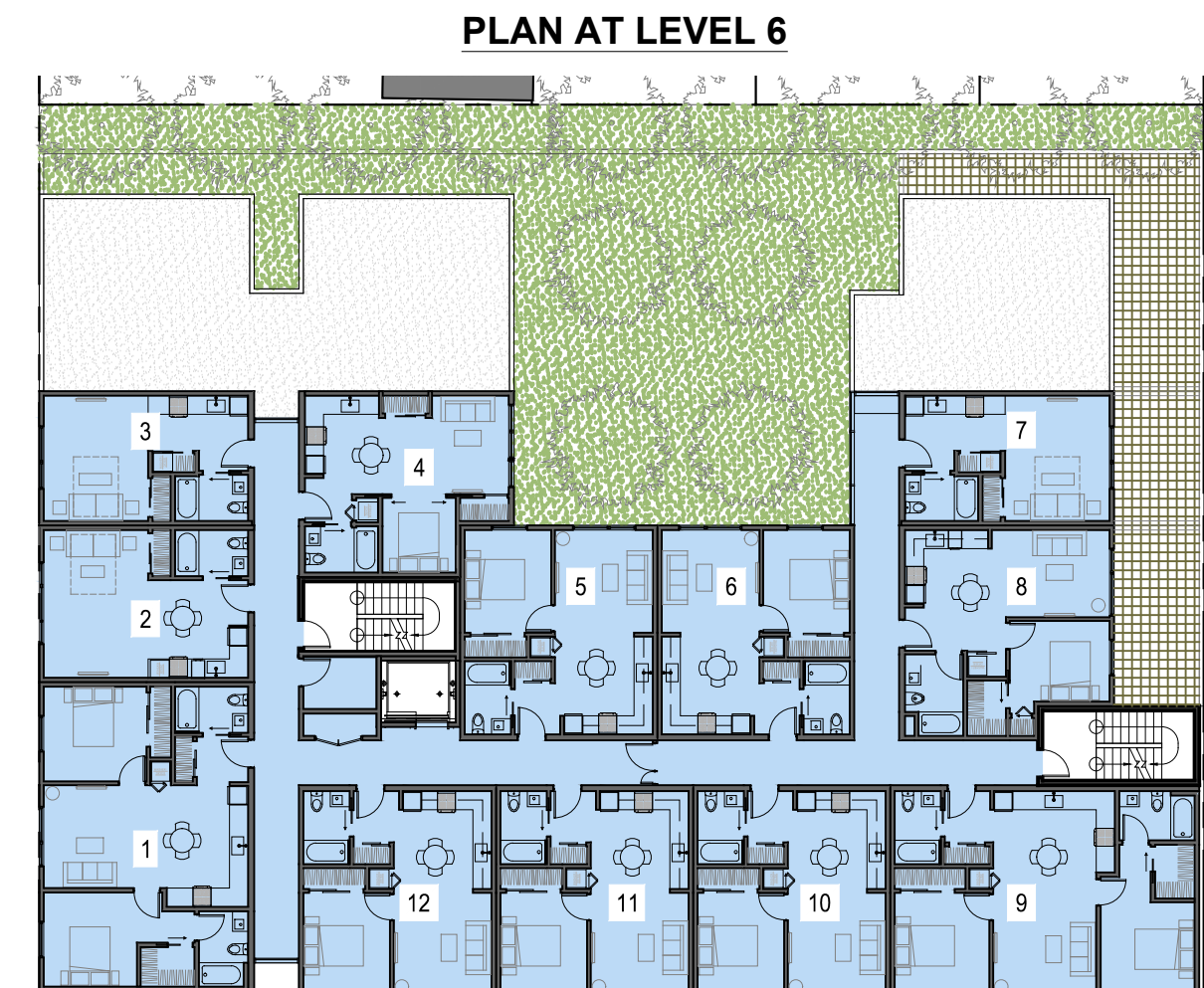
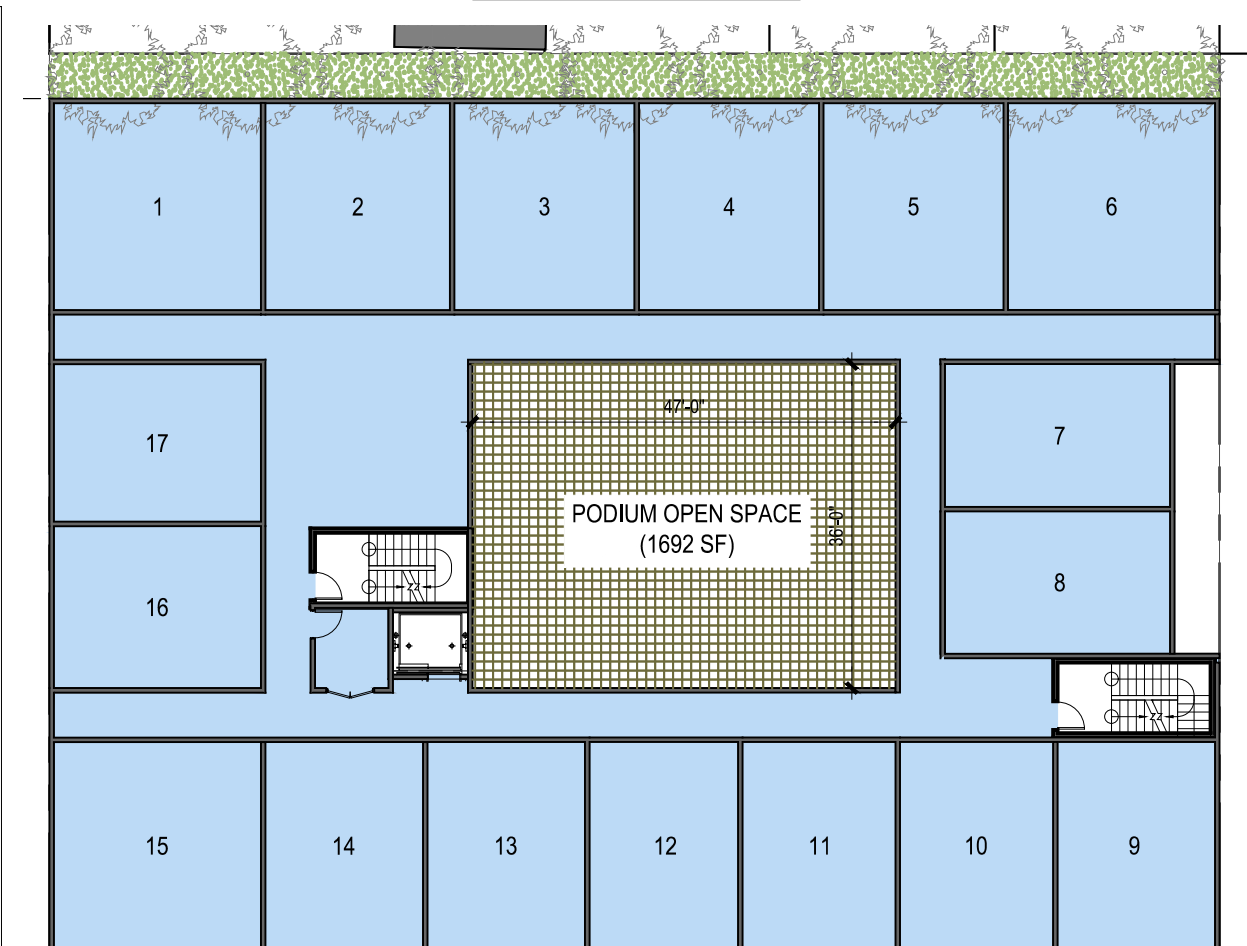
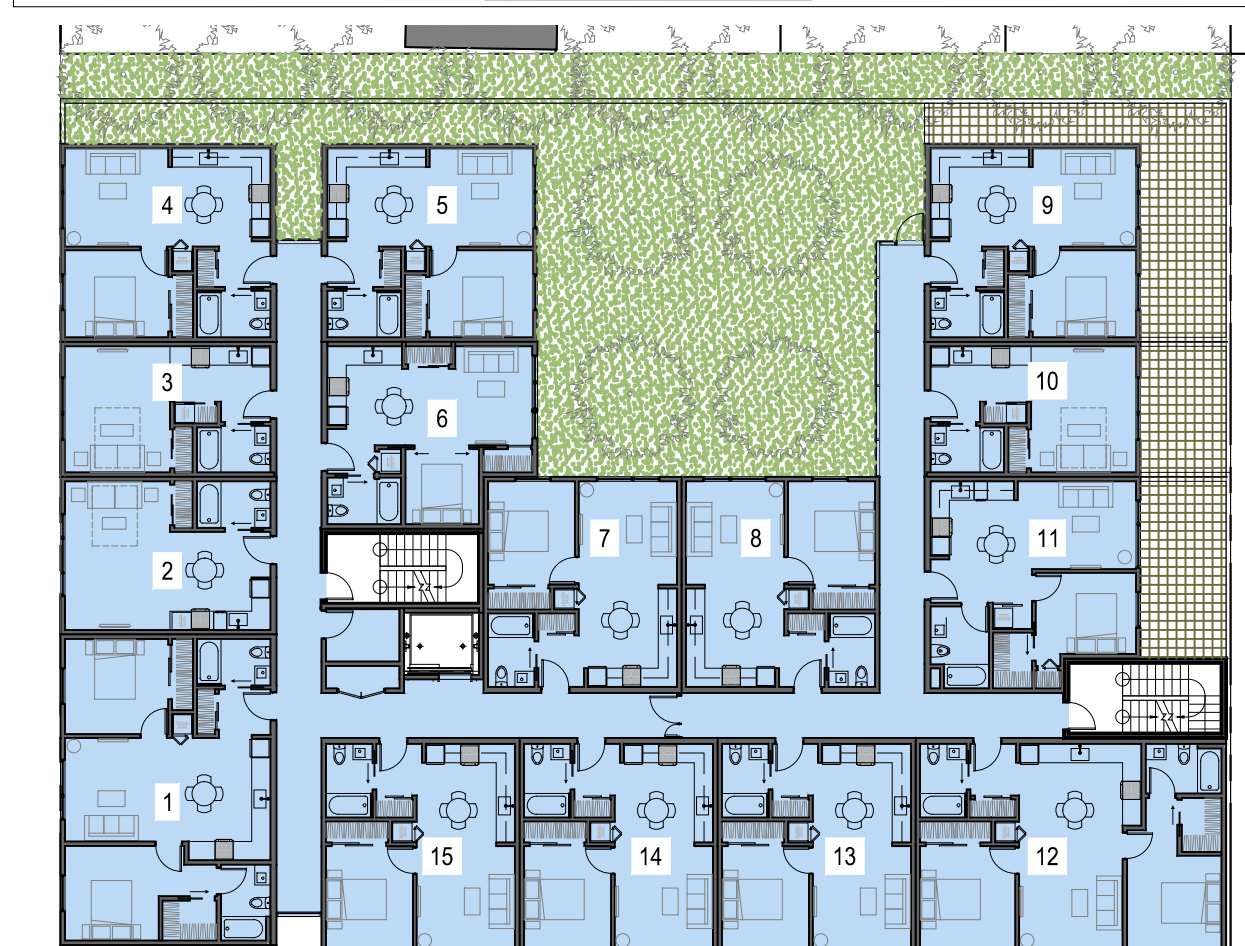
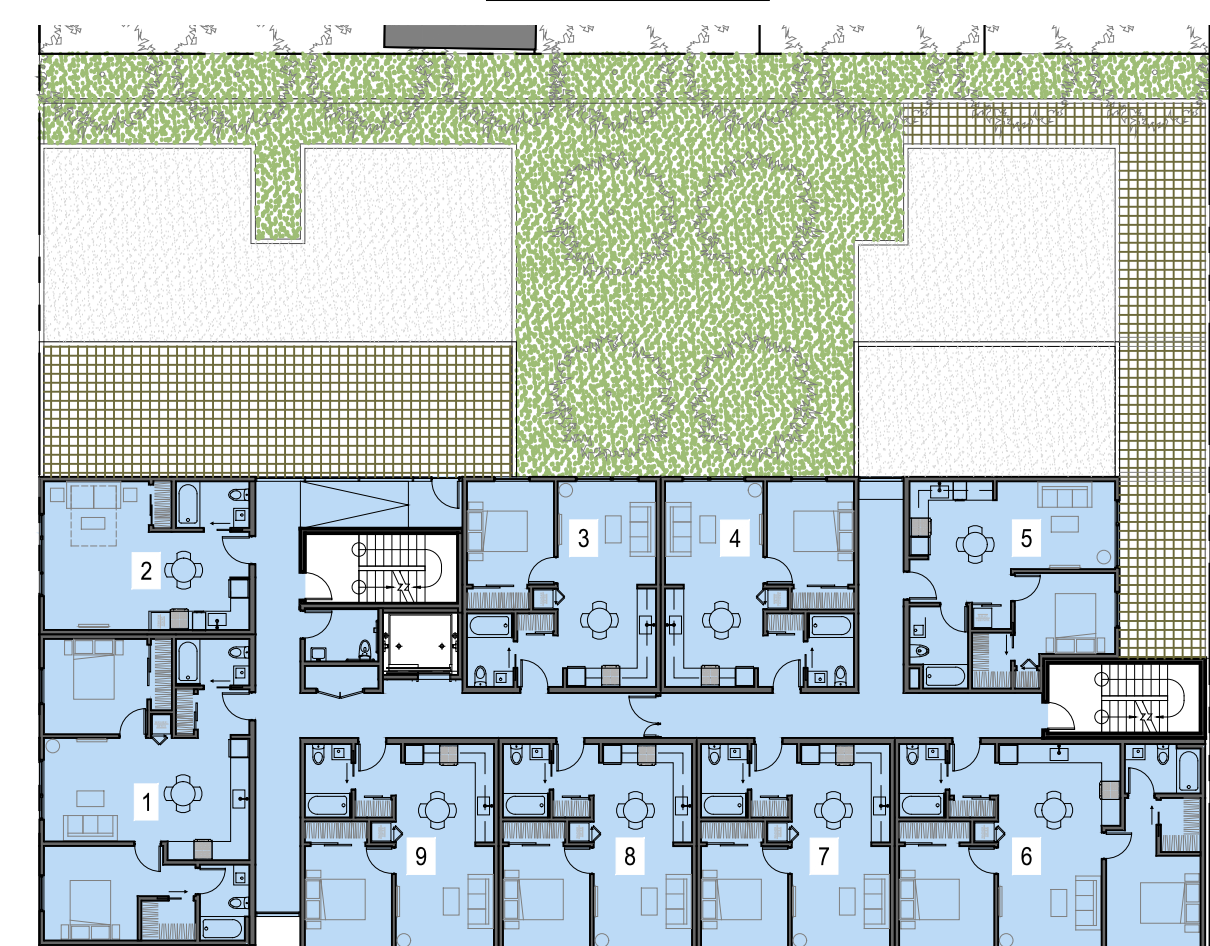
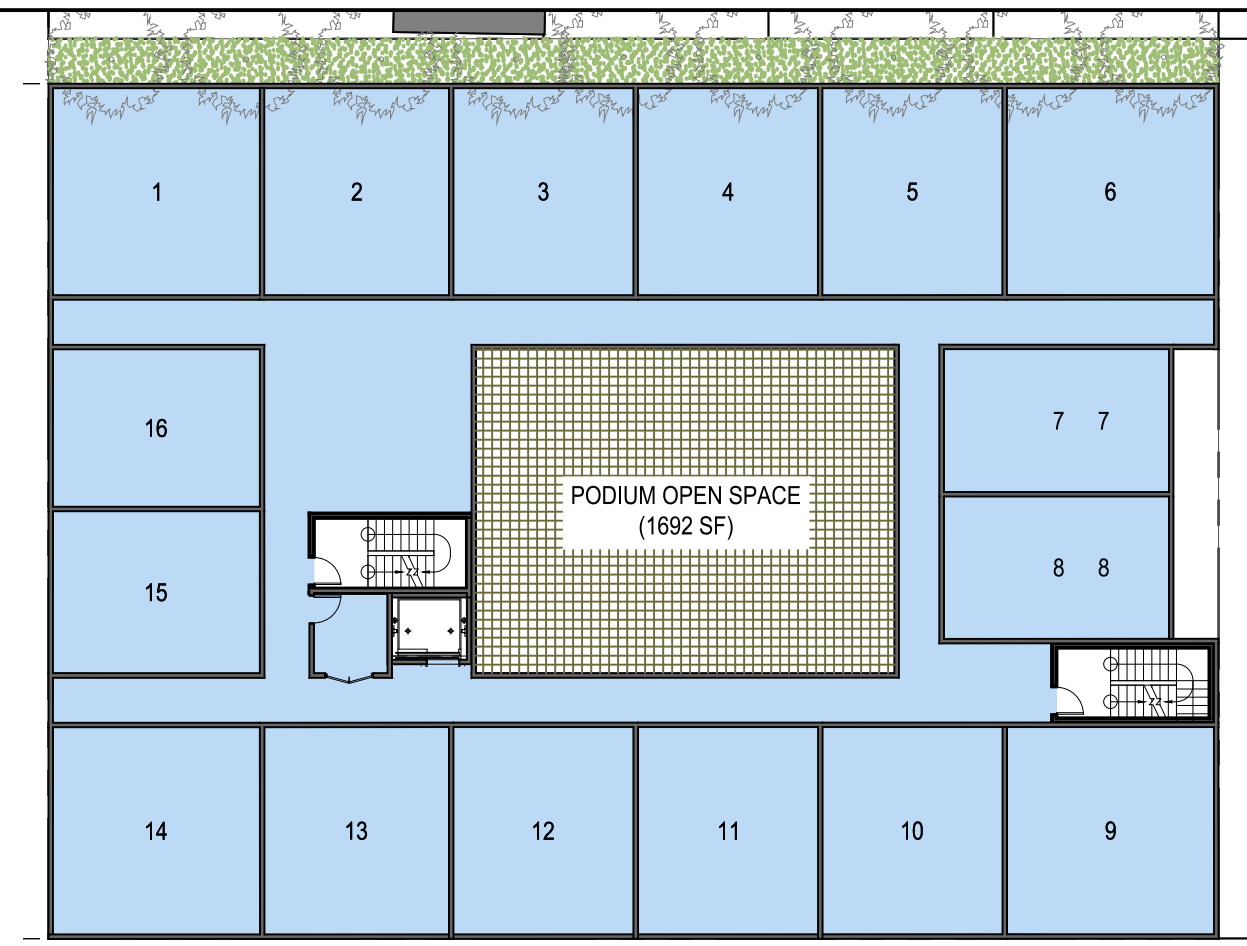
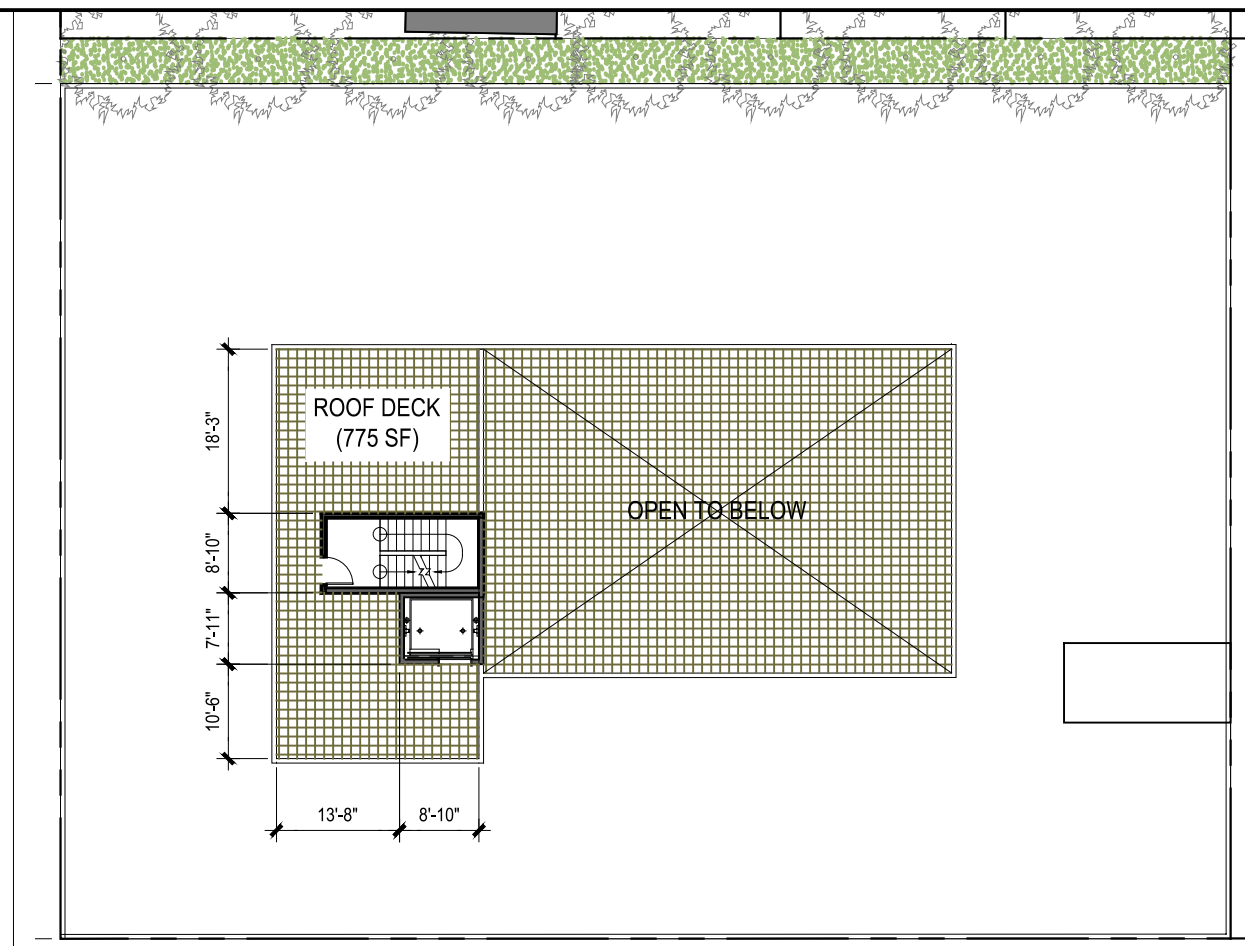
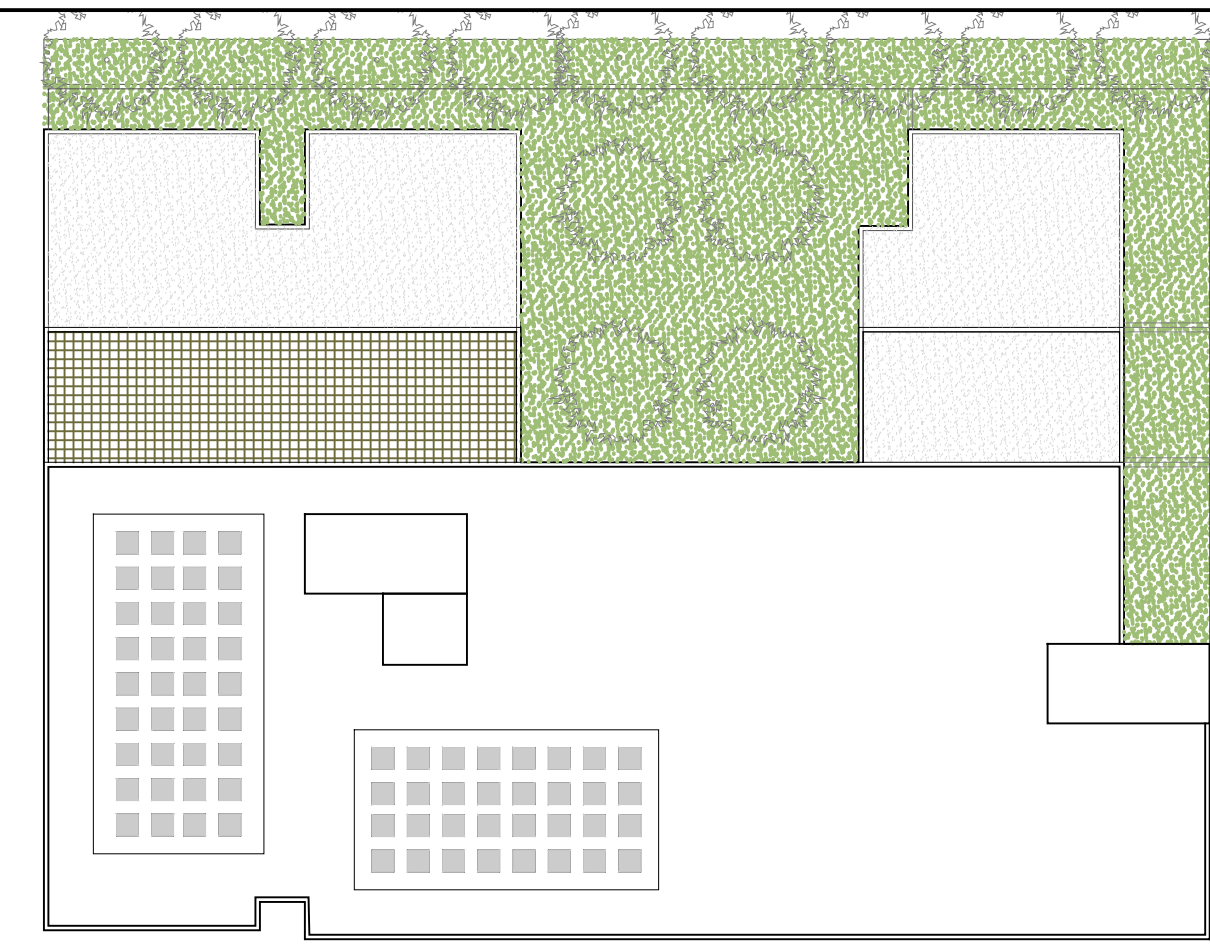
	Units/SF	Bedrooms	Ratio	Total Req.	Provided
Residential				0	13
Commercial	1,720	N/A	2/1000 SF	4	4

**Base Project - Bicycle Parking**

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
New Comm.	1,720		1/2000	2	2
Res. (Long)		58	0.33	19	64
Res (Short)		58	0.025	1	6

**Base Project - Stormwater**

	Roof Area	%	Required	Provided
Base Units	13361	4%	534	534



**PROPOSED DENSITY BONUS PROJECT**  
SCALE: 3/64" = 1'-0" @ 24 X 36

**BASE PROJECT**  
SCALE: 3/64" = 1'-0" @ 24 X 36

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JOB: 1928

SHEET:

SHADOW STUDIES  
DECEMBER 21ST

**A0.4A**



**4 SHADOW STUDY AXONOMETRIC - DEC 21: 2-HRS AFTER SUNRISE**  
NTS



**2 SHADOW STUDY - DECEMBER 21: 2 HRS AFTER SUNRISE**  
1:100 @ 11X17 1:50 @ 24X36



**3 SHADOW STUDY - DECEMBER 21: NOON**  
1:100 @ 11X17 1:50 @ 24X36



**1 SHADOW STUDY - DECEMBER 21: 2-HRS BEFORE SUNSET**  
1:100 @ 11X17 1:50 @ 24X36



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# 1201 SAN PABLO MIXED-USE

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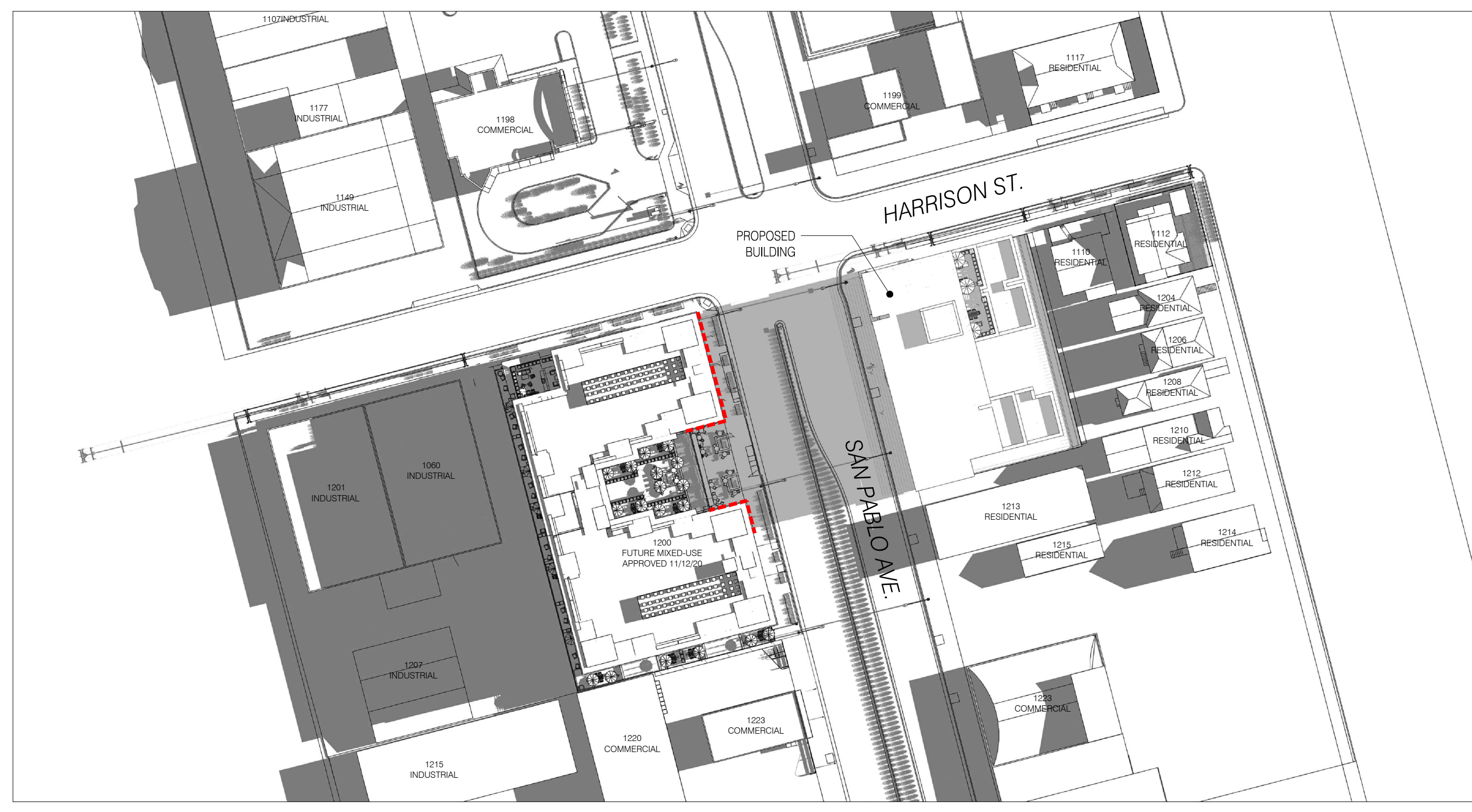
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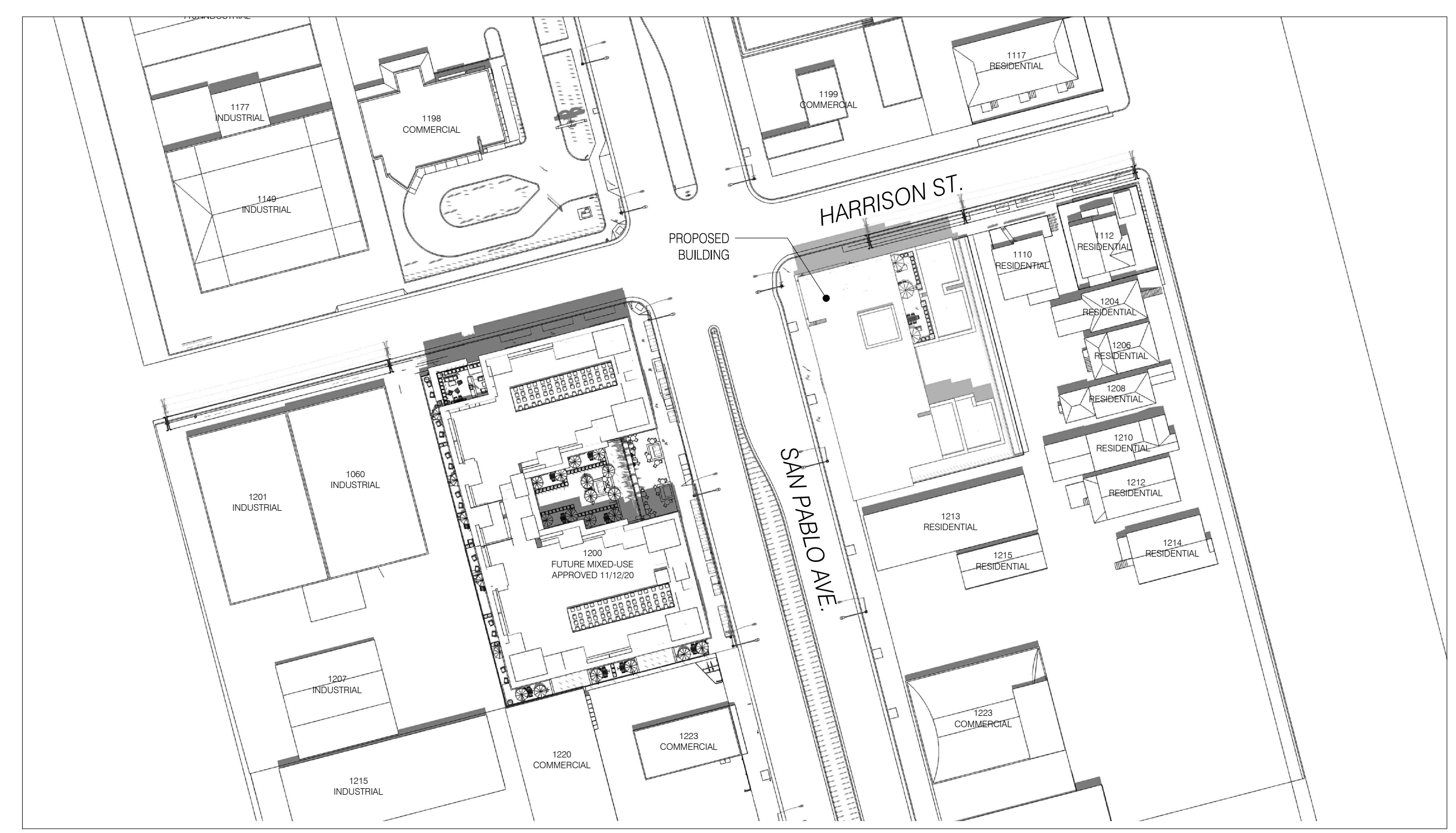
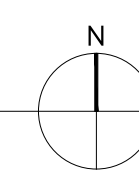
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JUNE 21ST

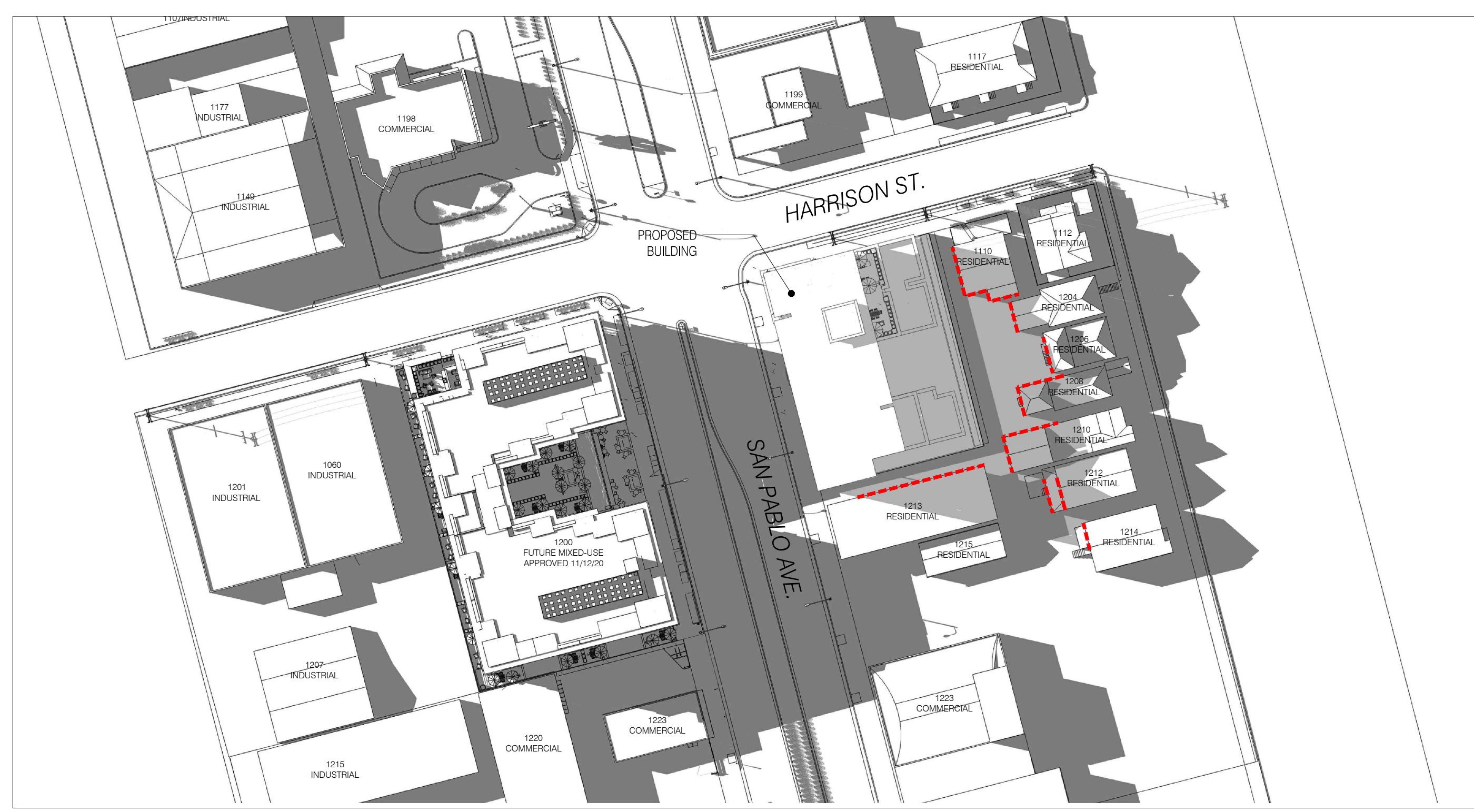
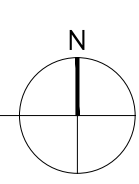
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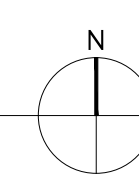
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JUNE 21ST

**A0.4C**



**2 SHADOW STUDY AXONOMETRIC - JUN 21: 2-HRS BEFORE SUNSET**  
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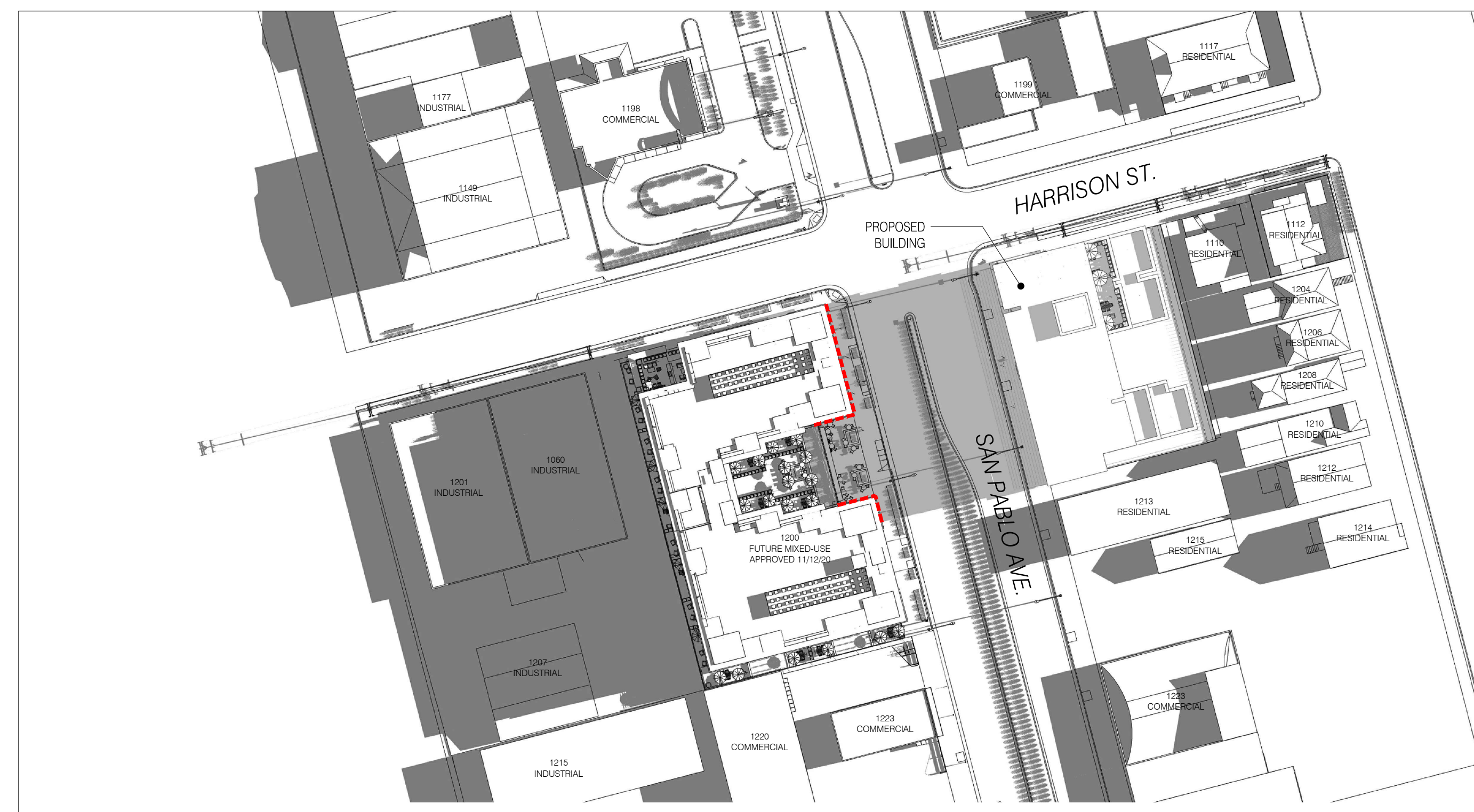
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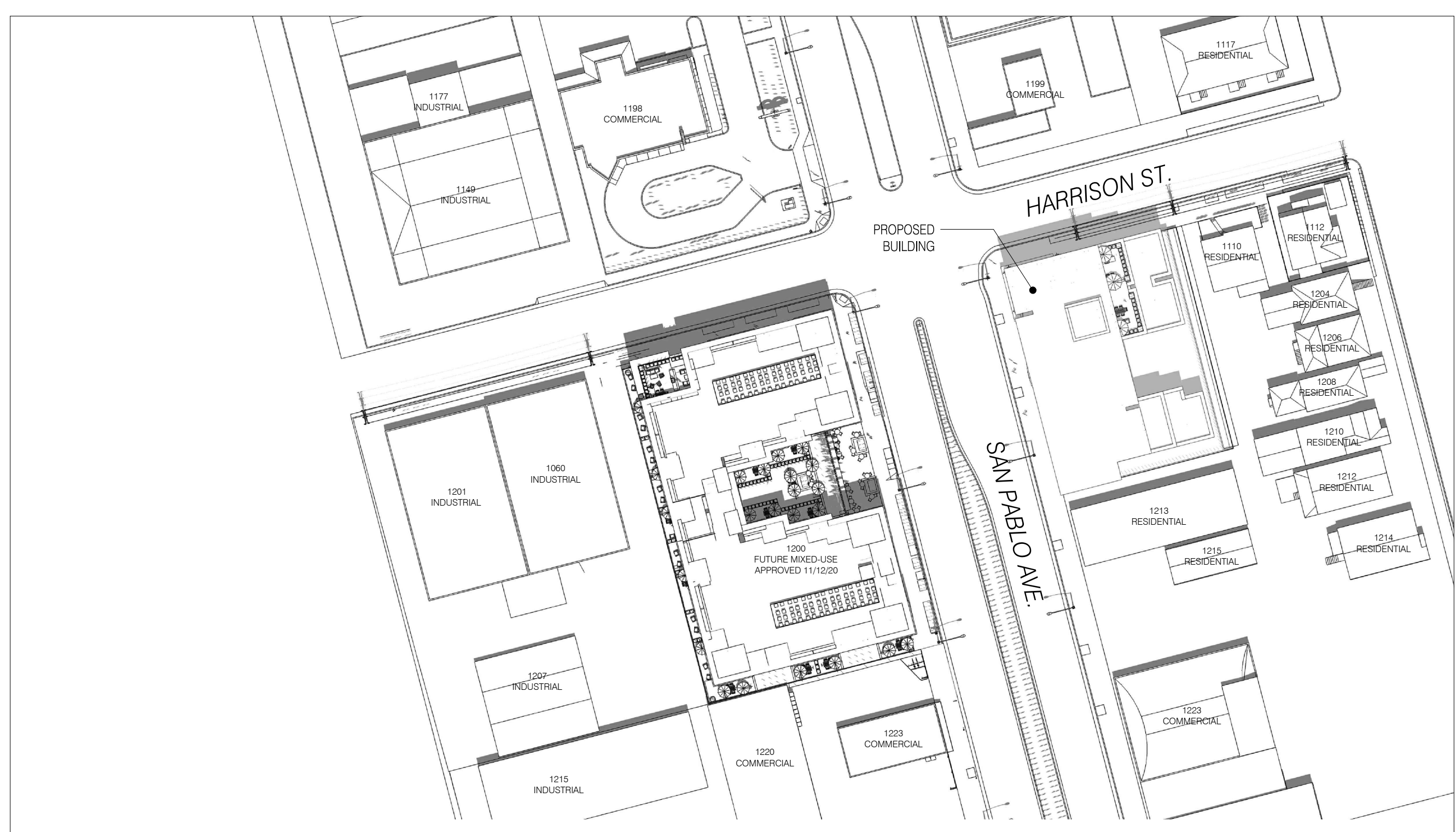
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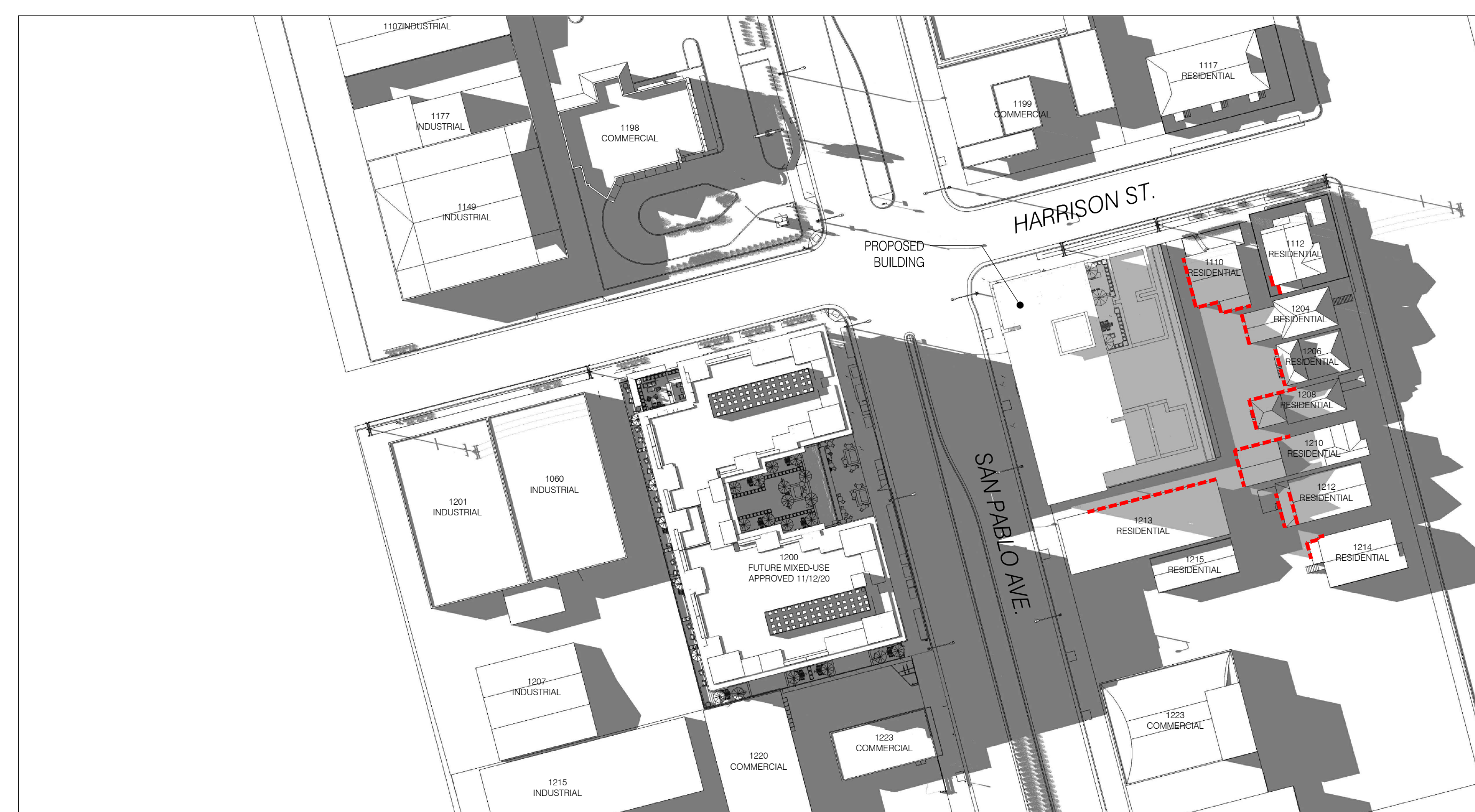


**2 SHADOW STUDY - JULY 2: 2 HRS AFTER SUNRISE**  
1:100 @ 11X17 1:50 @ 24X36

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**SHADOW STUDIES  
JULY 2ND**

**A0.4D**

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**SHADOW STUDIES  
JULY 2ND**

**A0.4E**



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SHEET:

SITE CONTEXT  
PHOTOS

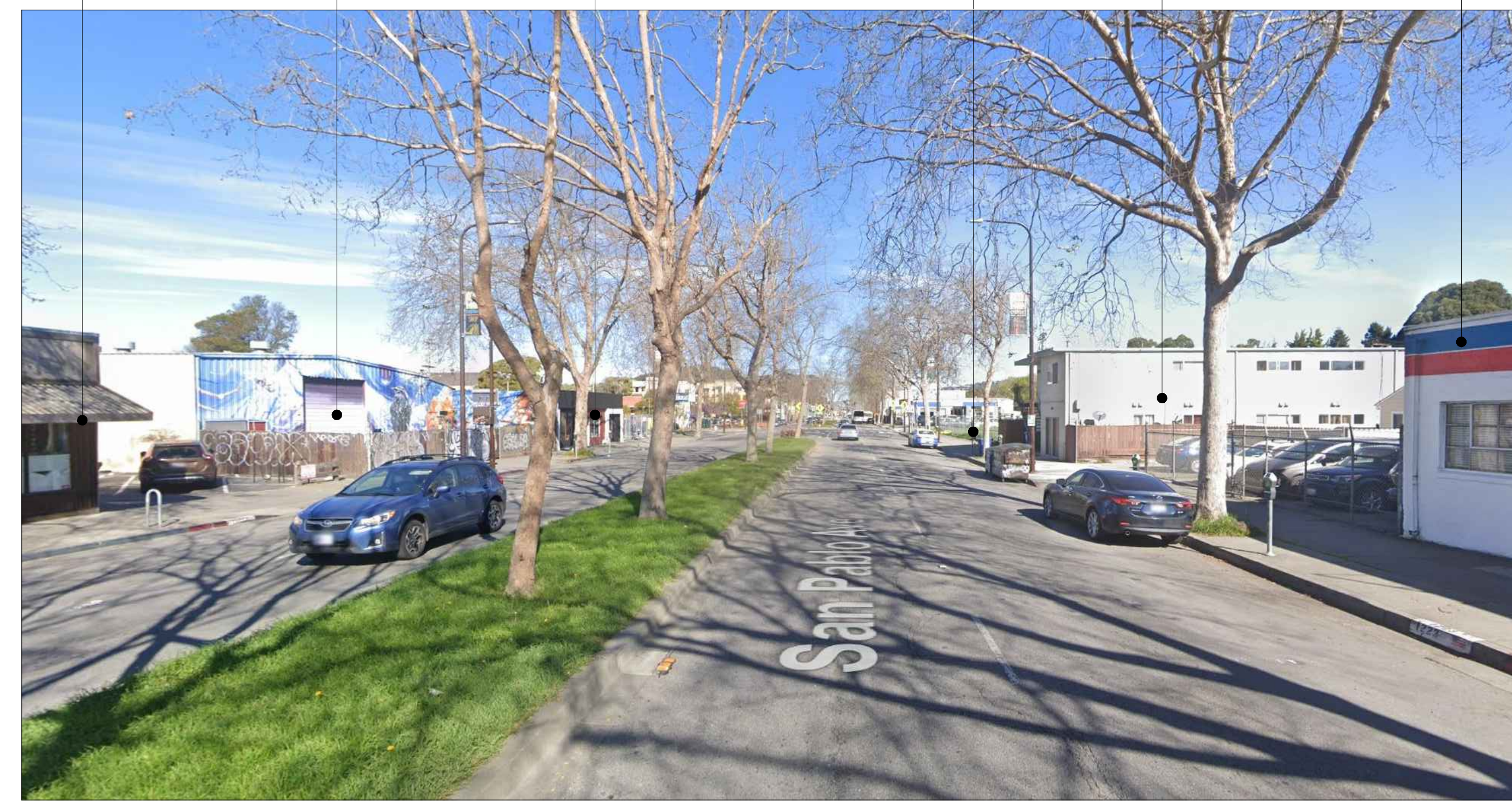
**A0.5**

1197 SAN PABLO (GILMAN AUTO)      1110 HARRISON SINGLE FAMILY RESIDENCE      PROJECT SITE 1201 SAN PABLO      1213 SAN PABLO (2-STORY MULTIFAMILY)      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)



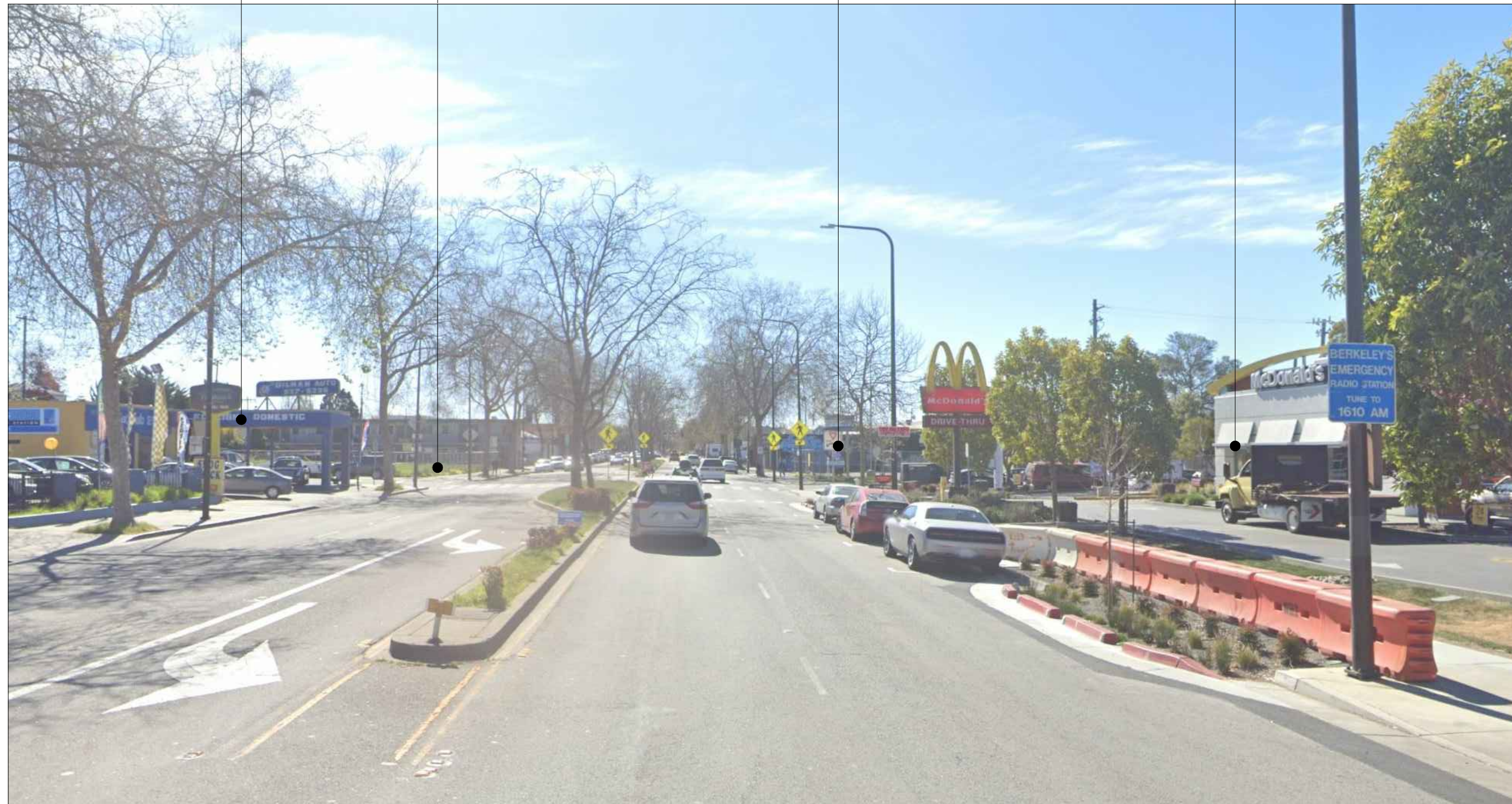
4 - VIEW FROM HARRISON LOOKING EAST

1220 SAN PABLO (TOKYO FISH MARKET)      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)      PROJECT SITE 1201 SAN PABLO      1213 SAN PABLO (2-STORY MULTIFAMILY)      1223 SAN PABLO (101 AUTOBODY)



2 - VIEW FROM SAN PABLO LOOKING NORTH

1197 SAN PABLO (GILMAN AUTO)      PROJECT SITE 1201 SAN PABLO      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)      1198 SAN PABLO (MCDONALD'S)



3 - VIEW FROM SAN PABLO LOOKING SOUTH

PROJECT SITE 1201 SAN PABLO



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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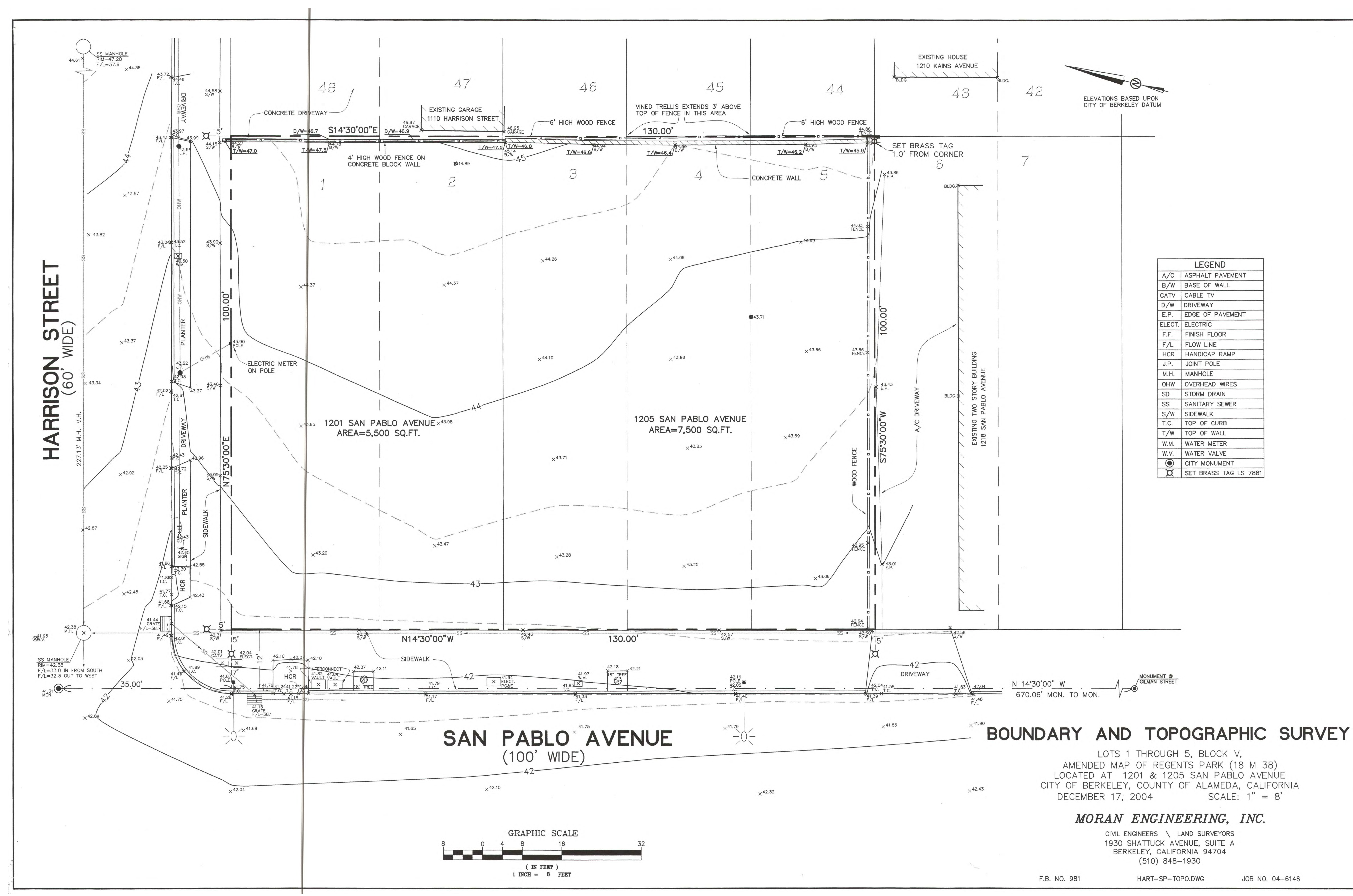
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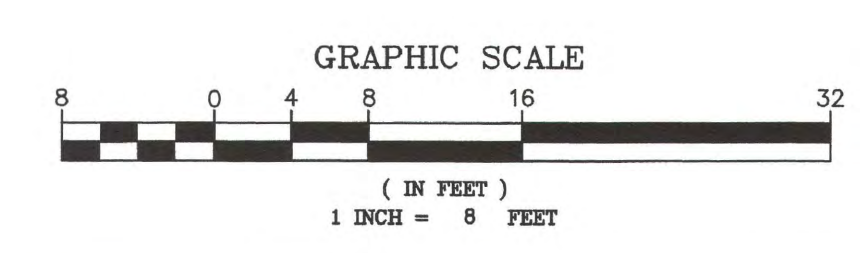
SHEET:

SURVEY

**A1.0**



LEGEND	
A/C	ASPHALT PAVEMENT
B/W	BASE OF WALL
CATV	CABLE TV
D/W	DRIVEWAY
E.P.	EDGE OF PAVEMENT
ELECT.	ELECTRIC
F.F.	FINISH FLOOR
F/L	FLOW LINE
HCR	HANDICAP RAMP
J.P.	JOINT POLE
M.H.	MANHOLE
OHW	OVERHEAD WIRES
SD	STORM DRAIN
SS	SANITARY SEWER
S/W	SIDEWALK
T.C.	TOP OF CURB
T/W	TOP OF WALL
W.M.	WATER METER
W.V.	WATER VALVE
⊙	CITY MONUMENT
⊗	SET BRASS TAG LS 7881



**BOUNDARY AND TOPOGRAPHIC SURVEY**  
 LOTS 1 THROUGH 5, BLOCK V,  
 AMENDED MAP OF REGENTS PARK (18 M 38)  
 LOCATED AT 1201 & 1205 SAN PABLO AVENUE  
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA  
 DECEMBER 17, 2004 SCALE: 1" = 8'

**MORAN ENGINEERING, INC.**  
 CIVIL ENGINEERS \ LAND SURVEYORS  
 1930 SHATTUCK AVENUE, SUITE A  
 BERKELEY, CALIFORNIA 94704  
 (510) 848-1930

F.B. NO. 981 HART-SP-TOPO.DWG JOB NO. 04-6146

1 SURVEY  
 1" = 20' @ 11X17 1" = 10' @ 24X36



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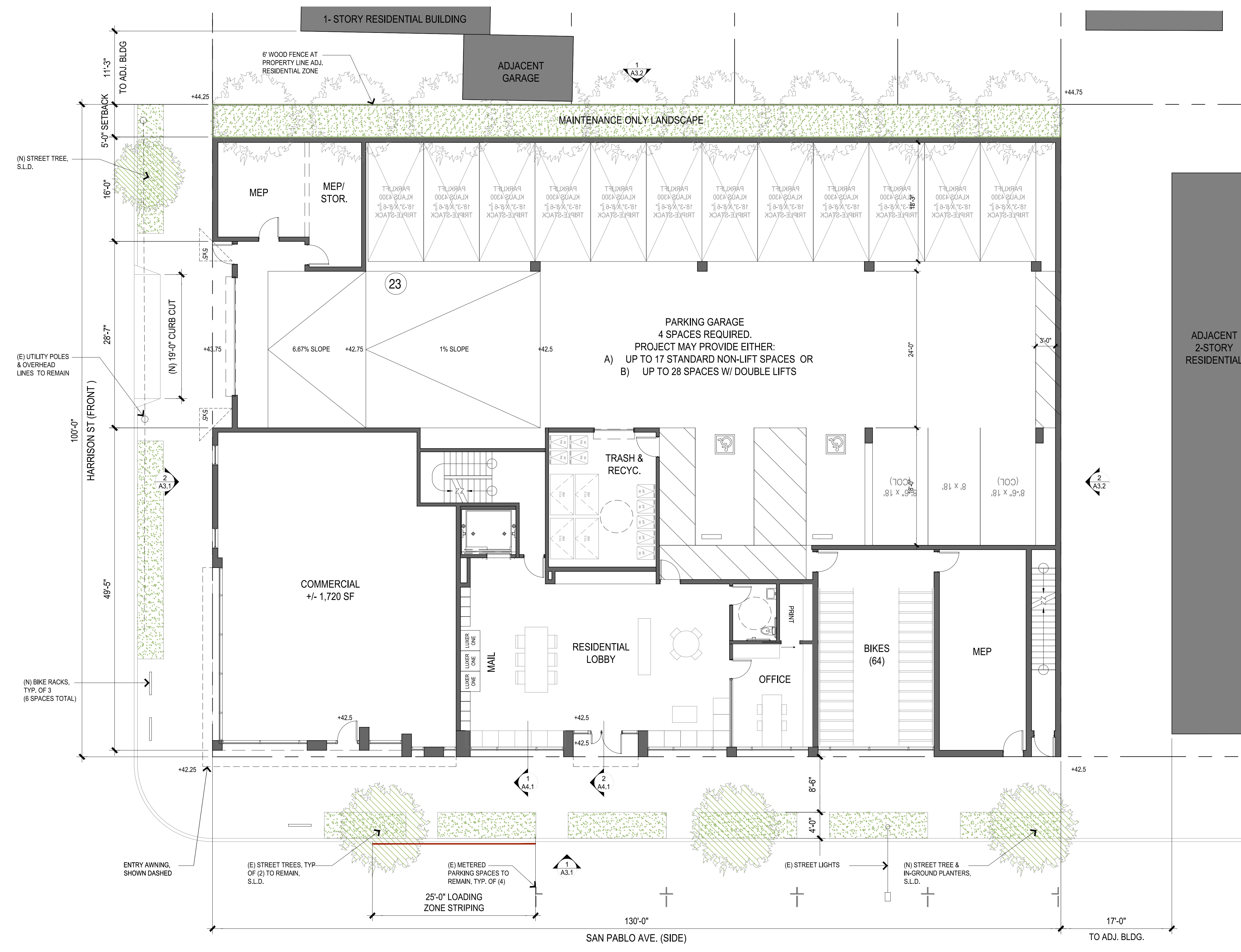
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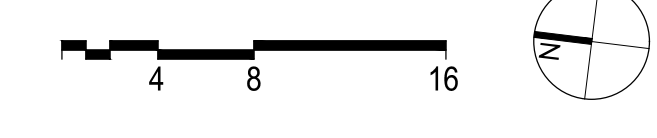
SHEET:

**PLAN AT  
GROUND LEVEL/  
SITE PLAN**

**A2.1**



**1** SITE PLAN / GROUND LEVEL PLAN  
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36





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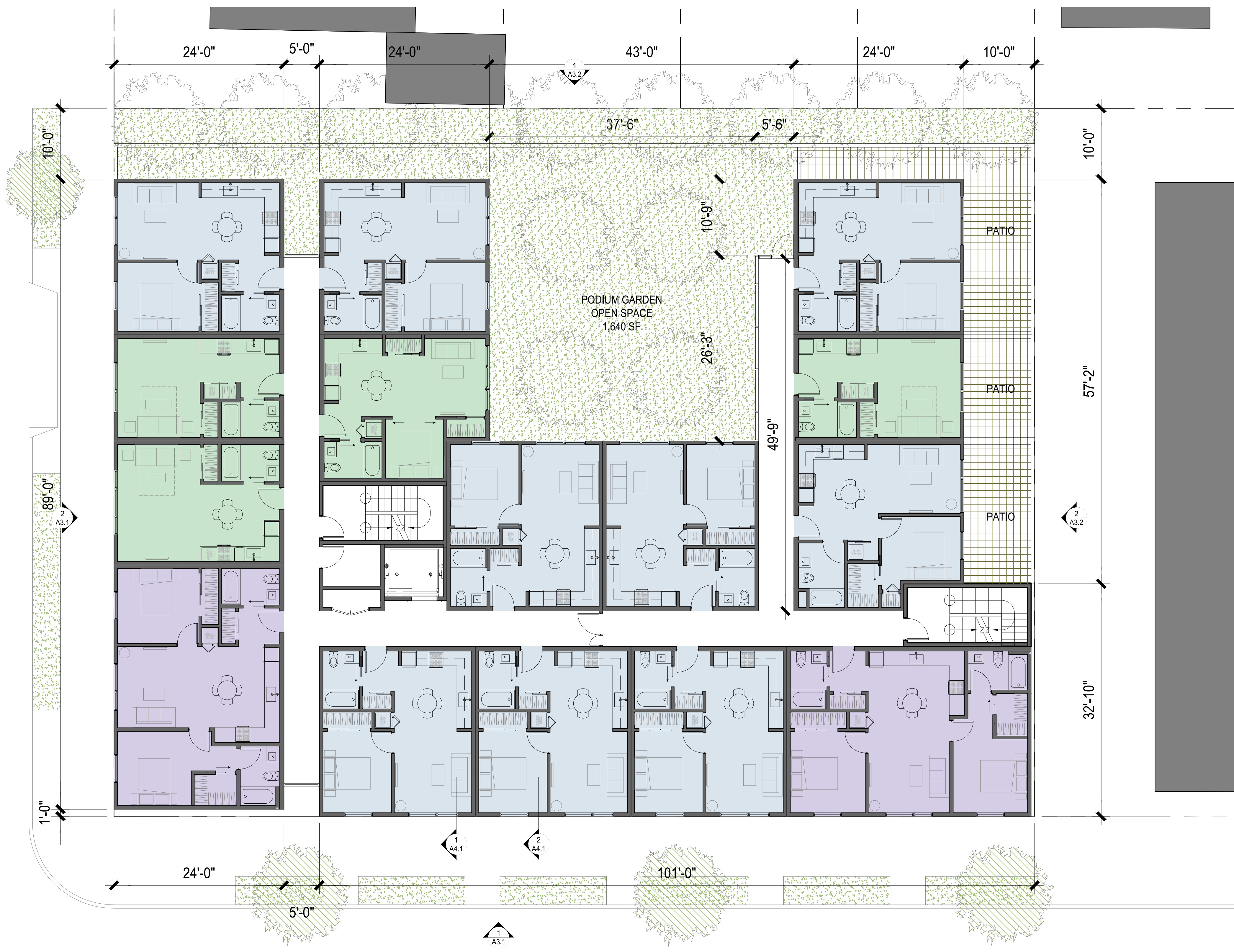
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SHEET:

PLAN AT  
LEVELS 2 - 4

**A2.2**



**1**  
PLAN AT LEVELS 2 - 4  
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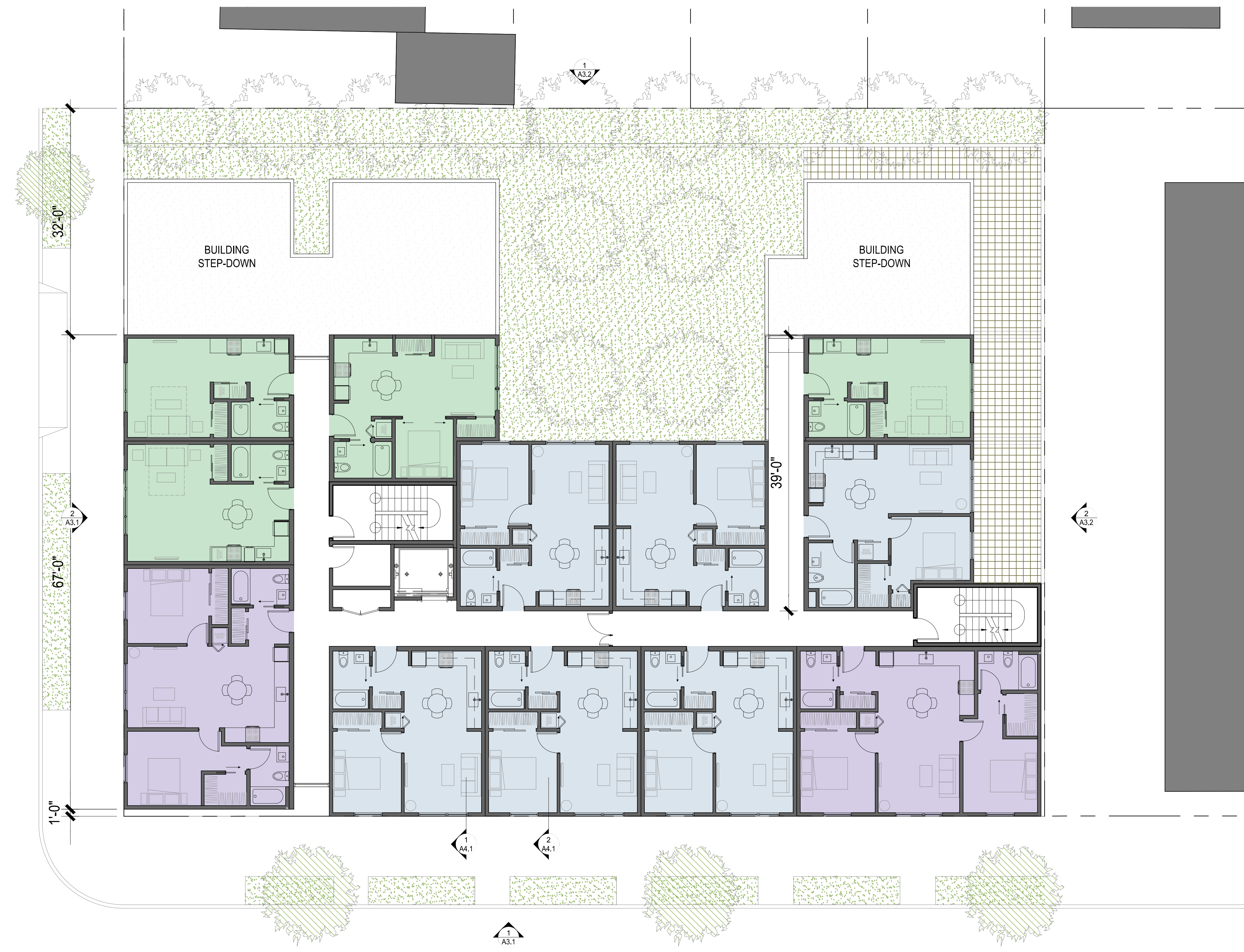
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SHEET:

PLAN AT  
LEVEL 5

**A2.3**



**1**  
PLAN AT LEVEL 5  
1/16" = 1'-0" @ 11X17    1/8" = 1'-0" @ 24X36



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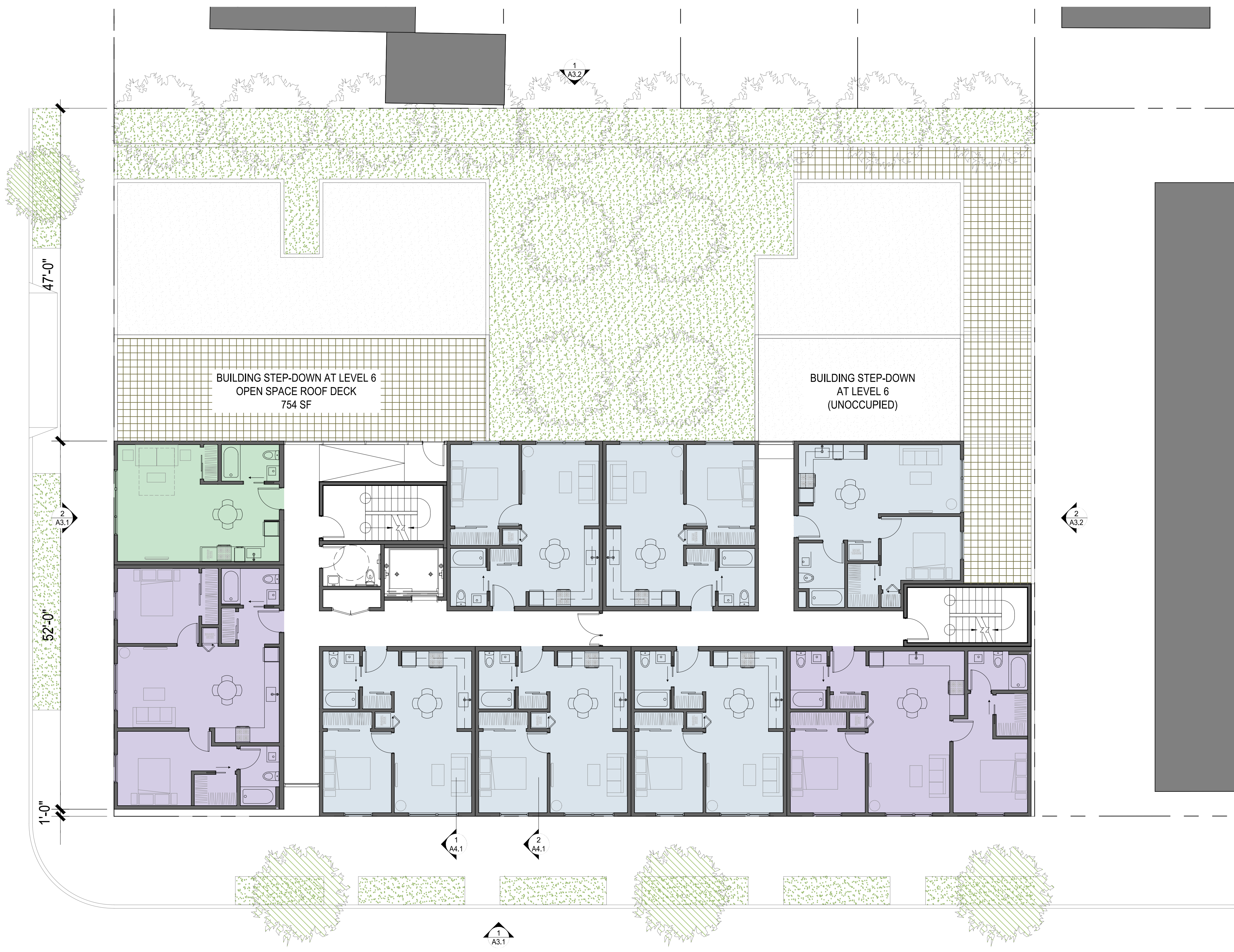
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PLAN AT  
LEVEL 6

**A2.4**



**1**  
PLAN AT LEVEL 6  
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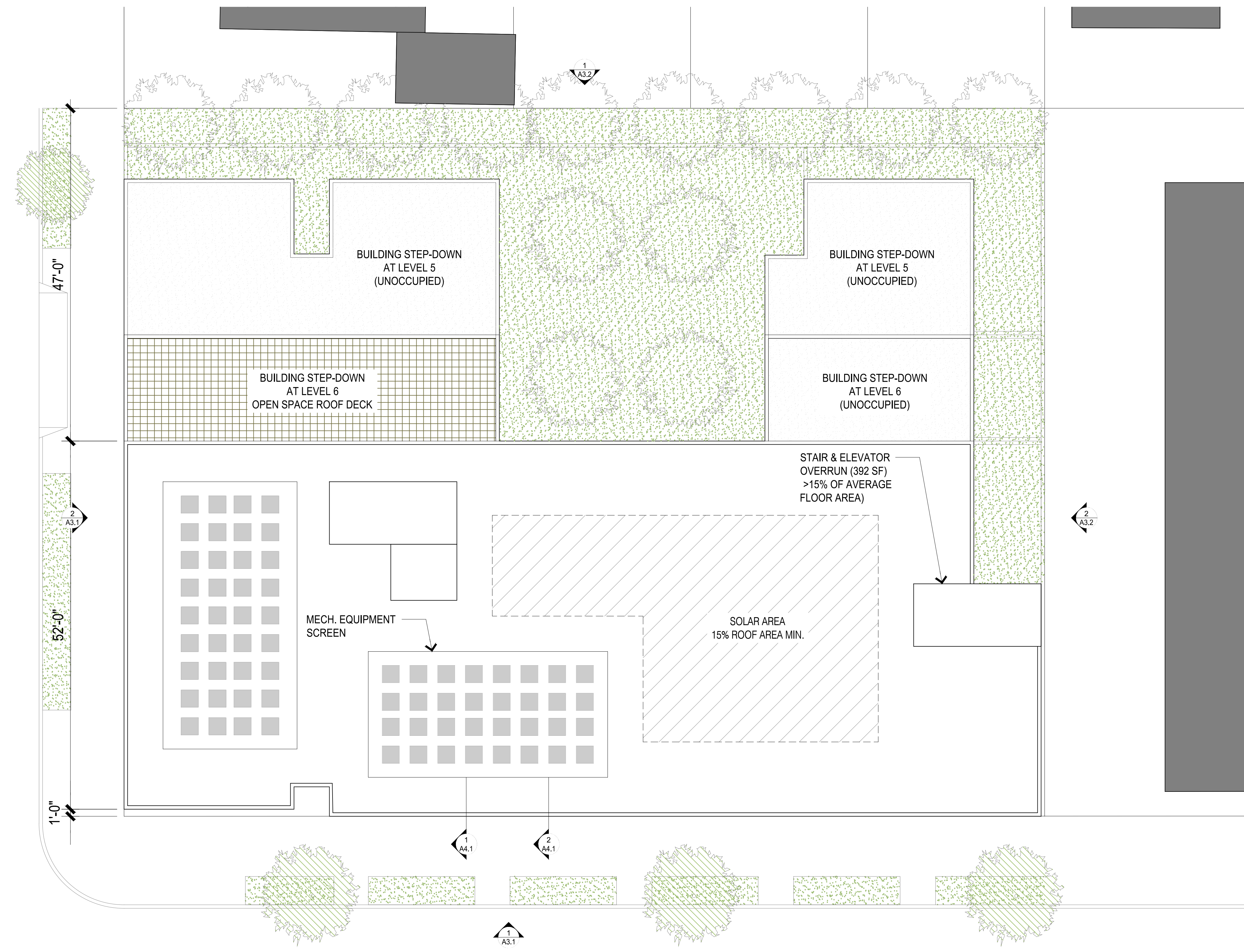
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JOB: 1928

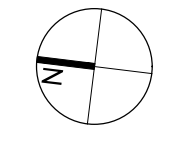
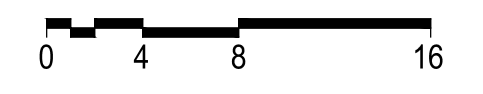
SHEET:

PLAN AT  
ROOF

**A2.5**



**1** PLAN AT ROOF  
1/16" = 1'-0" @ 11X17    1/8" = 1'-0" @ 24X36





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JOB: 1928

SHEET:  
**BUILDING  
ELEVATIONS**

**A3.1**



CORTEN STEEL PANELS

STEEL EAVE, PTD.

METAL PANEL, PTD.

INTEGRAL COLOR STUCCO WITH HARD TROWEL FINISH

ALUMINUM WINDOW

METAL INFILL PANEL

T.O. PARAPET

ROOF

6TH FLOOR

5TH FLOOR

4TH FLOOR

3RD FLOOR

2ND FLOOR

HARRISON ST

AVG GROUND FLOOR

COMMERCIAL

LOBBY

MEP EGRESS

ALUMINUM STOREFRONT GLAZING

CAST IN PLACE CONCRETE

**1 WEST ELEVATION**  
3/32"=1'-0" @ 11X17    3/16" = 1'-0" @ 24X36    0    4    8    16



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JOB: 1928

SHEET:  
**BUILDING  
ELEVATIONS**

**A3.2**



STEEL EAVE, PTD.  
CORTEN STEEL PANELS  
ALUMINUM WINDOW  
METAL INFILL PANEL

T.O. PARAPET  
ROOF  
3'-0"  
6TH FLOOR  
10'-3"  
5TH FLOOR  
10'-3"  
4TH FLOOR  
10'-3"  
3RD FLOOR  
10'-3"  
2ND FLOOR  
10'-3"  
AVG GROUND FLOOR  
14'-0"  
68'-3"

WOOD FENCE  
CAST IN PLACE CONCRETE  
GARAGE  
ALUMINUM STOREFRONT GLAZING

**1**  
NORTH ELEVATION  
3/32" = 1'-0" @ 11X17    3/16" = 1'-0" @ 24X36  
0 4 8 16



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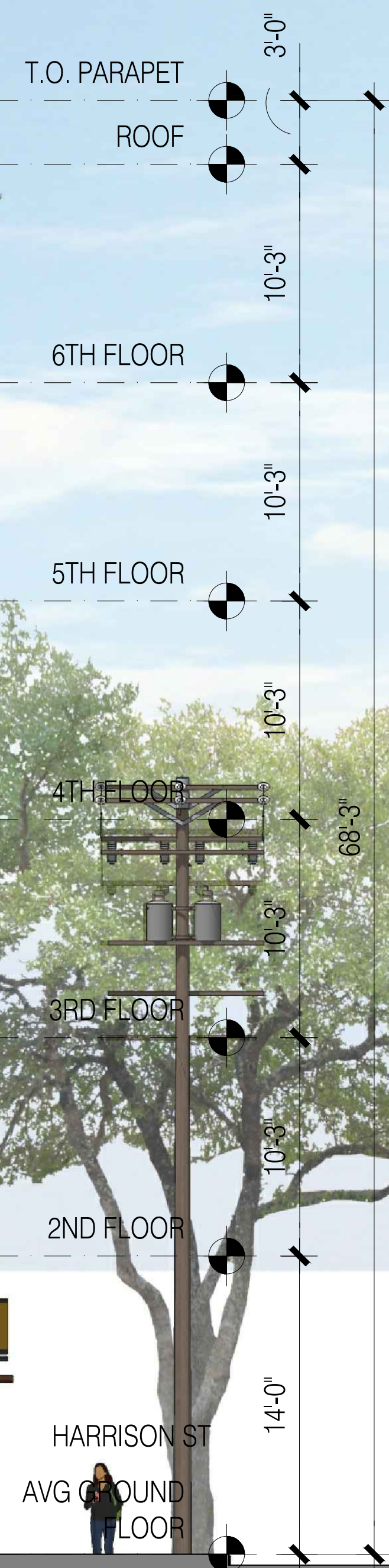
JOB: 1928

SHEET:  
**BUILDING  
ELEVATIONS**

**A3.3**



WOOD FENCE



**EAST ELEVATION**  
3/32" = 1'-0" @ 11X17    3/16" = 1'-0" @ 24X36  
0 4 8 16





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JOB: 1928

SHEET:

BUILDING  
ELEVATIONS

**A3.4**



STEEL EAVE, PTD.  
METAL INFILL PANEL  
CORTEN STEEL PANELS  
INTEGRAL COLOR STUCCO WITH HARD TROWEL FINISH  
ALUMINUM WINDOW

T.O. PARAPET  
ROOF  
6TH FLOOR  
5TH FLOOR  
4TH FLOOR  
3RD FLOOR  
2ND FLOOR  
HARRISON ST  
AVG. GROUND FLOOR

3'-0"  
10'-3"  
10'-3"  
10'-3"  
10'-3"  
10'-3"  
10'-3"  
10'-3"  
14'-0"  
68'-3"

CAST IN PLACE CONCRETE

**1** SOUTH ELEVATION  
3/32" = 1'-0" @ 11X17    3/16" = 1'-0" @ 24X36  
0 4 8 16



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JOB: 1928

SHEET:  
**STREET STRIP  
ELEVATIONS**

**A3.5**



**2** STREET STRIP ELEVATION @ HARRISON ST.  
1/32" = 1'-0" @ 11X17 1/16" = 1'-0" @ 24X36 0 4 8 16 32



**1** STREET STRIP ELEVATION @ SAN PABLO AVE.  
1/32" = 1'-0" @ 11X17 1/16" = 1'-0" @ 24X36 0 4 8 16 32

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JOB: 1928

SHEET:

PERSPECTIVE  
VIEWS

**A3.6**



1  
-  
VIEW ALONG SAN PABLO - LOOKING SOUTH

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JOB: 1928

SHEET:

PERSPECTIVE  
VIEWS

## A3.7



1  
-  
VIEW ALONG SAN PABLO - LOOKING NORTH



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JOB: 1928

SHEET:

PERSPECTIVE  
VIEWS

## A3.8



1  
-  
VIEW ALONG HARRISON - LOOKING EAST

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JOB: 1928

SHEET:

PERSPECTIVE  
VIEWS

## A3.9



1  
-  
VIEW ALONG HARRISON - LOOKING WEST

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JOB: 1928

SHEET:

PHOTO MATCH  
PERSPECTIVES

**A3.10**



4 HARRISON LOOKING EAST - AFTER



2 SAN PABLO LOOKING SOUTH - AFTER



3 HARRISON LOOKING EAST - BEFORE



1 SAN PABLO LOOKING SOUTH - BEFORE

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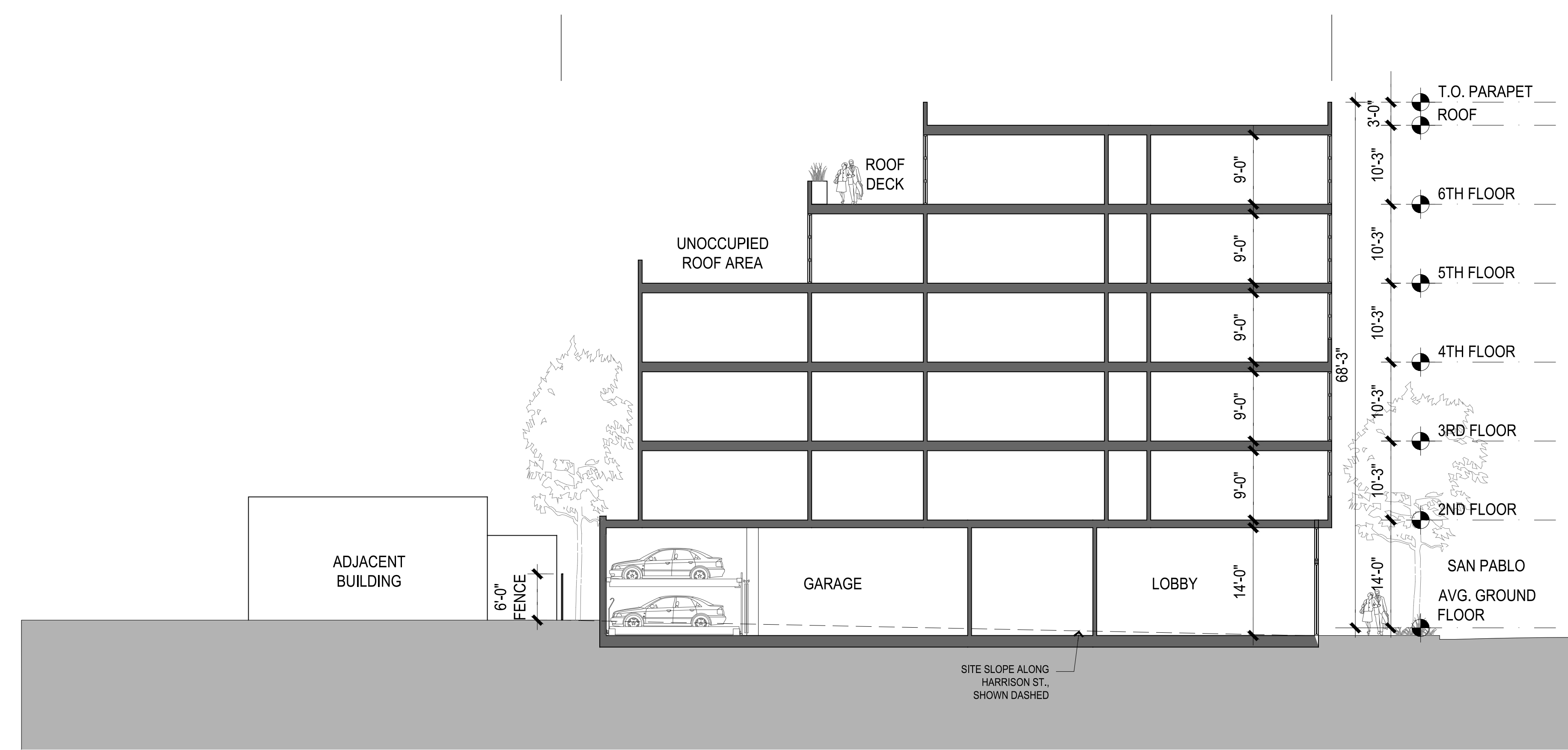
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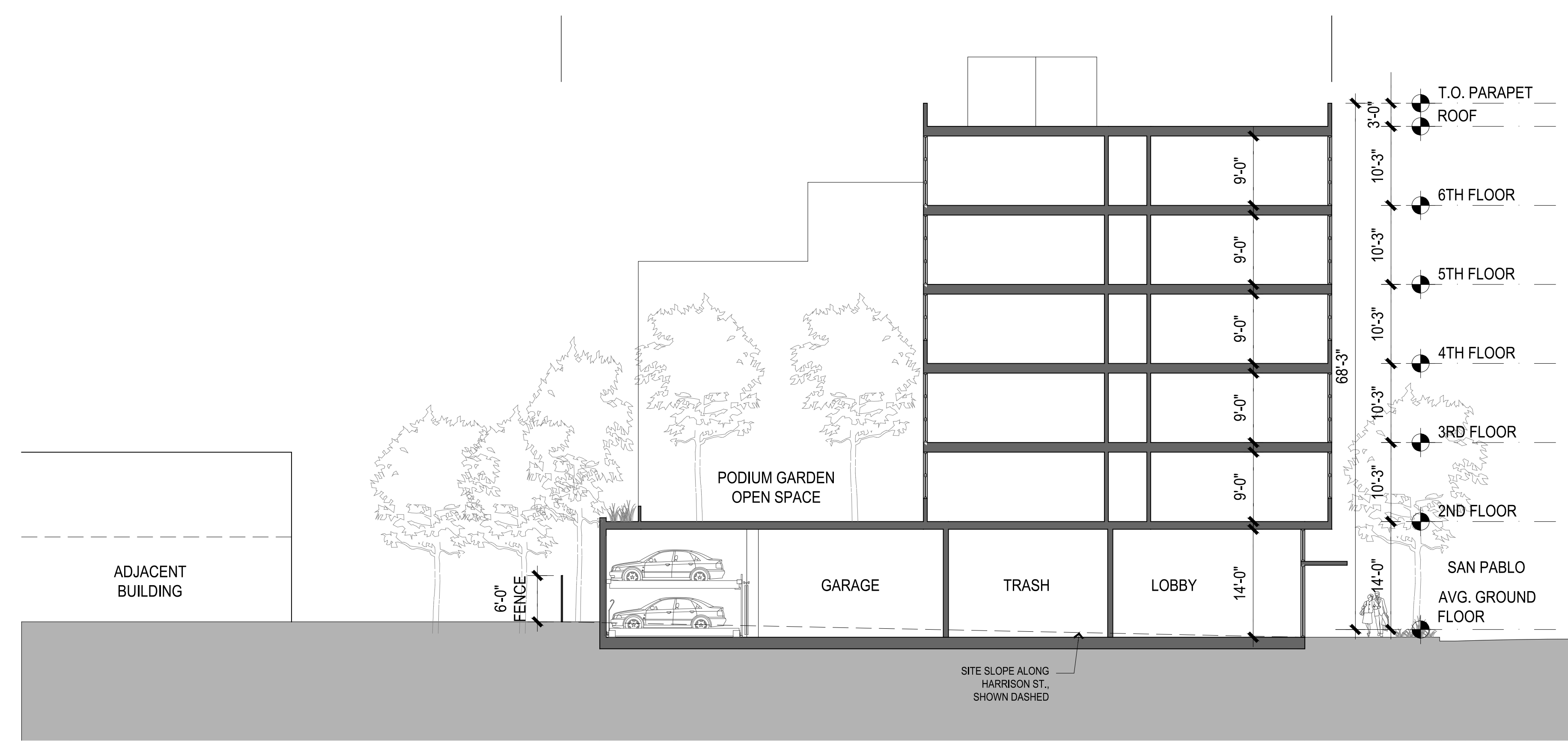
SHEET:

**BUILDING SECTION**

**A4.1**



**2**  
E-W SECTION THROUGH PODIUM GARDEN  
3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36  
0 2 4 8 16



**1**  
E-W SECTION  
3/64"=1'-0" @ 11X17 3/32"=1'-0" @ 24X36  
0 2 4 8 16





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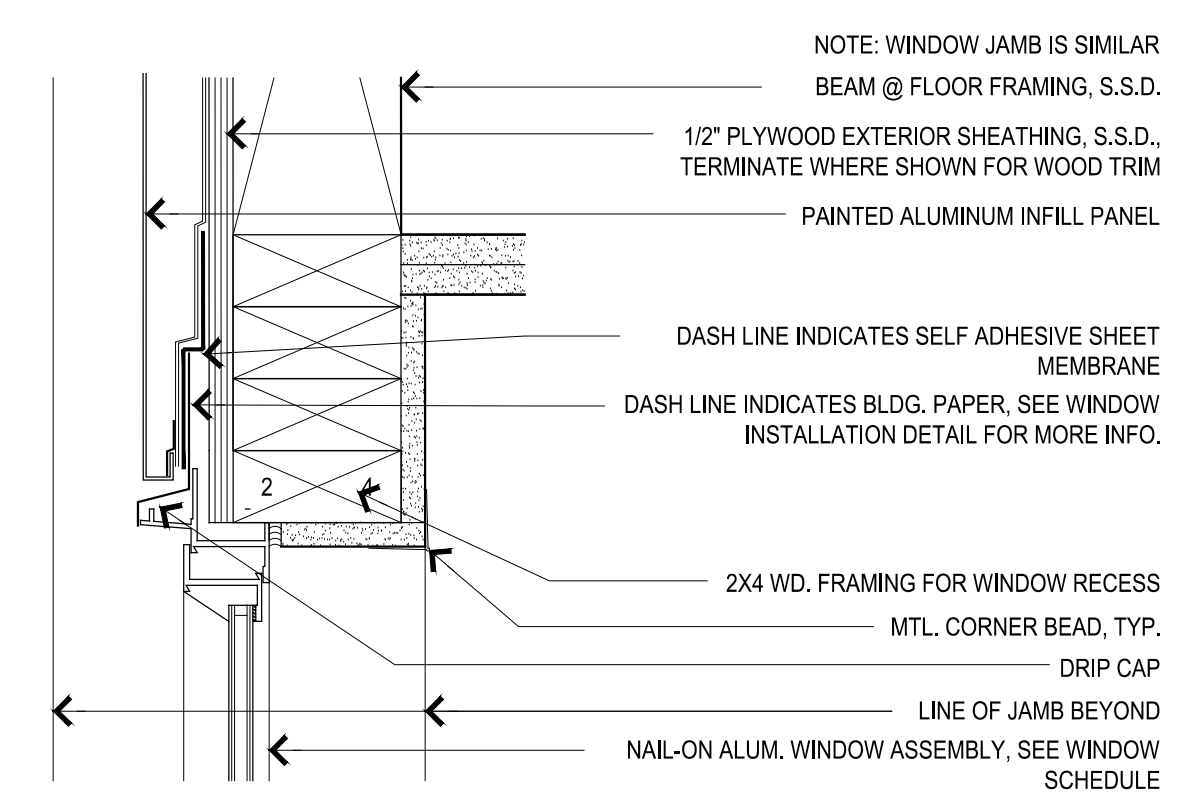
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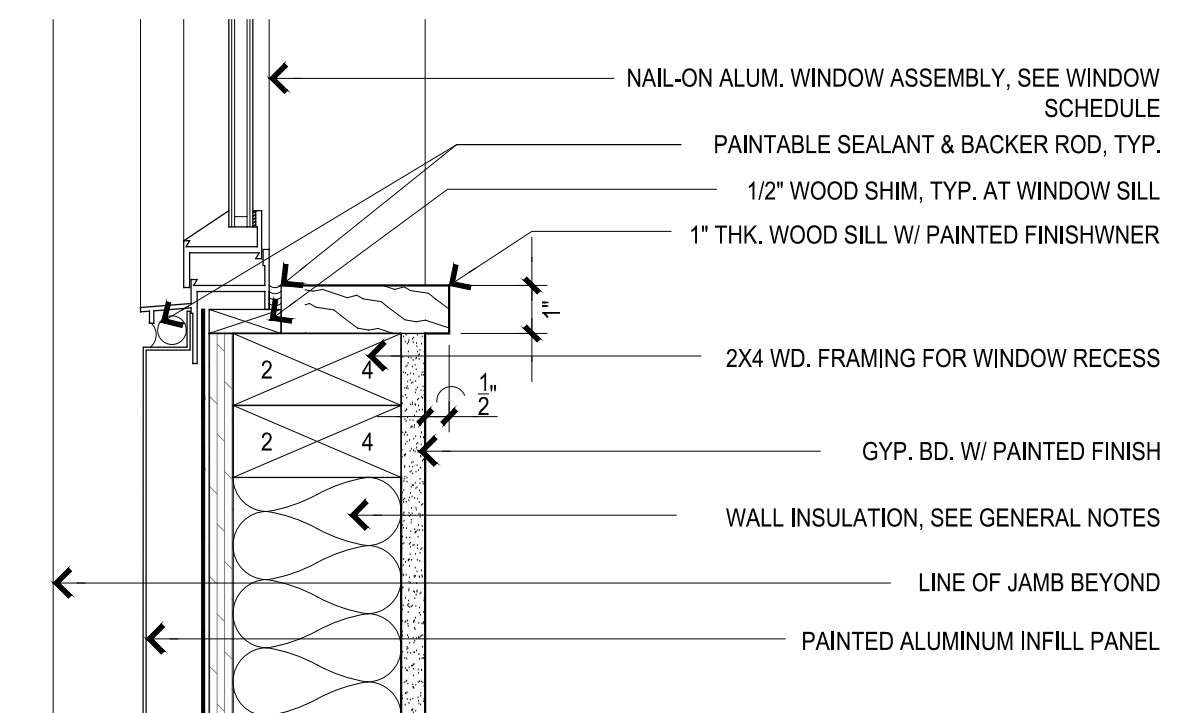
JOB: 1928

SHEET:  
**WALL SECTIONS &  
DETAILS**

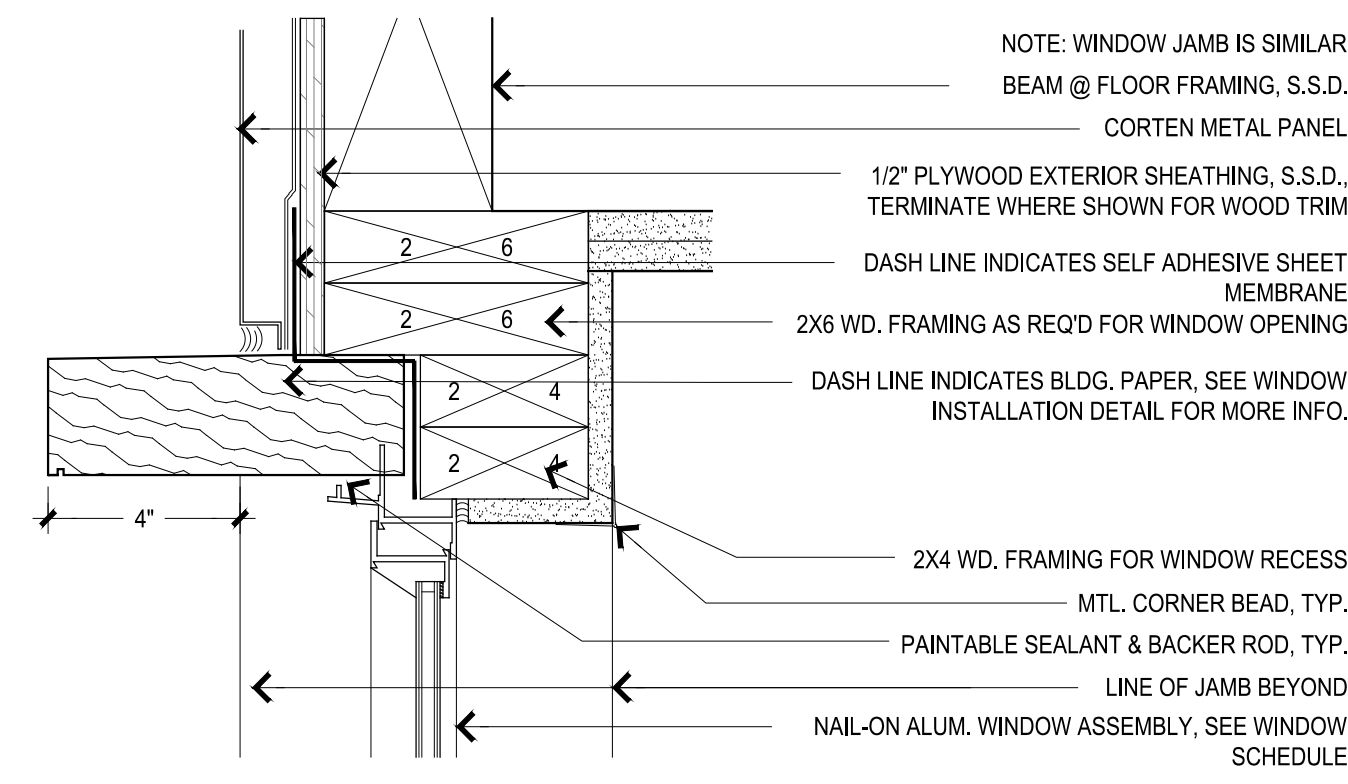
## A4.2



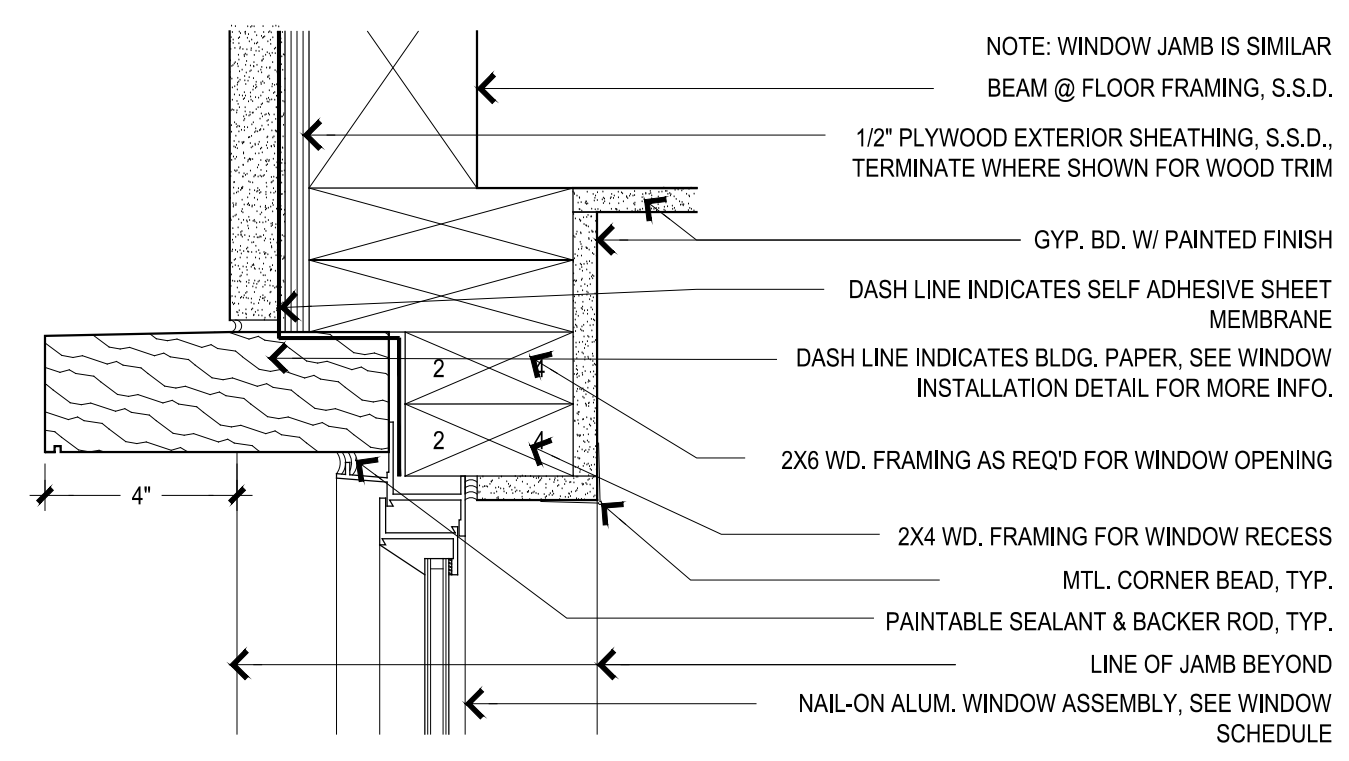
**8 HEAD @ FILL PANEL**  
3"=1'-0"



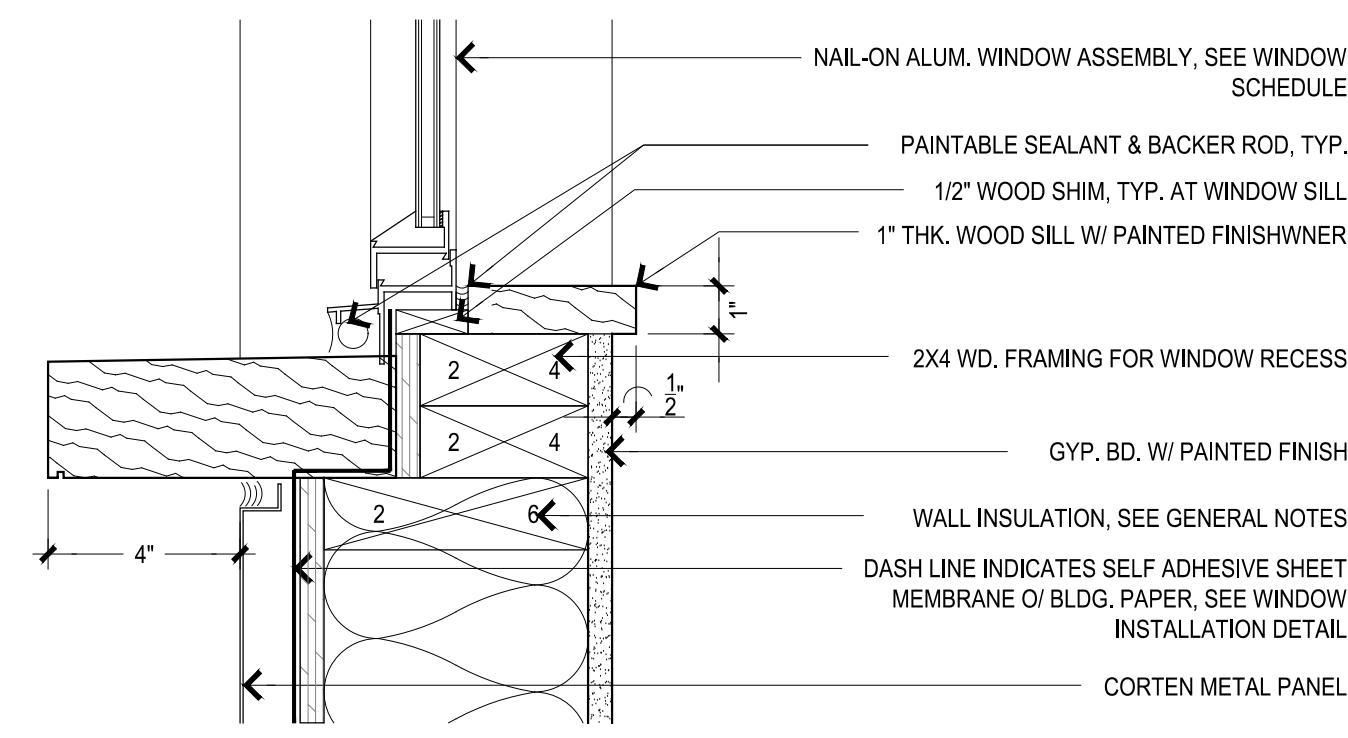
**7 SILL AT FILL PANEL**  
3"=1'-0"



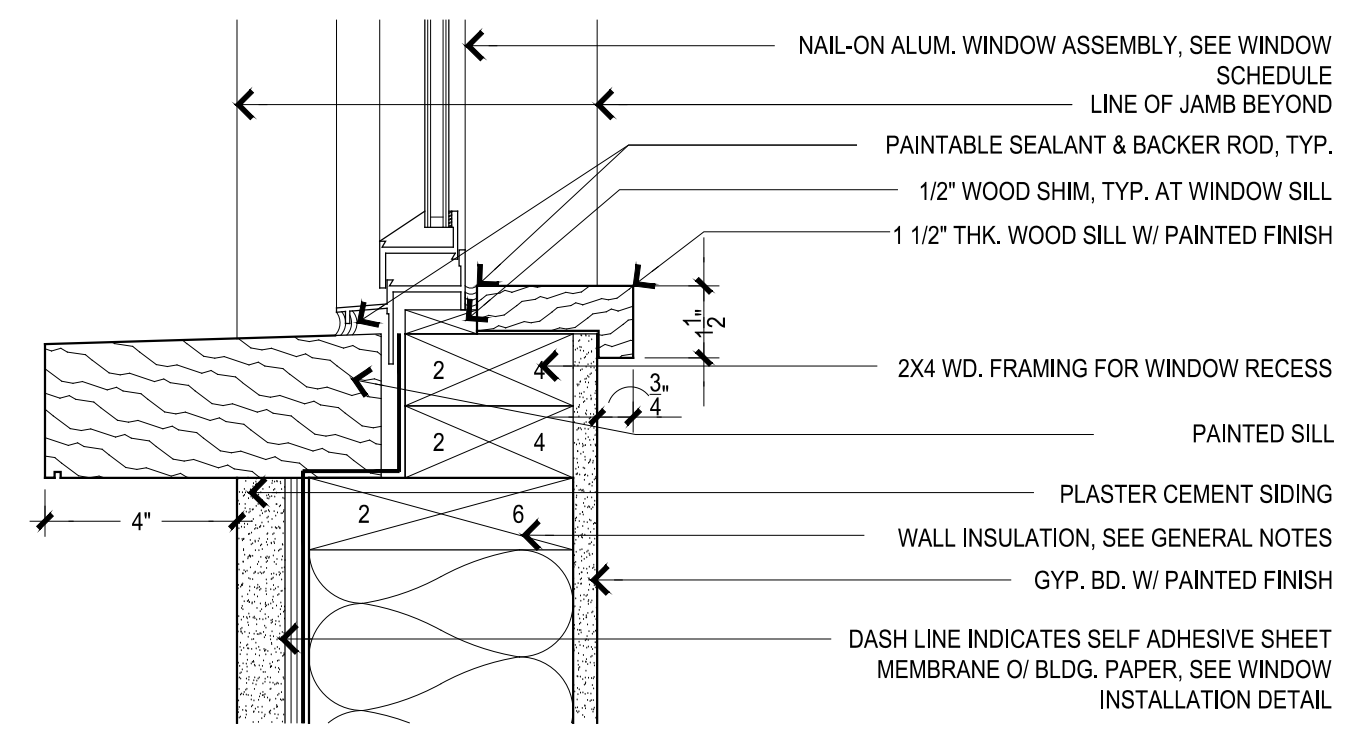
**10 TYP. HEAD @ CORTEN**  
3"=1'-0"



**6 TYP. STUCCO HEAD / JAMB**  
3"=1'-0"



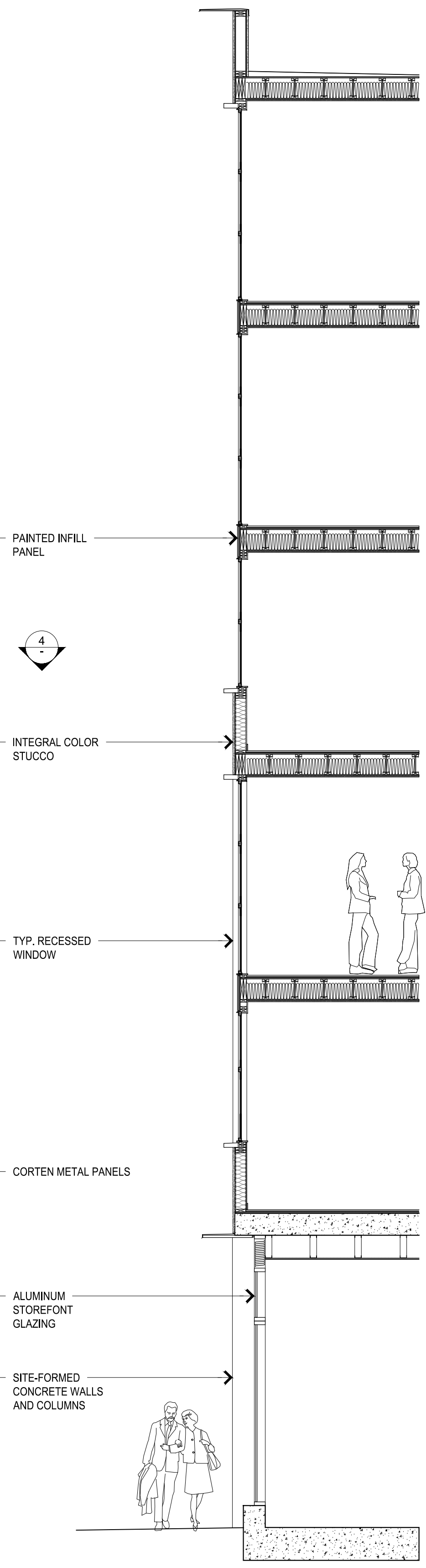
**9 TYP. SILL @ CORTEN**  
3"=1'-0"



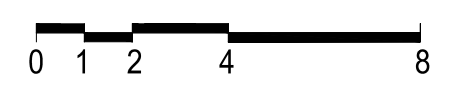
**5 TYP. STUCCO SILL**  
3"=1'-0"



**2 ELEVATION DETAIL**  
1/8"=1'-0" @ 11X17 1/4"=1'-0" @ 24X36



**1 SECTION**  
1/8"=1'-0" @ 11X17 1/4"=1'-0" @ 24X36





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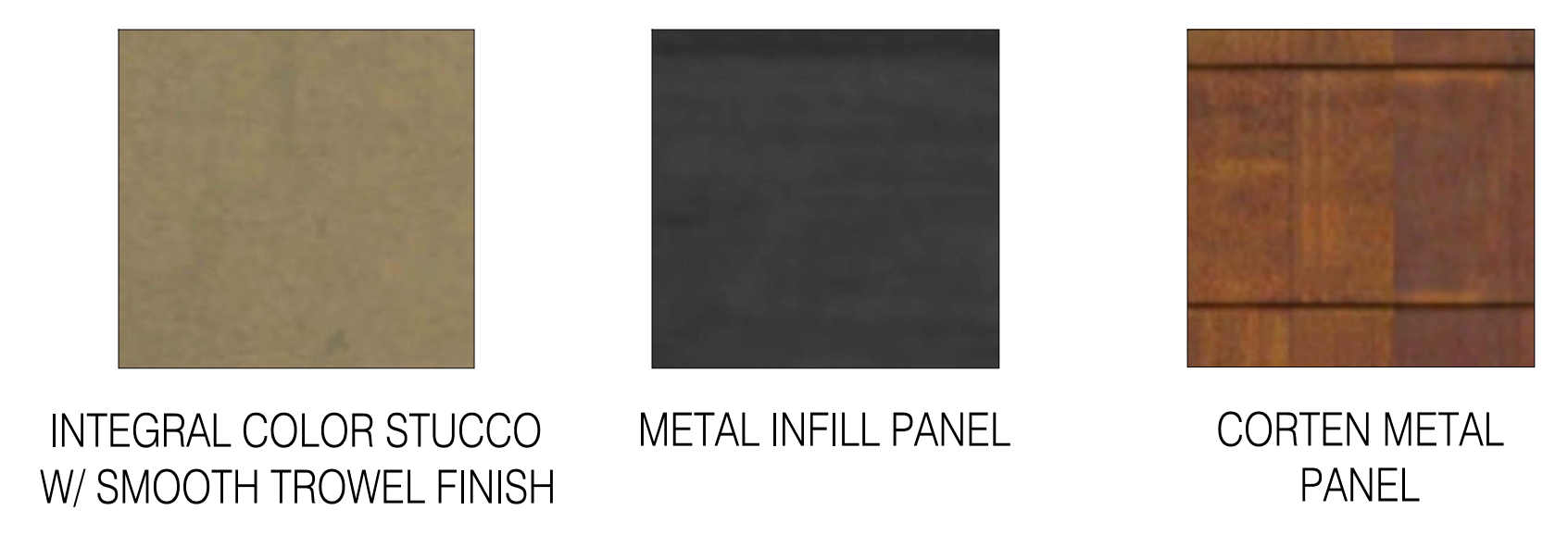
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JOB: 1928

SHEET:  
**MATERIAL  
BOARD**

**MAT**



CORTEN METAL PANELS  
INTEGRAL COLOR STUCCO W/ SMOOTH TROWEL FINISH  
ALUMINUM STOREFRONT  
METAL INFILL PANEL  
CAST-IN-PLACE CONCRETE  
STEEL EAVE, PTD.

**1** WEST ELEVATION  
3/32" = 1'-0" @ 11X17    3/16" = 1'-0" @ 24X36  
0 4 8 16



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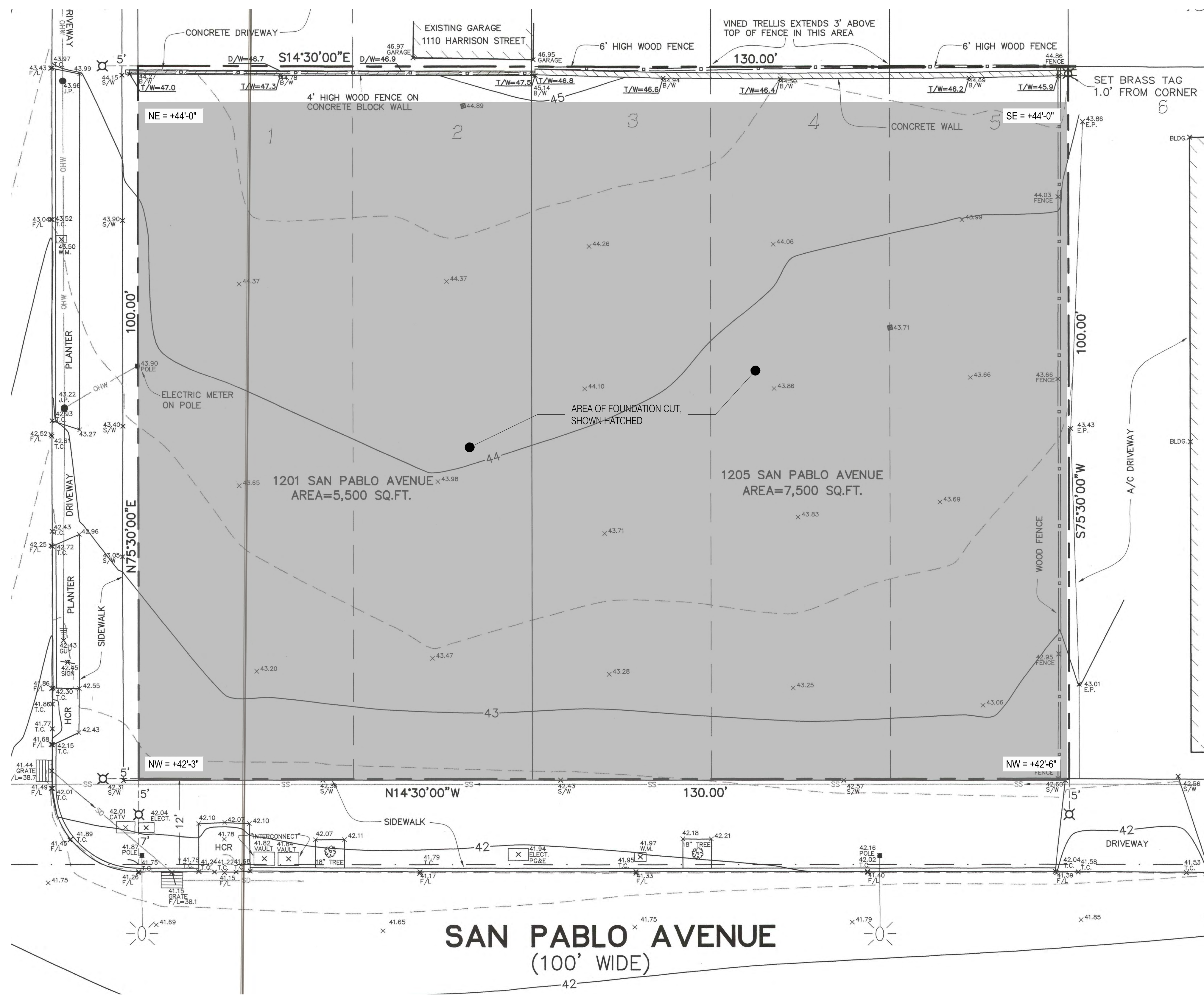
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SHEET:

CONCEPTUAL  
GRADING PLAN

## G-01



**ESTIMATED QUANTITIES AND LOCATIONS OF FOUNDATION CUTS**

	FEET	YARDS
TOTAL CUBIC YARDS OF CUT		1115 (CUBIC YARDS)
TOTAL AREA OF CUT	12346	1372 (SQUARE YARDS)
AVERAGE DEPTH OF CUT	2.4375	0.81 (YARDS)
CORNER 1 - NW	42.25	1.5
CORNER 2 - NE	44	3.25
CORNER 3 - SE	44	3.25
CORNER 4 - SW	42.5	1.75

2 ESTIMATED CUT/FILL DATA

1 CONCEPTUAL GRADING PLAN  
1/16" = 1'-0" @ 11X17 1/8" = 1'-0" @ 24X36



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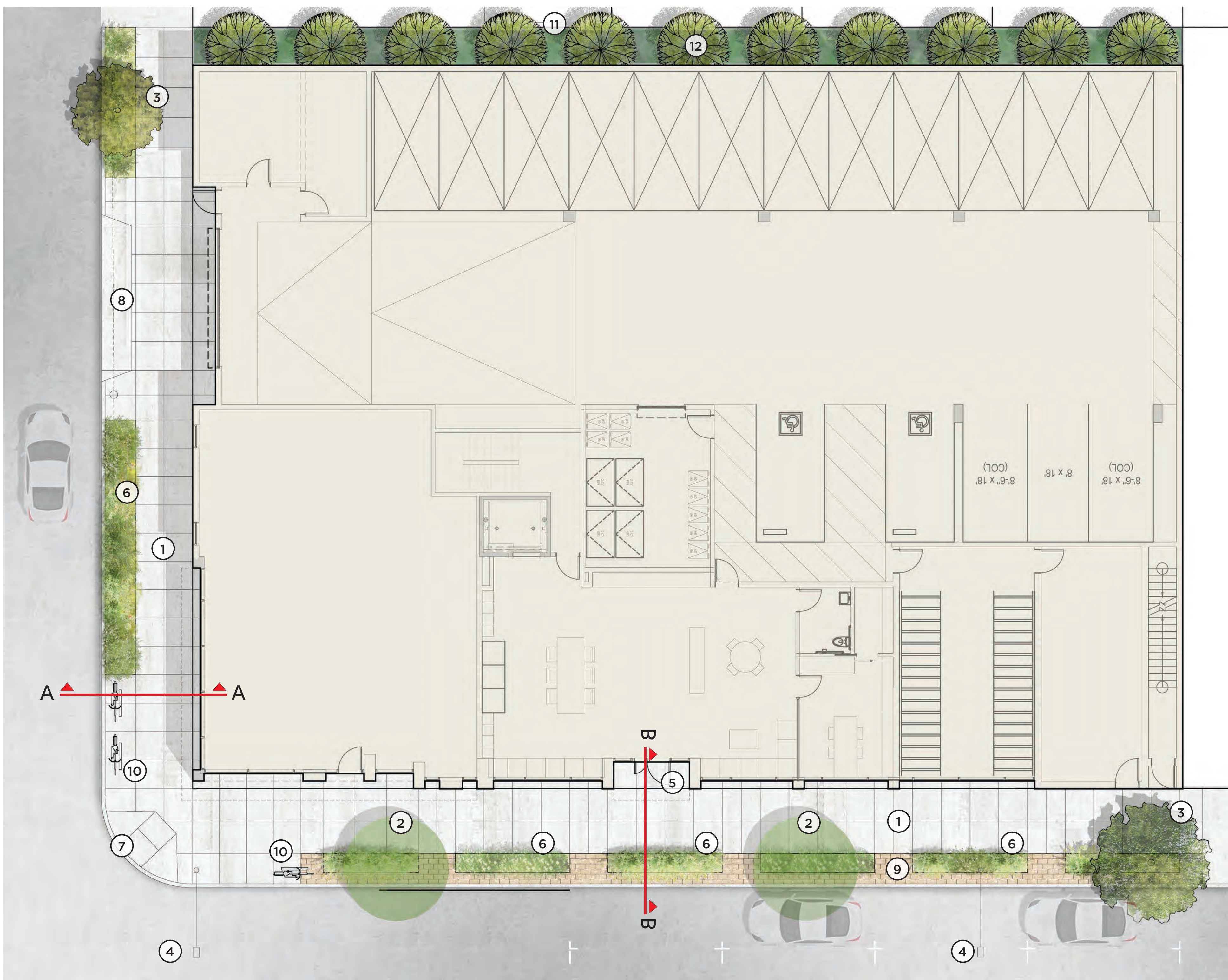
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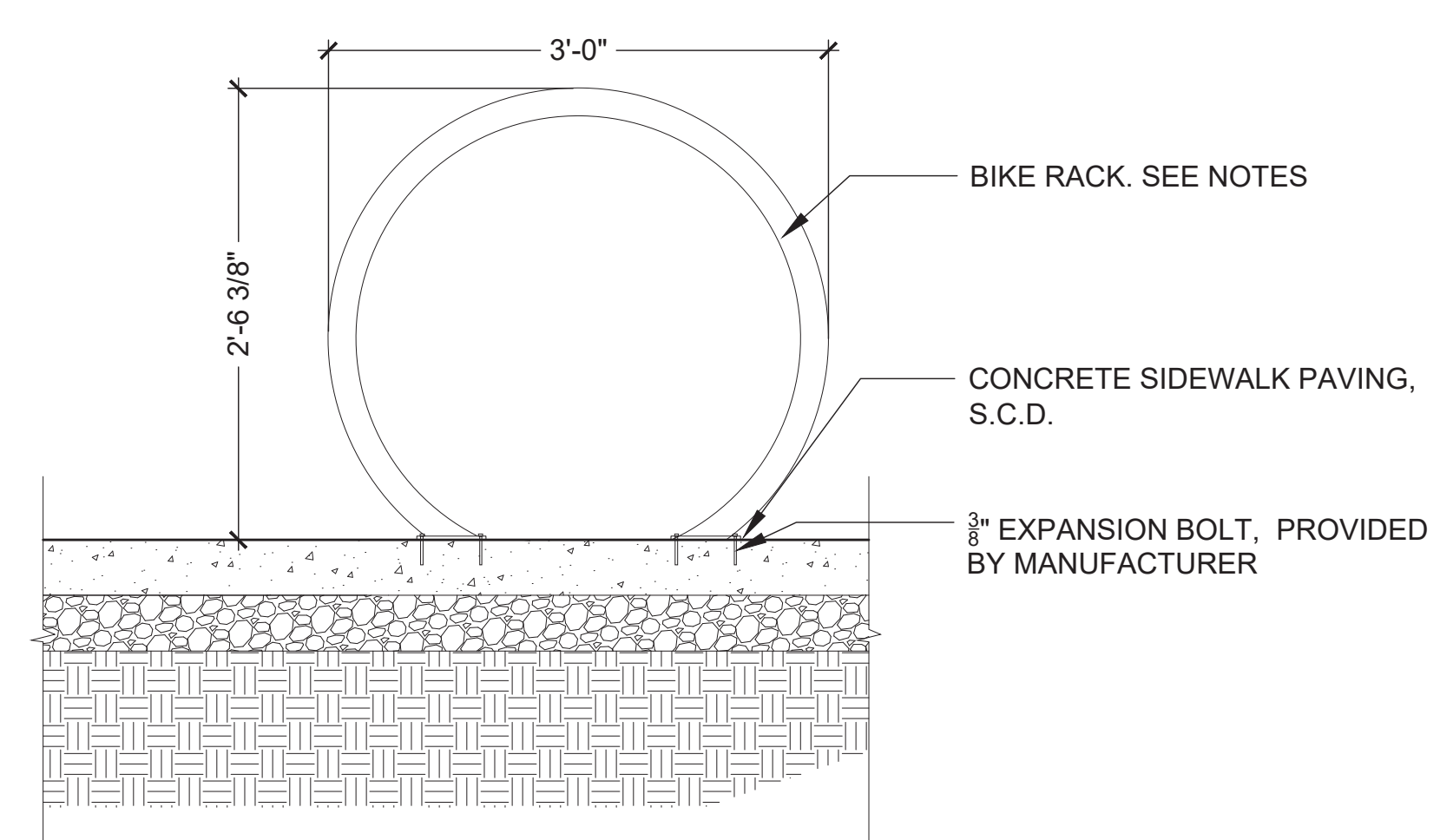
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## LEGEND

1. CONCRETE SIDEWALK PAVING
2. EXISTING STREET TREE, SEE SPECIFICATION
3. NEW STREET TREE
4. EXISTING STREET LIGHT
5. ENTRY TO LOBBY
6. AT-GRADE PLANTING
7. CURB RAMP
8. DRIVEWAY TO GARAGE
9. ENHANCED PAVING
10. NEW BIKE RACKS TYP. OF (3)
11. WOOD FENCE
12. LANDSCAPE MAINTENANCE AREA



BIKE RACK



BIKE RACK: 'WELLE' CIRCULAR, SQUARE TUBE, HOT-DIPPED GALVANIZED FINISH, SURFACE MOUNT, MODEL: WCR02-SQ-SF-G.

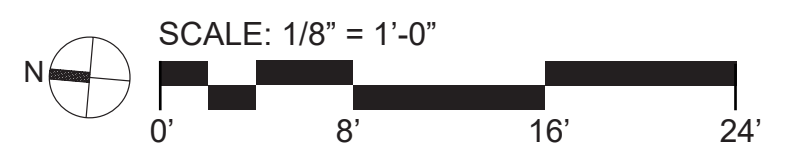
BIKE RACK DETAIL

### PLANTING NOTES

1. PLANT SPECIES SELECTED FOR DROUGHT TOLERANCE, ECOLOGICAL BENEFIT AND SITE SUITABILITY IN TERMS OF SIZE, SHADE/SUN-TOLERANCE, AND MAINTENANCE NEEDS. PLANT MATERIAL FROM VARIOUS CALIFORNIA HABITATS HAS BEEN EMPHASIZED.
2. BAY-FRIENDLY BEST PRACTICES REGARDING MULCHING AND SOIL HEALTH WILL BE IMPLEMENTED TO FACILITATE PLANT GROWTH, INCLUDING SPECIFICATION OF ORGANIC SOIL AMENDMENTS AND COMPOST.
3. THE PLANTING DESIGN WILL GROUP PLANTS WITH SIMILAR EVAPOTRANSPIRATION FACTORS WITHIN LEGIBLE ZONES. EVAPOTRANSPIRATION WILL BE ASSIGNED PER WUCOLS VERSION IV.
4. THE LANDSCAPE ARCHITECT WILL PROVIDE PLANT AND SOIL MAINTENANCE RECOMMENDATIONS AS PART OF THE PROJECT SPECIFICATIONS.
5. LAWN AND TURF AREAS WILL NOT BE INCLUDED IN THE PROJECT.

### IRRIGATION NOTES

1. THE IRRIGATION SYSTEM WILL BE DESIGNED BY A LICENSED IRRIGATION PROFESSIONAL.
2. A DEDICATED EBMUD METER OR SUBMETER WILL BE PROVIDED FOR THE IRRIGATION SYSTEM DESIGN WITH LOCATION AND POINT OF CONNECTION NOTED.
3. A MANUAL SHUTOFF VALVE, REDUCED PRESSURE BACKFLOW PREVENTER AND FLOW SENSOR WITH MASTER SHUT OFF VALVE WILL BE PROVIDED AFTER THE POINT OF CONNECTION.
4. WATER PRESSURE AND FLOW RATES AT POINT OF CONNECTION AND ALL REMOTE CONTROL VALVES WILL BE INDICATED ON IRRIGATION PLANS.
5. IRRIGATION PLANS WILL SHOW SCHEMATIC LOCATION FOR ALL MAINLINES, LATERALS, SLEEVES AND REMOTE CONTROL VALVES.
6. REMOTE CONTROL VALVES WILL BE OPERATED BY A SMART, WEATHER-BASED IRRIGATION CONTROLLER WITH RAIN SENSOR MOUNTED IN AN APPROPRIATE LOCATION.
7. ALL PLANTED AREAS WILL BE WATERED USING HIGH-EFFICIENCY IRRIGATION TECHNOLOGY, SUCH AS DRIP LINES AND BUBBLERS WITH FLUSH AND AIR RELIEF VALVES WHERE REQUIRED. ALL COMPONENTS SHALL HAVE FIXED FLOW RATES.
8. IRRIGATION ZONES WILL BE GROUPED BY WATER DEMAND AND THE OVERALL PLANTING PLAN WILL COMPLY WITH WATER USE LIMITATIONS OUTLINED IN THE LATEST WATER EFFICIENT LANDSCAPE ORDINANCE.



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SHEET:

## LANDSCAPE PLANS GROUND LEVEL

# L1.1

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CONSENT OF TRACHTENBERG ARCHITECTS.

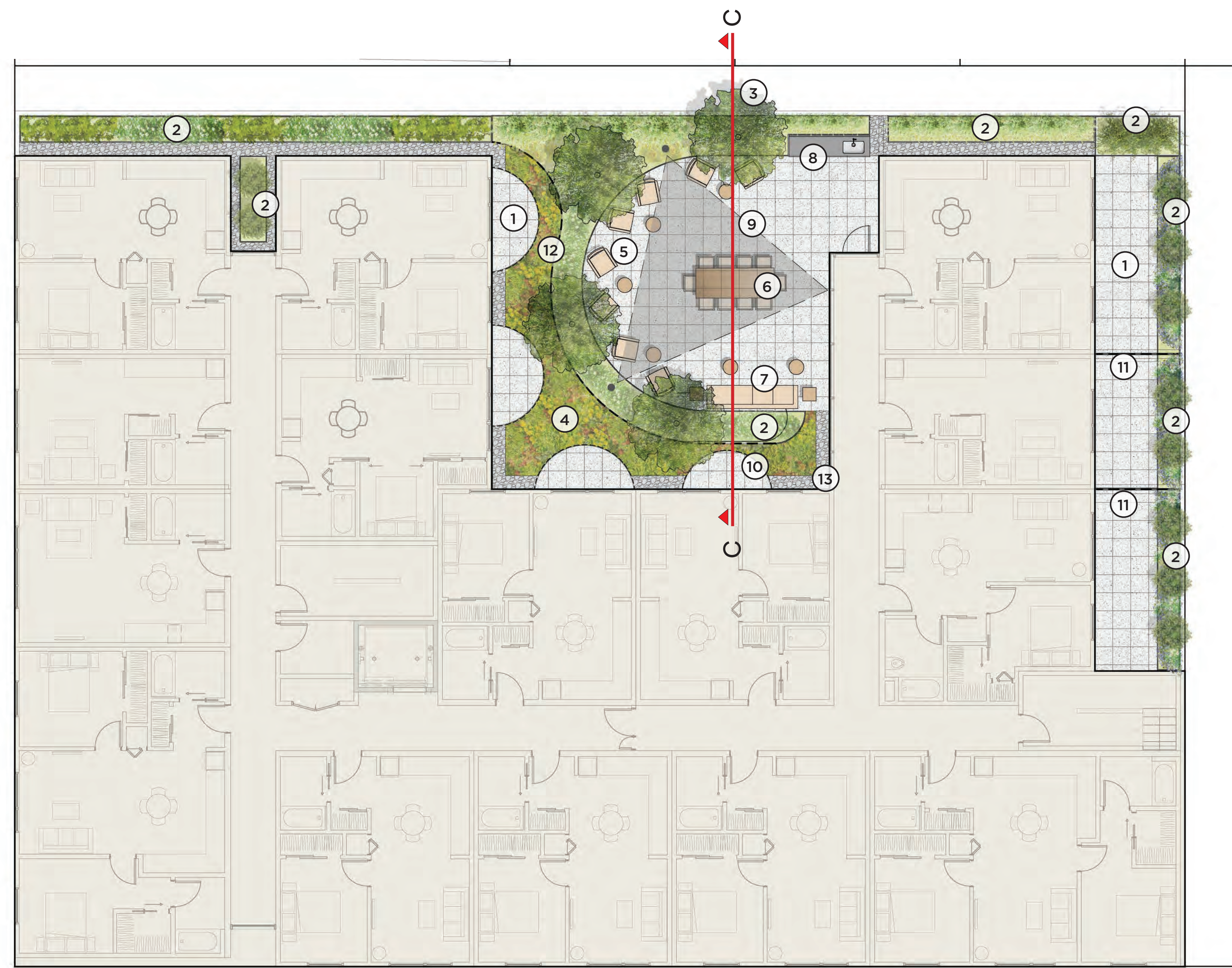
JOB: 1928

SHEET:  
**LANDSCAPE PLAN  
LEVEL 2**

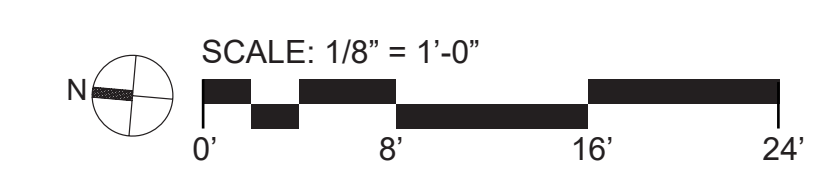
**L1.2**

**LEGEND**

1. UNIT PAVERS
2. RAISED METAL PLANTERS
3. SPECIMEN TREES
4. INTENSIVE VEGETATED ROOF
5. MOVABLE CHAIRS WITH SIDE TABLES
6. DINING TABLES AND CHAIRS
7. LOUNGE CHAIRS AND TABLES
8. OUTDOOR KITCHEN COUNTER
9. OVERHEAD SHADE STRUCTURE
10. METAL PAVING EDGE
11. SCREEN
12. 42" PERFORATED METAL SCREEN
13. GRAVEL



2ND LEVEL PLAN



TRACHTENBERG  
ARCHITECTS

2421 Fourth Street  
Berkeley, California 94710  
510.649.1414  
www.TrachtenbergArch.com

MILLER COMPANY  
landscape architects

1585 FOLSOM ST. SAN FRANCISCO, CA 94103  
415.252.7288 www.millercomp.com

# 1201 SAN PABLO MIXED-USE

Berkeley, CA 94706

07.13.2021 ZONING COMPLETENESS  
08.30.2021 ZONING COMPLETENESS

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CONSENT OF TRACHTENBERG ARCHITECTS.

JOB: 1928

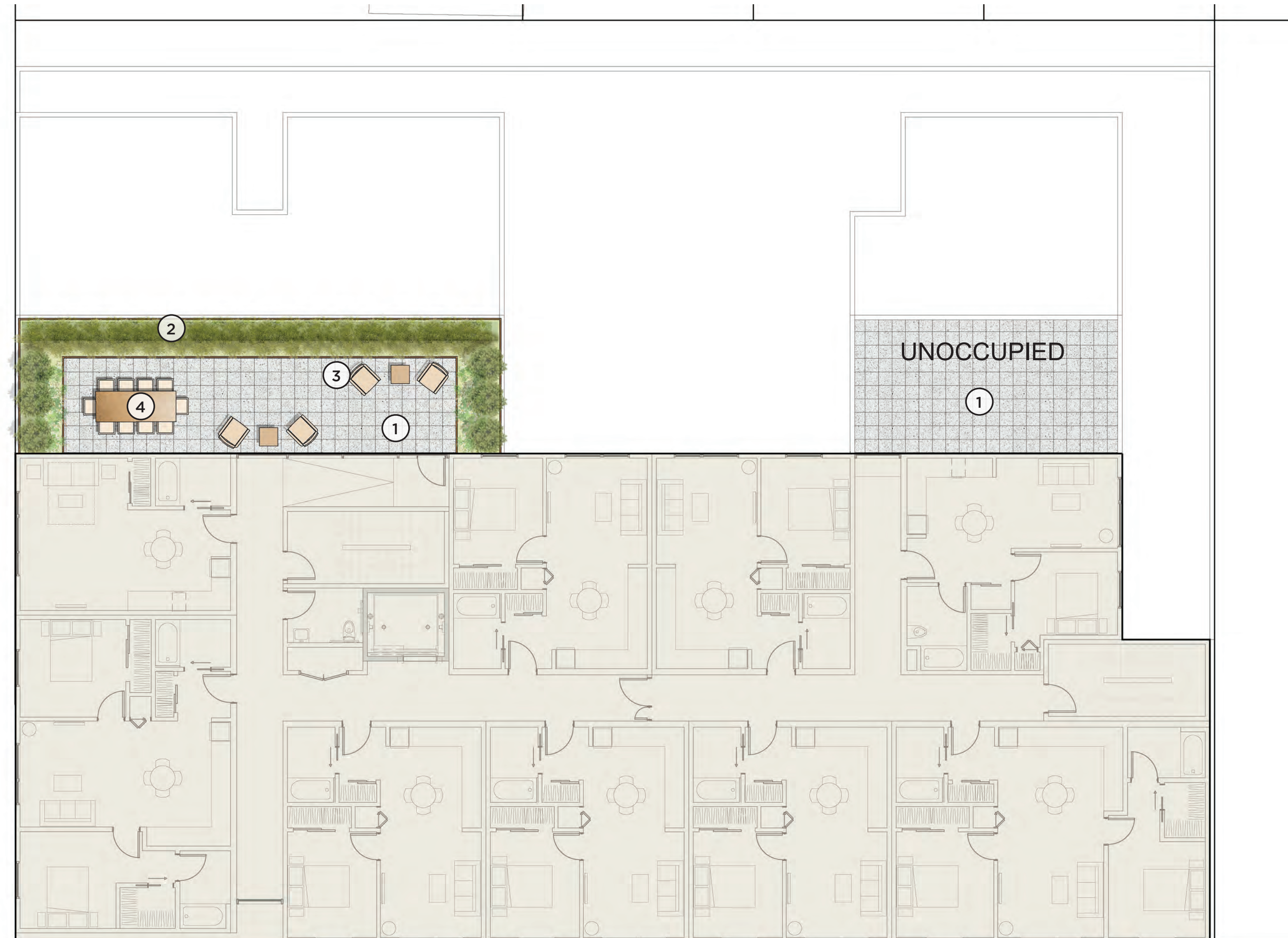
SHEET:

LANDSCAPE PLAN  
LEVEL 6

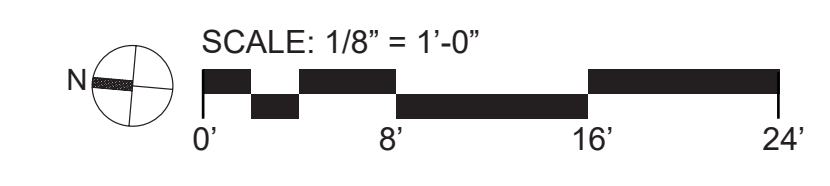
# L1.3

## LEGEND

- 1. UNIT PAVERS ON PEDESTALS
- 2. RAISED METAL PLANTERS
- 3. MOVABLE CHAIRS WITH SIDE TABLES
- 4. DINING TABLES AND CHAIRS



6TH LEVEL PLAN





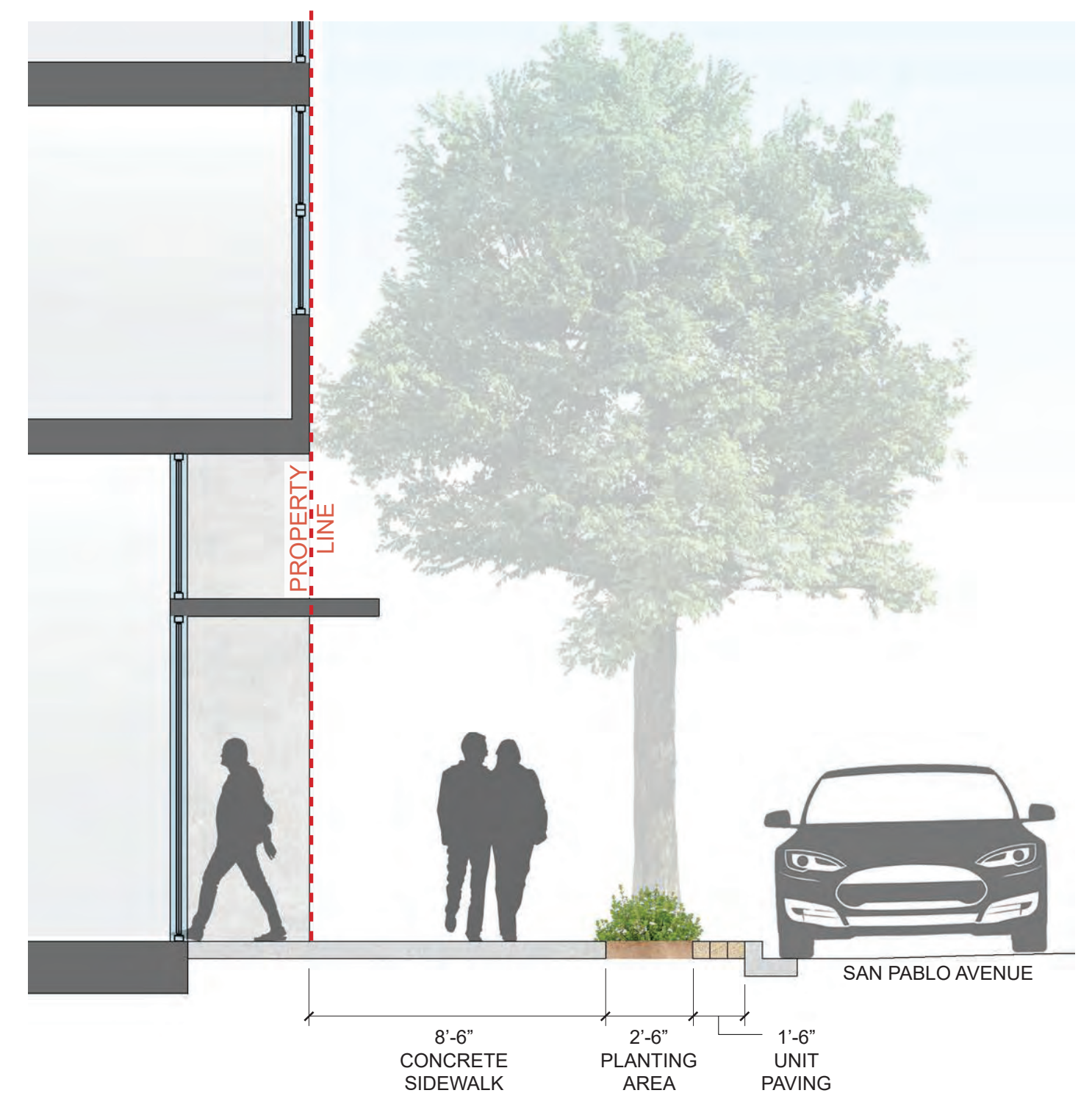
2421 Fourth Street  
Berkeley, California 94710  
510.649.1414  
www.TrachtenbergArch.com

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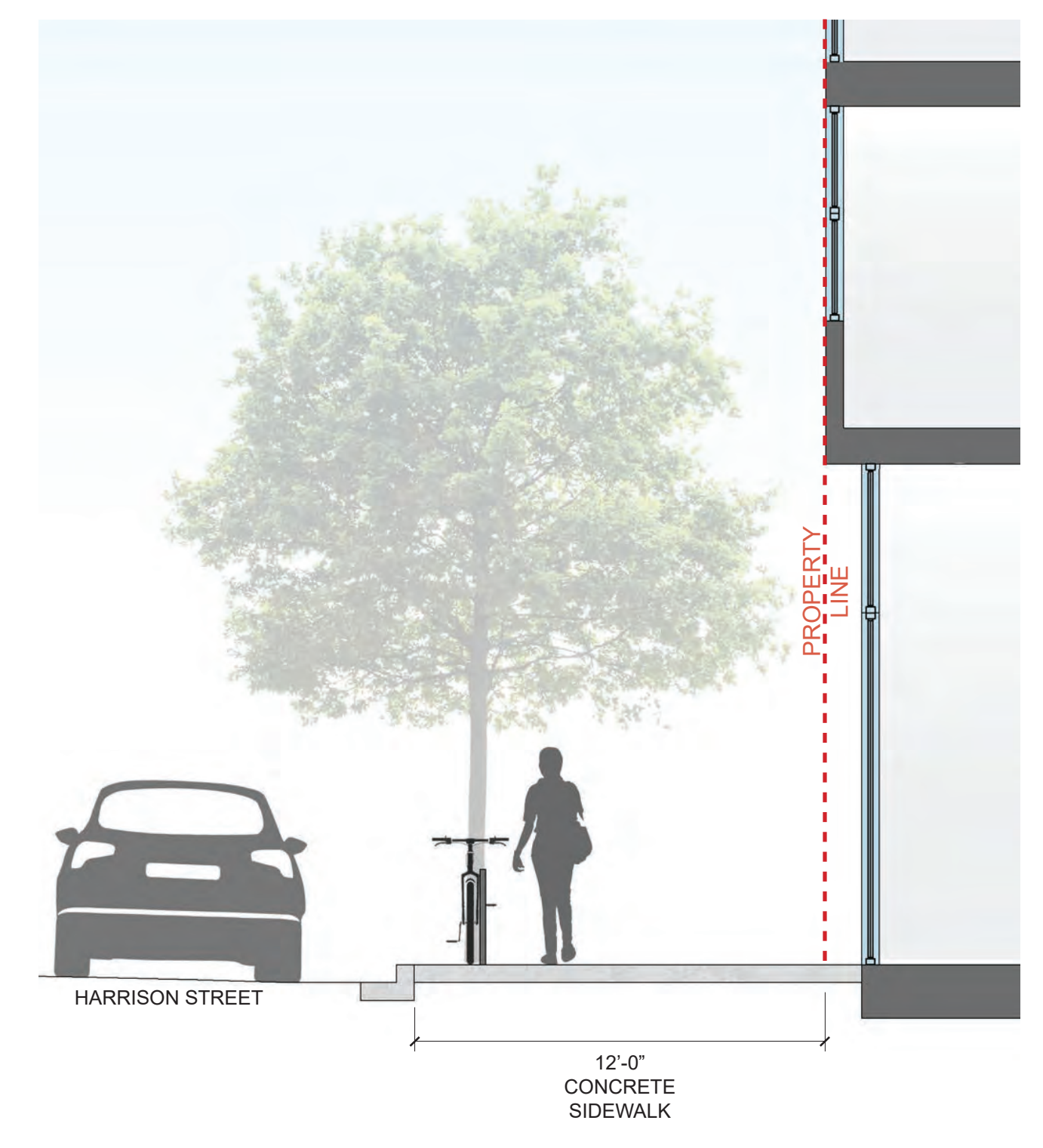
# 1201 SAN PABLO MIXED-USE

Berkeley, CA 94706

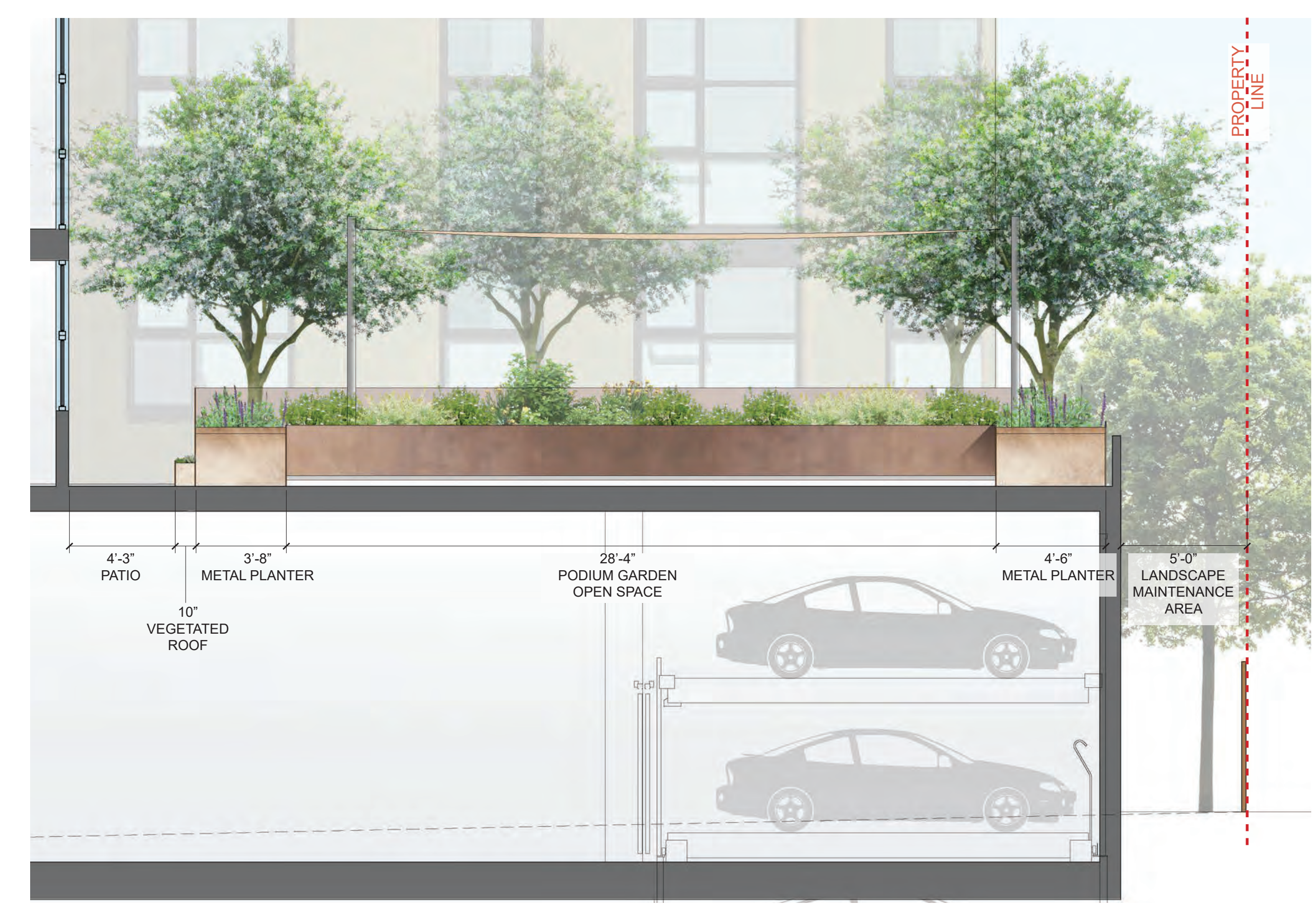
07.13.2021 ZONING COMPLETENESS  
08.30.2021 ZONING COMPLETENESS



SECTION A-A: SAN PABLO AVE



SECTION B-B: HARRISON ST



SECTION C-C: PODIUM GARDEN

OPEN SPACE TABLE				
	UNITS	RATIO	TOTAL	LANDSCAPE AREA
TOTAL UNITS	66	40	2,640	
<b>TOTAL AREA PROVIDED</b>			<b>2,514</b>	<b>1,346</b>
PODIUM LEVEL GARDEN			1,640	902
PODIUM LEVEL PATIOS			120	115
LEVEL 6 ROOF DECK			754	329

TOTAL LANDSCAPED AREA ON EACH LEVEL

STREET TREES



David Elm  
*Ulmus davidiana var. japonica*



Bronze Loquat  
*Eriobotrya deflexa*

GROUND LEVEL PLANTERS



Box Leaf Azara  
*Azara microphylla*



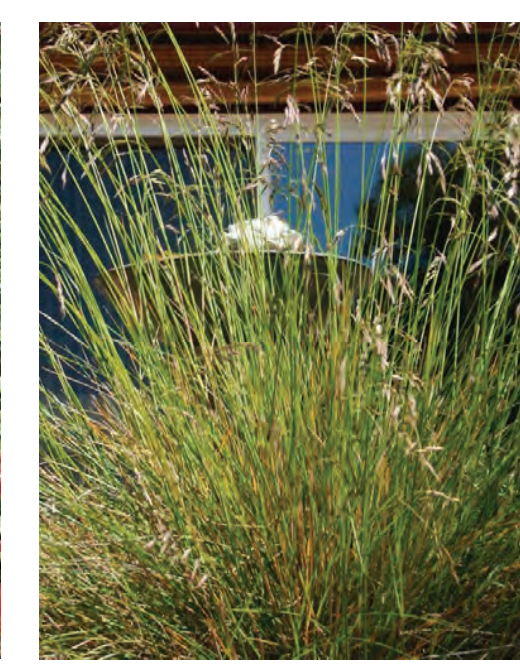
Creeping Fig  
*Ficus pumila*



Stalked Bulbine  
*Bulbine frutescens*



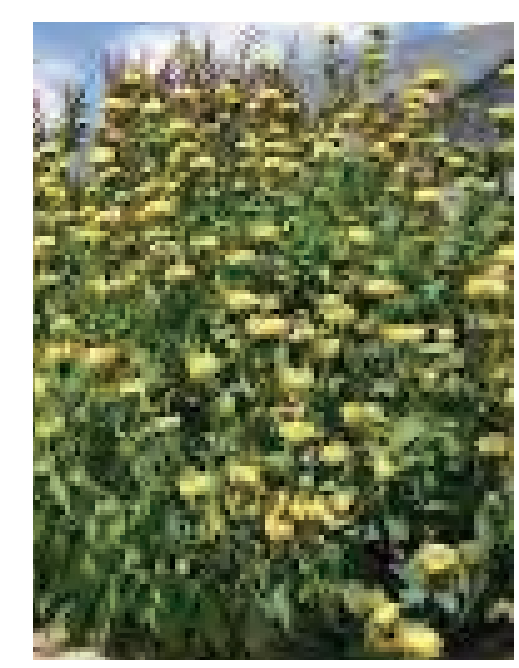
California Fuchsia  
*Epilobium canum*



California Fescue  
*Festuca californica*



Douglas Iris  
*Iris douglasiana*



Jerusalem Sage  
*Phlomis fruticosa*

2nd LEVEL



Evergreen Dogwood  
*Cornus capitata*



Dwarf Mahonia  
*Mahonia aquifolium repens*



Coffeeberry  
*Frangula californica 'Seaview'*



Giant Wildrye  
*Elymus condensatus*



Island Alum Root  
*Heuchera maxima*



Western Swordfern  
*Polystichum munitum*



Hummingbird Sage  
*Salvia spathacea*

6th LEVEL TERRACE



*Mimulus aurantiacus 'Pt. Molate'*



Santa Barbara Daisy  
*Erigeron karvinskianus*

PLANT PALETTE

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JOB: 1928

SHEET:

LANDSCAPE SECTIONS AND PLANT PALETTE

# L1.4



Planning and Development  
Land Use Planning Division

September 22, 2021

Isaiah Stackhouse  
Trachtenberg Architects  
2421 Fourth Street  
Berkeley, CA 94710

**Sent via email to:**  
[isaiah@trachtenbergarch.com](mailto:isaiah@trachtenbergarch.com)

**RE: Application for Use Permit #ZP2021-0070 for 1201-1205 San Pablo Avenue**

Dear Mr. Stackhouse,

Thank you for submitting the materials to support the proposal to merge two parcels and construct a new, six-story mixed-use building with 66 dwelling units and a request for a density bonus in the C-W Zoning District at 1200-1214 San Pablo Avenue.

Your application has been deemed complete.

Should you have questions regarding this letter or your application, please feel free to contact me.

Sincerely,

Sharon Gong  
Senior Planner  
(510) 981-7429  
[sgong@cityofberkeley.info](mailto:sgong@cityofberkeley.info)





Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

## ZONING ADJUSTMENTS BOARD NOTICE OF PUBLIC HEARING

**SUBJECT:** 1201-1205 San Pablo Avenue – Project Preview  
Use Permit #ZP2021-0070


**WHEN:** Thursday, December 9, 2021.  
Meeting starts at 7:00 pm.

**WHERE:** *This meeting will be conducted exclusively through videoconference and teleconference; there will not be a physical meeting location available. Please see:*  
[https://www.cityofberkeley.info/uploadedFiles/Planning and Development/Level 3 - ZAB/2021-12-09\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-12-09_ZAB_Agenda.pdf) or details.

«NAME1»

«NAME2»

«ADDRESS1» «ADDRESS2»

	<p><b>SUBJECT: 1201-1205 San Pablo Avenue, Project Preview of Use Permit #ZP2021-0070</b> to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very-Low Income units), 1,720 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.</p> <p><b>CEQA RECOMMENDATION:</b> It is staff's recommendation to ZAB that the project is categorically exempt pursuant to §15332 ("In-Fill Development Projects") of the CEQA Guidelines. The determination is made by ZAB.</p>
<p><b>NOTICE CONCERNING YOUR LEGAL RIGHTS:</b> If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing.</p> <p><b>Post and Mail Date: November 23, 2021</b></p>	<p><b>All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.</b></p> <p>Send written comments to the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704 or via e-mail to: <a href="mailto:zab@cityofberkeley.info">zab@cityofberkeley.info</a>. For further information, see the Agenda at: <a href="https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-12-09_ZAB_Agenda.pdf">https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-12-09_ZAB_Agenda.pdf</a> or call the Land Use Planning division (510) 981-7410.</p> <p>To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6347(TDD) at least three business days before the meeting date.</p> <p><b>PLEASE NOTE:</b> If your contact information is included in any communication to the Board, it will become part of the public record, and will be accessible on the City Website.</p>
	<p>All application materials are available at the Land Use Planning Division online at: <a href="http://www.cityofberkeley.info/zoningapplications">http://www.cityofberkeley.info/zoningapplications</a>.</p> <p>The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <a href="http://www.cityofberkeley.info/zoningadjustmentsboard">http://www.cityofberkeley.info/zoningadjustmentsboard</a>.</p>

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Citizens Opposing Polluted Environment	1908 TENTH ST	BERKELEY CA 94710	
Fifth-Camelia Neighborhood Group	807 PAGE ST	BERKELEY CA 94710	
Page Street Neighbors	P.O. BOX 2296	BERKELEY CA 94702	
Paul Cox	890 CAMELIA ST	BERKELEY CA 94710	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Heinz Avenue Arts Group	800 HEINZ AVE #3	BERKELEY CA 94710	
West Berkeley Association of Industrial Companies	PO BOX 2307	BERKELEY CA 94702	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000	SOUTH SAN FRANCISCO CA 94080	
KIKUCHI ASAHIKO & MEGUMI	1 HOME CAMPUS	DES MOINES IA	50328
SAN PABLO COMMERCIAL PROPERTIES LLC	1047 SUNRISE RIDGE DR	LAFAYETTE CA	94549
MASCOT INTERNATIONAL	1055 HARRISON ST	BERKELEY CA	94710
BULGER PAUL M & VARELABULGER LUCIA G	1094 SUFFOLK DR	SANTA ROSA CA	95401
KIM KWANG T & CHAN R	11040 BOLLINGER CANYON RD E913	SAN RAMON CA	94582
BOZZINI YVETTE	1110 HARRISON ST	BERKELEY CA	94706
FASHING TERRI & WINER GABRIEL	1112 HARRISON ST	BERKELEY CA	94706
TURNER HOLLY	1114 HARRISON ST	BERKELEY CA	94706
OBOLENSKY ELIZABETH & HAYES DANIEL J	1116 HARRISON ST	BERKELEY CA	94706
WESTCOTT ALAN J TR	1119 HARRISON ST	BERKELEY CA	94706
GONZALEZ PATRICK J	1121 HARRISON ST	BERKELEY CA	94706
HOFFMAN PETER J & IAROLI DORIS E	1123 HARRISON ST	BERKELEY CA	94706
MAYOBURLESON ADORACION TR	1125 HARRISON ST	BERKELEY CA	94706
CORVELLO WALTER J & MARY E TRS	1151 WASHINGTON AVE	ALBANY CA	94706
FIERSTEIN FREDRIC J TR	1175 ARCH ST	BERKELEY CA	94708
CERIDONO GLENDON & BEHNKE LINDA C TRS ETAL	1194 ESTATES DR	LAFAYETTE CA	94549
TUNNAH CHRISTINA	1196 KAINS AVE	BERKELEY CA	94706
BARBAZETTE LESLIE C & GALVAGNA ALESSANDRO B	1200 STANNAGE AVE	BERKELEY CA	94706
KETEMA MICHAEL G & TENSAE SEMAINESH G	1204 KAINS AVE	BERKELEY CA	94706
MULVEHILL MARY E & SMITH DAVID A	1205 KAINS AVE	BERKELEY CA	94706
HARDY MATTHEW L & OHARA KATHERINE R	1206 KAINS AVE	BERKELEY CA	94706
WYAND MARY T & VELLUTINI PAUL C TRS	1206 STANNAGE AVE	BERKELEY CA	94706
BLACK ELIZABETH & LOVVORN JENNIFER	1208 KAINS AVE	BERKELEY CA	94706
STECKEL RICHARD & TREASURE ROBIN A	1208 STANNAGE AVE	BERKELEY CA	94706
ALTMAN SUSAN & KOSACH STEVEN R JR	1209 KAINS AVE	BERKELEY CA	94706
MEDINA ENRICO A TR	1210 KAINS AVE	BERKELEY CA	94706
POSKANZER JEFFREY A	1212 KAINS AVE	BERKELEY CA	94706
DANYSH ERIC S & AVA C TRS	1212 STANNAGE AVE	BERKELEY CA	94706

Internal

ARONEN DANIEL C & TANIGUCHI KAZUMI TRS	1214 KAINS AVE	BERKELEY CA	94706
COHEN SUSAN E TR	1214 STANNAGE AVE	BERKELEY CA	94706
EVANS NYCOLE M TR	1216 STANNAGE AVE	BERKELEY CA	94706
GREENE JOSHUA I & GERTLER RENEE TRS	1217 KAINS AVE	BERKELEY CA	94706
JOHNSON DEBORAH A & HEAD DELIA A ETAL	1220 KAINS AVE	BERKELEY CA	94706
SMITH ALEXANDER JR	1224 KAINS AVE	BERKELEY CA	94706
MACDONALD TANIA R TR	1226 KAINS AVE	BERKELEY CA	94706
GOSLING KAREN L TR	1228 KAINS AVE	BERKELEY CA	94706
HOFFMAN MICHAEL	1229 SAN PABLO AVE	BERKELEY CA	94706
1207 TENTH STREET LLC	1323 TALBOT AVE	BERKELEY CA	94702
INGRAM GARY M & ANITA L TRS	1407 GRIZZLY PEAK BLVD	BERKELEY CA	94708
DALTON DEANNA TR & HALL DAVID TR	1482 NORTHSIDE AVE	BERKELEY CA	94702
BRECKENRIDGE PROPERTY FUND 2016 LLC	2015 MANHATTAN BEACH BLVD, #100	REDONDO BEACH CA	90278
R & S SAN PABLO LLC	2025 FOURTH ST	BERKELEY CA	94710
ALBANY CREEKSIDE APARTMENTS LP	2220 OXFORD ST	BERKELEY CA	94704
WURBAN LLC	2336 CALIFORNIA ST	BERKELEY CA	94703
IRWIN MARY A TR	3761 HARRISON ST 15	OAKLAND CA	94611
COOPER C CHAO LLC	450 E STRABERRY DR 15	MILL VALLEY CA	94941
CHUN CALVIN W & GAY Y TRS	6827 BLAKE ST	EL CERRITO CA	94530
KS WONG NORTH LLC	712 S RAMONA ST A	SAN GABRIEL CA	91776
FUJITA LARRY & LOZANO CAROLYN F TRS	8622 EDGEHILL CT	EL CERRITO CA	94530
BLSP PROPERTIES LLC	925 ADAMS ST	ALBANY CA	94706
SU LANHAI	93 CASTILLO LN	MILPITAS CA	95035
LEE ANNA Y & FRANK C	P O BOX 1127	EL CERRITO CA	94530
MCDONALDS CORPORATION	P.O. BOX 182571	COLUMBUS OH	43218
CUNNINGHAM KENNETH D & LOUISE M TRS	P.O. BOX 365	SNELLING CA	95369
PAGANELLI GEORGE R & ZILPHA S TRS	PO BOX 182571	COLUMBUS OH	43218
Occupant(s)	1060 HARRISON ST	BERKELEY CA	94710
Occupant(s)	1100 HARRISON ST 201	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 202	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 203	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 204	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 205	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 206	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 207	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 208	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 209	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 210	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 301	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 302	ALBANY CA	94706

Internal

Occupant(s)	1100 HARRISON ST 303	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 304	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 305	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 306	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 307	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 308	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 309	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 310	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 401	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 402	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 403	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 404	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 405	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 406	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 407	ALBANY CA	94706
Occupant(s)	1100 KAINS AVE	ALBANY CA	94706
Occupant(s)	1112 HARRISON ST B	ALBANY CA	94706
Occupant(s)	1115 HARRISON ST	ALBANY CA	94706
Occupant(s)	1117 HARRISON ST	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE A	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE B	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE C	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE D	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE E	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE F	ALBANY CA	94706
Occupant(s)	1131 KAINS AVE	ALBANY CA	94706
Occupant(s)	1149 TENTH ST	BERKELEY CA	94710
Occupant(s)	1155 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1155 SAN PABLO AVE 8	ALBANY CA	94706
Occupant(s)	1175 KAINS AVE	ALBANY CA	94706
Occupant(s)	1175 KAINS AVE AREAR	ALBANY CA	94706
Occupant(s)	1177 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1177 TENTH ST	BERKELEY CA	94710
Occupant(s)	1182 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1185 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1187 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE A	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE B	ALBANY CA	94706

Internal

Occupant(s)	1192 KAINS AVE C	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE D	ALBANY CA	94706
Occupant(s)	1197 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1198 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1199 SAN PABLO AVE	Berkeley	94710
Occupant(s)	1200 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1201 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1203 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1204 STANNAGE AVE	ALBANY CA	94706
Occupant(s)	1205 SAN PABLO AVE	ALBANY CA	94706
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Occupant(s)	1209 SAN PABLO AVE	ALBANY CA	94706
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Occupant(s)	1213 SAN PABLO AVE 102	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 103	ALBANY CA	94706
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Occupant(s)	1213 SAN PABLO AVE 206	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 207	ALBANY CA	94706
Occupant(s)	1214 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1215 KAINS AVE	ALBANY CA	94706
Occupant(s)	1215 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1215 TENTH ST	BERKELEY CA	94710
Occupant(s)	1218 KAINS AVE	ALBANY CA	94706
Occupant(s)	1219 KAINS AVE	ALBANY CA	94706
Occupant(s)	1220 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1220 SAN PABLO AVE A	ALBANY CA	94706
Occupant(s)	1222 KAINS AVE	ALBANY CA	94706
Occupant(s)	1223 KAINS AVE	ALBANY CA	94706

## Internal

Occupant(s)	1223 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1225 KAINS AVE	ALBANY CA	94706
Occupant(s)	1225 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1226 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1227 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1227 SAN PABLO AVE A	ALBANY CA	94706
Occupant(s)	1227 SAN PABLO AVE B	ALBANY CA	94706
Occupant(s)	1270 SAN PABLO AVE	ALBANY CA	94706
Isaiah Stackhouse, Trachtenberg Architects	2421 Fourth Street	Berkeley CA	94710
Lanhai Su	4500 Great America Parkway	Santa Clara CA	95054

## Gong, Sharon

---

**From:** Gong, Sharon  
**Sent:** Wednesday, April 13, 2022 10:38 AM  
**To:** Gong, Sharon  
**Subject:** 1201 San Pablo Development

**From:** Yvette Bozzini <[ybozzini@earthlink.net](mailto:ybozzini@earthlink.net)>  
**Sent:** Tuesday, January 18, 2022 12:21 PM  
**To:** Burns, Anne M <[ABurns@cityofberkeley.info](mailto:ABurns@cityofberkeley.info)>  
**Cc:** [dan.hayes@yahoo.com](mailto:dan.hayes@yahoo.com) Hayes <[dan.hayes@yahoo.com](mailto:dan.hayes@yahoo.com)>  
**Subject:** 1201 San Pablo Development

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I am Yvette Bozzini, the owner of the home directly adjacent the proposed project.

I have lived at 1110 Harrison Street since 2005. I live and work there as a self-employed writer (and sometime child- and elder caregiver.)

This is my approximately 650 sq. foot single-story house.



I understand that the project under review is considered to be in a Commercial District. But no matter what waivers, it is also a longtime residential neighborhood, filled with neighbors I was thrilled to find when I bought this, my first house. it



is a neighborhood, a community, in which we know and care about each other. The owners of the small businesses adjacent my home have become 9-5 neighbors who have never infringed on my well-being, quite the opposite.

To address the particulars of your current meeting --

I don't see my house in the architects drawings!

**(2) Orientation and Protection of Sunlight and Views.**

a. Buildings should be oriented to take advantage of the sun or outdoor private/public open space areas. Year-round solar access for adjacent buildings is encouraged.

Year-round solar access encouraged. Why not required? I will have ZERO solar access under this plan.

b. Views out from public areas and from existing buildings should be retained whenever possible by the use of setbacks, orientation and height limitations. The natural topography should be used to achieve these ends.

I will have a view of only a block of building.

**(1) Harmony with Surroundings.** The proposed design should be in harmony with its surroundings through the coordination of such design elements as cornice lines, eaves, and setbacks with those of existing neighborhood buildings. This is especially important when the architectural style of the proposed design is in strong contrast to that of adjacent structures. Form, color, materials and texture of existing buildings should be considered in design of new structures. Landscaping should also be compatible with surroundings.

Hello! How on earth does the proposal conform to "adjacent structures" -- my home.

**(8) Neighborhood Pattern.** It is not the intent of this section that neighborhood pattern, or characteristics of adjacent buildings, be necessarily copied literally, particularly if they have little or no architectural merit. Diversity and innovation are positive values, and are encouraged where they do not disrupt the harmony of the overall urban setting.

My home may have "little or no architectural merit" but it is my home and I do not see the "architectural merit" in 6-story blocks. And the six-story 'diversity and innovation' is "encouraged where they do not disrupt the harmony of the overall urban setting." ? Well, it does or will.

Finally, there is a housing shortage. Got it. but as i wrote earlier in this project approval process

"It seems a given that San Pablo Ave. will now be given over to ugly six story buildings but please consider:

The idea that these huge monstrosities are green and afford housing in a housing shortage are nonsense. How many vacancies exist in all the existing monoliths on San Pablo? How many low-income renters live there? Please!

C'mon, these buildings are only a boon for the landowners, the architects, and the City, NOT for the people.

Berkeley should be the epicenter of ecologically and environmentally sound tiny home communities that serve low-income renters, the elderly wanting to down-size out of their homes, and anyone seeking a smaller footprint.

Why not use these plots of land to do that? Many don't want to live in ugly high-rise boxes. Detached tiny homes -- with all current solar, etc. -- and, perhaps, small communal areas for gardening and such, would be so much more in keeping with the Berkeley ethic AND be much more equitable and environmentally sound than what is being proposed.

Please, please consider not only the selfish concerns of this homeowner and property tax payer (how am i supposed to work/write with months of construction noise, dust and traffic?) but also the ugly, nonsensical, path your are setting forward.

Yvette Bozzini  
1110 Harrison Street  
Berkeley, CA 94706  
510.219.5126

**Gong, Sharon**

---

**From:** Gong, Sharon  
**Sent:** Wednesday, April 13, 2022 10:39 AM  
**To:** Gong, Sharon  
**Subject:** 1201 San Pablo Development

**From:** Segen Ketema <[segenketema@gmail.com](mailto:segenketema@gmail.com)>  
**Sent:** Tuesday, January 18, 2022 5:00 PM  
**To:** Burns, Anne M <[ABurns@cityofberkeley.info](mailto:ABurns@cityofberkeley.info)>  
**Cc:** [dan.hayes@yahoo.com](mailto:dan.hayes@yahoo.com); Michael KETEMA <[mksr@aol.com](mailto:mksr@aol.com)>; [sdmsrt@aol.com](mailto:sdmsrt@aol.com); Tehan Ketema <[tehanketema@gmail.com](mailto:tehanketema@gmail.com)>  
**Subject:** 1201 San Pablo Development

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is

safe.

Hello,

I am Segen Ketema, the eldest daughter of Michael Ketema and Semainsh Debrezion, the homeowners of 1204 Kains Ave, the property directly behind the proposed 1201 San Pablo Development.

My parents bought this home in 1994 and have raised all 4 of their children in this neighborhood. As one of the families that has lived on our block the longest, we have always appreciated and enjoyed the community and camaraderie amongst our neighbors. We have also seen the many changes occur in our greater neighborhood area that has impacted traffic and an increase in people over the years.

This leads to our concerns of the proposal:

1. "66 dwelling units – 22 studios, 34 one-bedroom, and 10 two-bedroom; 17 to 28 vehicle parking spaces in ground-level garage."
  1. There are already issues at this time finding parking on Kains Avenue and on Harrison Street and with the amount of units to potential parking spaces ratio, this will become significantly worse.
2. "Massing/Building Design This 6-story structure steps down at the 5th and 6th floors to the East to respond to the adjacent residential district. The east facing podium level courtyard further reduces the scale of the project with a majority of the massing located along San Pablo and Harrison."
  1. We have concerns about the courtyard facing east- there is a portion that will look directly into our 2nd floor and impact our privacy. Privacy is very important to us and having people able to look into our home is worrisome.
3. "Setbacks The building meets the property line at the North, West, and South sides. There is a 5' setback at the East side where the project abuts the R-2 residential district."
  1. With the sides of the building extending all the way to Harrison Street, we are concerned about the view and amount of light this will block from our home.
4. The timeline of the proposed project is a huge concern for us. We know other mixed use buildings in Berkeley, which have taken years to complete. The amount of construction and noise that will impact our family on a day to day basis, and for an extended period of time, for what should be a quiet, residential neighborhood is not something we are looking forward to. Although we are not against the space being of better use, it is concerning that this will impact the community and residential aspects of our neighborhood that drew us to this house from the beginning.

Thank you for taking our concerns into consideration.

Segen

--

Segen Ketema, MPH

[segenketema@gmail.com](mailto:segenketema@gmail.com) | (510) 334-2073

**Gong, Sharon**

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**From:** Gong, Sharon  
**Sent:** Wednesday, April 13, 2022 10:38 AM  
**To:** Gong, Sharon  
**Subject:** RE: Ugly monstrosity being approved for 1201 San Pablo Ave

**From:** Steve Kosach <[steve.kosach@gmail.com](mailto:steve.kosach@gmail.com)>  
**Sent:** Tuesday, January 18, 2022 10:18 AM  
**To:** Burns, Anne M <[ABurns@cityofberkeley.info](mailto:ABurns@cityofberkeley.info)>  
**Subject:** Ugly monstrosity being approved for 1201 San Pablo Ave

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To whom it may concern:

I live at 1209 Kains Ave, and was just emailed the plans for the building going up at 1201 San Pablo Ave. As a 20yr Berkeley resident I appreciate the need for more housing all across the Bay Area, but smashing a 6 story building onto the corner of San Pablo and Harrison is not the way to do it. Not only are they shoving this building down our throats, but now it seems like they're picking the ugliest design possible. No charming landscaping. No charming architectural features. Just a six story featureless building that nobody but the neighbors will notice.

Not only will the SIX story building seriously degrade the value, aesthetic, and feel of our charming and diverse street, but I have to wake up every morning to stare at the backside of it. With no other buildings over 3 stories within sight of this piece of junk, I'll get the sense that the city of Berkeley and the Council members who approved this thing are giving me the finger.

Sincerely,

Steve Kosach

**Gong, Sharon**

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**From:** Gong, Sharon  
**Sent:** Wednesday, April 13, 2022 10:42 AM  
**To:** Gong, Sharon  
**Subject:** 1201 San Pablo proposed building comments for tonight's meeting

**From:** Hillary Curtis <[hlclandesign@yahoo.com](mailto:hlclandesign@yahoo.com)>  
**Sent:** Thursday, January 20, 2022 10:21 AM  
**To:** Burns, Anne M <[ABurns@cityofberkeley.info](mailto:ABurns@cityofberkeley.info)>  
**Subject:** 1201 San Pablo proposed building comments for tonight's meeting

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Greetings,

I am unable to attend tonight's meeting where the plans for proposed building at 1201 San Pablo are going to be discussed.

We are property owners in the neighborhood of this proposed building. For the record, we strongly oppose the building for several reasons.

We have major concerns about the inadequate parking for this building. This parking shortage inevitably will impact the neighborhood, and make the surrounding area far more congested and less safe for existing residents, as we will likely not be able to park close to our homes. As I hope the zoning board and planning dept is aware, this is already a terrible area for car break-ins. When people are not able to park cars close to their homes, car break-ins and thefts may increase, and possibly impact the safety of residents walking too and from their cars.

We also have major concerns about the mass of the building and complete lack of greenspace. Additionally, the building itself is devoid of architectural interest or beauty. All of these things combined will further degrade the character of this section of San Pablo.

There should be a revitalization of this section of San Pablo Ave. This proposed project needs expanded greenspace, ample parking located within the building envelope, a smaller massing, and interesting architecture that works with and relates to the surrounding residential neighborhood.

We strongly oppose the building as proposed and would like to see the changes we have outlined prior to this building being approved.

-Hillary Curtis  
Stannage Ave

**Gong, Sharon**

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**From:** Gong, Sharon  
**Sent:** Wednesday, April 13, 2022 10:41 AM  
**To:** Gong, Sharon  
**Subject:** 1201 San Pablo Project

From: Jean Molesky-Poz <moleskypoz@me.com>  
Sent: Thursday, January 20, 2022 11:03 AM  
To: Burns, Anne M <ABurns@cityofberkeley.info>  
Subject: 1201 San Pablo Project

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

It has JUST come to my attention of the Berkeley City Council meeting this evening regarding the 1201 San Pablo Project.

I oppose this project, its magnitude in terms of its impact on traffic, on parking issues for the neighborhood — as the number of parking spaces planned for this development — would not in any way meet the needs of its residents, the density of units (which most likely have small square footage) and lack of any green space — places where we as humans need to rejuvenate. As it is planned as a mixed use building, do an inventory of all the empty first floor commercial spaces along San Pablo (and this is not due entirely to the Pandemic), and ask how successful this planning is for the city of Berkeley. Reconsider.

The City Council of Berkeley needs to consider the quality of life of its residents, yes, build more affordable housing, but in a way that creates a livable environment for all.

Jean Molesky-Poz  
1220 Stannage Avenu  
Berkeley, CA. 95706

## Gong, Sharon

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**From:** Gong, Sharon  
**Sent:** Friday, April 8, 2022 11:57 AM  
**To:** Gong, Sharon  
**Subject:** FW: 1201-1205 San Pablo

Internal

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**From:** Yvette Bozzini <[ybozzini@earthlink.net](mailto:ybozzini@earthlink.net)>  
**Sent:** Tuesday, April 05, 2022 4:01 PM  
**To:** Burns, Anne M <[ABurns@cityofberkeley.info](mailto:ABurns@cityofberkeley.info)>; Isaiah Stackhouse <[Isaiah@trachtenbergarch.com](mailto:Isaiah@trachtenbergarch.com)>  
**Subject:** 1201-1205 San Pablo

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

April 5, 2022

I am writing as the homeowner adjacent your proposed project at 1201-1205 San Pablo Avenue, Berkeley, CA.

I live directly adjacent, at 1110 Harrison Street, Berkeley, in a small, one-story home.

Your proposed project will greatly impact my life, and the lives of my dear neighbors – and not for the better.

The proposed project is completely inappropriate and out of scale for our neighborhood which is made up of single and two story homes.

We all recognize the need for more housing in the Bay Area but it should be site- and **existing** neighborhood appropriate. There are other ways to create more housing.

Your proposed project will forever change my neighborhood and is NOT a sane way to provide more, especially low-income housing. I cannot but think that you are simply capitalizing on the mandate for more housing in a way that benefits only you, the landowner, and perhaps the architects and City.



The last time big trucks were leased out to use your property, the foundation of my adjacent house – 25 feet away – cracked and my similarly located driveway cracked.

Noise and dust were a big issue – as they are right now when an EBMUD way station is directly adjacent my house. WITHOUT A CITY PERMIT.

Design Review members asked the architect about this and he said it was “a matter of tort law.”

I would prefer not to have to engage an attorney and engage in “tort law.’

This is an existential issue for me as I not only live in but also work from my home.

What do you have to say?

Yvette Bozzini

1110 Harrison Street

Berkeley, CA 94706

510.219.5126



Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

## ZONING ADJUSTMENTS BOARD NOTICE OF PUBLIC HEARING

**SUBJECT:** 1201-1205 San Pablo Avenue  
Use Permit #ZP2021-0070


**WHEN:** Thursday, April 28, 2022.  
Meeting starts at 7:00 pm.

**WHERE:** *This meeting will be conducted exclusively through videoconference and teleconference; there will not be a physical meeting location available. Please see:*  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2022-04-28\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2022-04-28_ZAB_Agenda.pdf) for details.

«NAME1»

«NAME2»

«ADDRESS1» «ADDRESS2»

	<p><b>SUBJECT: 1201-1205 San Pablo Avenue, Use Permit #ZP2021-0070</b>, to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very Low-Income units), 1,680 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.</p> <p><b>CEQA RECOMMENDATION:</b> It is staff's recommendation to ZAB that the project is categorically exempt pursuant to §15332 ("In-Fill Development Projects") of the CEQA Guidelines. The determination is made by ZAB.</p>
<p><b>NOTICE CONCERNING YOUR LEGAL RIGHTS:</b> If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing.</p>	<p><b>All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.</b></p> <p>Send written comments to the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704 or via e-mail to: <a href="mailto:zab@cityofberkeley.info">zab@cityofberkeley.info</a>. For further information, see the Agenda at: <a href="https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2022-04-28_ZAB_Agenda.pdf">https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2022-04-28_ZAB_Agenda.pdf</a> or call the Land Use Planning division (510) 981-7410.</p>
<p><b>Post and Mail Date:</b> <b>April 14, 2022</b></p>	<p>To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6347(TDD) at least three business days before the meeting date.</p> <p>PLEASE NOTE: If your contact information is included in any communication to the Board, it will become part of the public record, and will be accessible on the City Website.</p>
<p>All application materials are available at the Land Use Planning Division online at: <a href="http://www.cityofberkeley.info/zoningapplications">http://www.cityofberkeley.info/zoningapplications</a>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <a href="http://www.cityofberkeley.info/zoningadjustmentsboard">http://www.cityofberkeley.info/zoningadjustmentsboard</a>.</p>	

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Citizens Opposing Polluted Environment	1908 TENTH ST	BERKELEY CA 94710	
Fifth-Camelia Neighborhood Group	807 PAGE ST	BERKELEY CA 94710	
Page Street Neighbors	P.O. BOX 2296	BERKELEY CA 94702	
Paul Cox	890 CAMELIA ST	BERKELEY CA 94710	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Heinz Avenue Arts Group	800 HEINZ AVE #3	BERKELEY CA 94710	
West Berkeley Association of Industrial Companies	PO BOX 2307	BERKELEY CA 94702	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000	SOUTH SAN FRANCISCO CA 94080	
KIKUCHI ASAHIKO & MEGUMI	1 HOME CAMPUS	DES MOINES IA	50328
SAN PABLO COMMERCIAL PROPERTIES LLC	1047 SUNRISE RIDGE DR	LAFAYETTE CA	94549
MASCOT INTERNATIONAL	1055 HARRISON ST	BERKELEY CA	94710
BULGER PAUL M & VARELABULGER LUCIA G	1094 SUFFOLK DR	SANTA ROSA CA	95401
KIM KWANG T & CHAN R	11040 BOLLINGER CANYON RD E913	SAN RAMON CA	94582
BOZZINI YVETTE	1110 HARRISON ST	BERKELEY CA	94706
FASHING TERRI & WINER GABRIEL	1112 HARRISON ST	BERKELEY CA	94706
TURNER HOLLY	1114 HARRISON ST	BERKELEY CA	94706
OBOLENSKY ELIZABETH & HAYES DANIEL J	1116 HARRISON ST	BERKELEY CA	94706
WESTCOTT ALAN J TR	1119 HARRISON ST	BERKELEY CA	94706
GONZALEZ PATRICK J	1121 HARRISON ST	BERKELEY CA	94706
HOFFMAN PETER J & IAROLI DORIS E	1123 HARRISON ST	BERKELEY CA	94706
MAYOBURLESON ADORACION TR	1125 HARRISON ST	BERKELEY CA	94706
CORVELLO WALTER J & MARY E TRS	1151 WASHINGTON AVE	ALBANY CA	94706
FIERSTEIN FREDRIC J TR	1175 ARCH ST	BERKELEY CA	94708
CERIDONO GLENDON & BEHNKE LINDA C TRS ETAL	1194 ESTATES DR	LAFAYETTE CA	94549
TUNNAH CHRISTINA	1196 KAINS AVE	BERKELEY CA	94706
BARBAZETTE LESLIE C & GALVAGNA ALESSANDRO B	1200 STANNAGE AVE	BERKELEY CA	94706
KETEMA MICHAEL G & TENSAE SEMAINESH G	1204 KAINS AVE	BERKELEY CA	94706
MULVEHILL MARY E & SMITH DAVID A	1205 KAINS AVE	BERKELEY CA	94706
HARDY MATTHEW L & OHARA KATHERINE R	1206 KAINS AVE	BERKELEY CA	94706
WYAND MARY T & VELLUTINI PAUL C TRS	1206 STANNAGE AVE	BERKELEY CA	94706
BLACK ELIZABETH & LOVVORN JENNIFER	1208 KAINS AVE	BERKELEY CA	94706
STECKEL RICHARD & TREASURE ROBIN A	1208 STANNAGE AVE	BERKELEY CA	94706
ALTMAN SUSAN & KOSACH STEVEN R JR	1209 KAINS AVE	BERKELEY CA	94706
MEDINA ENRICO A TR	1210 KAINS AVE	BERKELEY CA	94706
POSKANZER JEFFREY A	1212 KAINS AVE	BERKELEY CA	94706
DANYSH ERIC S & AVA C TRS	1212 STANNAGE AVE	BERKELEY CA	94706
ARONEN DANIEL C & TANIGUCHI KAZUMI TRS	1214 KAINS AVE	BERKELEY CA	94706

Internal

COHEN SUSAN E TR	1214 STANNAGE AVE	BERKELEY CA	94706
EVANS NYCOLE M TR	1216 STANNAGE AVE	BERKELEY CA	94706
GREENE JOSHUA I & GERTLER RENEE TRS	1217 KAINS AVE	BERKELEY CA	94706
JOHNSON DEBORAH A & HEAD DELIA A ETAL	1220 KAINS AVE	BERKELEY CA	94706
SMITH ALEXANDER JR	1224 KAINS AVE	BERKELEY CA	94706
MACDONALD TANIA R TR	1226 KAINS AVE	BERKELEY CA	94706
GOSLING KAREN L TR	1228 KAINS AVE	BERKELEY CA	94706
HOFFMAN MICHAEL	1229 SAN PABLO AVE	BERKELEY CA	94706
1207 TENTH STREET LLC	1323 TALBOT AVE	BERKELEY CA	94702
INGRAM GARY M & ANITA L TRS	1407 GRIZZLY PEAK BLVD	BERKELEY CA	94708
DALTON DEANNA TR & HALL DAVID TR	1482 NORTHSIDE AVE	BERKELEY CA	94702
BRECKENRIDGE PROPERTY FUND 2016 LLC	2015 MANHATTAN BEACH BLVD, #100	REDONDO BEACH CA	90278
R & S SAN PABLO LLC	2025 FOURTH ST	BERKELEY CA	94710
ALBANY CREEKSIDE APARTMENTS LP	2220 OXFORD ST	BERKELEY CA	94704
WURBAN LLC	2336 CALIFORNIA ST	BERKELEY CA	94703
IRWIN MARY A TR	3761 HARRISON ST 15	OAKLAND CA	94611
COOPER C CHAO LLC	450 E STRABERRY DR 15	MILL VALLEY CA	94941
CHUN CALVIN W & GAY Y TRS	6827 BLAKE ST	EL CERRITO CA	94530
KS WONG NORTH LLC	712 S RAMONA ST A	SAN GABRIEL CA	91776
FUJITA LARRY & LOZANO CAROLYN F TRS	8622 EDGEHILL CT	EL CERRITO CA	94530
BLSF PROPERTIES LLC	925 ADAMS ST	ALBANY CA	94706
SU LANHAI	93 CASTILLO LN	MILPITAS CA	95035
LEE ANNA Y & FRANK C	P O BOX 1127	EL CERRITO CA	94530
MCDONALDS CORPORATION	P.O. BOX 182571	COLUMBUS OH	43218
CUNNINGHAM KENNETH D & LOUISE M TRS	P.O. BOX 365	SNELLING CA	95369
PAGANELLI GEORGE R & ZILPHA S TRS	PO BOX 182571	COLUMBUS OH	43218
Occupant(s)	1060 HARRISON ST	BERKELEY CA	94710
Occupant(s)	1100 HARRISON ST 201	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 202	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 203	ALBANY CA	94706
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Occupant(s)	1100 HARRISON ST 210	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 301	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 302	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 303	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 304	ALBANY CA	94706

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Occupant(s)	1100 HARRISON ST 305	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 306	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 307	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 308	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 309	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 310	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 401	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 402	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 403	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 404	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 405	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 406	ALBANY CA	94706
Occupant(s)	1100 HARRISON ST 407	ALBANY CA	94706
Occupant(s)	1100 KAINS AVE	ALBANY CA	94706
Occupant(s)	1112 HARRISON ST B	ALBANY CA	94706
Occupant(s)	1115 HARRISON ST	ALBANY CA	94706
Occupant(s)	1117 HARRISON ST	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE A	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE B	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE C	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE D	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE E	ALBANY CA	94706
Occupant(s)	1122 KAINS AVE F	ALBANY CA	94706
Occupant(s)	1131 KAINS AVE	ALBANY CA	94706
Occupant(s)	1149 TENTH ST	BERKELEY CA	94710
Occupant(s)	1155 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1155 SAN PABLO AVE 8	ALBANY CA	94706
Occupant(s)	1175 KAINS AVE	ALBANY CA	94706
Occupant(s)	1175 KAINS AVE AREAR	ALBANY CA	94706
Occupant(s)	1177 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1177 TENTH ST	BERKELEY CA	94710
Occupant(s)	1182 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1185 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1187 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE A	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE B	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE C	ALBANY CA	94706
Occupant(s)	1192 KAINS AVE D	ALBANY CA	94706
Occupant(s)	1197 SAN PABLO AVE	ALBANY CA	94706

Internal

Occupant(s)	1198 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1199 SAN PABLO AVE	Berkeley	94710
Occupant(s)	1200 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1201 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1203 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1204 STANNAGE AVE	ALBANY CA	94706
Occupant(s)	1205 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1207 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1207 TENTH ST	BERKELEY CA	94710
Occupant(s)	1209 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1212 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1213 KAINS AVE	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 101	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 102	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 103	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 104	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 105	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 106	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 107	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 201	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 202	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 203	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 204	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 205	ALBANY CA	94706
Occupant(s)	1213 SAN PABLO AVE 206	ALBANY CA	94706
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Occupant(s)	1220 SAN PABLO AVE A	ALBANY CA	94706
Occupant(s)	1222 KAINS AVE	ALBANY CA	94706
Occupant(s)	1223 KAINS AVE	ALBANY CA	94706
Occupant(s)	1223 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1225 KAINS AVE	ALBANY CA	94706
Occupant(s)	1225 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1226 SAN PABLO AVE	ALBANY CA	94706

## Internal

Occupant(s)	1227 SAN PABLO AVE	ALBANY CA	94706
Occupant(s)	1227 SAN PABLO AVE A	ALBANY CA	94706
Occupant(s)	1227 SAN PABLO AVE B	ALBANY CA	94706
Occupant(s)	1270 SAN PABLO AVE	ALBANY CA	94706
Isaiah Stackhouse, Trachtenberg Architects	2421 Fourth Street	Berkeley CA	94710
Lanhai Su	4500 Great America Parkway	Santa Clara CA	95054



**Gong, Sharon**

---

**From:** Steve Kosach <steve.kosach@gmail.com>  
**Sent:** Wednesday, April 27, 2022 3:44 PM  
**To:** Gong, Sharon  
**Subject:** ZAB meeting agenda for 4-28-2022  
**Attachments:** Yvette Bozzini 1201-1205 San Pablo.docx

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Sharon,

I am writing to you on behalf of the neighbors surrounding the proposed housing project at 1201 San Pablo Ave, Berkeley CA. We are a group of residents who are having a very difficult time getting answers to our questions regarding the proposed project which is on the agenda for tomorrow night's ZAB Board Meeting. We would appreciate it if you could please forward this email to the Board Members ahead of tomorrow night's meeting so that they are not surprised by the number of questions, nor from the large number of concerned neighbors who would like to address the board.

The Project is located on the southeast corner of the San Pablo Avenue/Harrison Street intersection in Berkeley. The Project site is currently vacant, and the Project would consist of a six level building providing 66 multi-family residential units (mix of studios, one-bedroom, and two bedroom units for a total of 76 bedrooms), and about 1,720 square feet of ground-level commercial space. The Project would also include a ground-level garage with a full-access driveway on Harrison Street. The garage would provide either 17 non-lift standard parking spaces or up to 28 parking spaces (consisting of five non-lift standard spaces and 23 spaces accommodated with double-lifts).

The current residents (ALL of them) on Kains Ave, Harrison St, and Stannage Ave that reside within 500' of the proposed project are opposed to a six story building that would be just a mere 10' from our neighbors directly adjacent to the project. Please understand that we are NOT opposed to a residential building on the site, we are just opposed to such a large building that we feel would negatively impact everyone that currently lives in this wonderful and diverse neighborhood. We would gladly welcome any and all new neighbors to our community and would gladly welcome a residential building on what is currently an ugly vacant lot, but are asking for some common sense to prevail with the design and size of the project.

How would this current building negatively impact us? For the neighbors directly adjacent to the project, they would lose any and all sunshine to their houses after 1pm. They would lose the use of their solar panels. They would lose the privacy of their own backyards, and in some cases their own bedrooms. We all will lose access to already dwindling street parking. We would also lose what we feel is the charm and character of our neighborhood by having to look daily at a 6 story block building where no other such structure exists within a 1/2 mile. We would all lose property value. I have attached a letter from Yvette Bozzini who would be the most impacted by the proposed project. Please read it.

Through careful research and more than a little help from some members of the Berkeley City Council, and the Berkeley City Design Review Board, we have learned that this project is funded 100% by overseas money, and is being developed and paid for by developers who want nothing more than to make a profit. Not a single neighborhood resident was ever contacted as required by law, and no environmental, traffic, or neighborhood impact study has ever been done. All attempts to meet with and work with the developers have fallen on deaf ears. I wonder why? On top of this we have found that the developers have already listed the property for sale, with the "approved" design.

<https://www.realty.com/land-listings/317902556/1201-San-Pablo-Ave-Berkeley-CA-94706>

This is hardly the intention of someone who is interested in adding the much needed additional housing our community needs.

These are just a few of the questions that will be asked tomorrow night at the ZAB meeting. All we are asking for is more time so that the ZAB board members can get researched and definitive answers on how this project is going to affect the neighborhood.

1. Why is the city using a 2017 traffic study as their only resource to address the public safety aspect of this project? I would think that adding over 120 new apartments (that's including the developers' other project across the street from 1201 San Pablo Ave) would require an in-depth study of the increased traffic, and its effect on the already busy San Pablo Ave, Harrison St, Kains Ave, and Stannage Ave. Where are the 100 plus new vehicles going to park? What will be the impact on the Harrison St/San Pablo Ave intersection where there is no left turn lane, no traffic signal, and no metered crosswalk. I would also point out that this is an ever changing neighborhood and traffic concerns of 2017 are no longer applicable. At the very least, the neighbors would like to request that a new traffic study be done. One that includes the impact of both the 1201 San Pablo project as well as the additional project across the street. This a neighborhood where kids ride their bikes and roller skate. Increasing traffic on the street has a significant safety impact on the community

2. Why has there been no environmental study done, especially with the newly protected Codornices Creek less than 75' away from the proposed projects.

3. Why were the developers allowed to propose and push through these plans without contacting a single neighbor as required by law? Why are they still being allowed to have their plans approved without having attended a single meeting, or addressing the concerns of the neighbors? I would think that if this was such a beneficial project to the community that someone would've at least tried to "sell us" on the project, or listened to our concerns. We've gotten nothing but crickets, until very recently and that was only because of the relentless nature of some of our neighbors who have been tirelessly trying to get in touch with the developers.

4. We would like to point out that this project was originally approved for 30 units which seems appropriate. The community is unclear as to how a building approved for 30 units is now suddenly appropriate for double the amount of units. Don't forget about the other 60+ Units proposed for the other side of the street. Why and how was this new number approved?

5. Why is the city of Berkeley opposed to taking more time on this matter to meet with both the developers and the impacted neighbors to answer the important questions that have been put forth? At every City Council meeting, Design Review Meeting, or every attempt to get the city of Berkeley to make the building smaller, or fit into the current neighborhood, we are told the same thing, "My hands are tied". Everyone keeps citing the California Housing Authority Act, but I'm starting to come to the conclusion that nobody has actually read the HAA.

Every single one of us is supportive of the HAA, its goals, and how it addresses the critical need for more housing in California. What we need help with is making this situation beneficial for everyone in our neighborhood, and not just the rich investors, who seem to be taking advantage of HAA to line their pockets. We are asking the board to hold off on approving this project until the legal and legitimate concerns of the community can be appropriately addressed.

We sincerely appreciate your time on this matter, and I apologize for the long email. We love our neighborhood, and our neighbors, and are passionate about growing our little community in a positive way.

Sincerely,

Steve Kosach  
1209 Kains Ave, Berkeley

Steve Kosach

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 1201 San Pablo ave

-----Original Message-----

From: Yvette Bozzini <ybozzini@earthlink.net>  
Sent: Friday, April 29, 2022 12:21 AM  
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
Cc: Kesarwani, Rashi <RKesarwani@cityofberkeley.info>  
Subject: 1201 San Pablo ave

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

You should all be ashamed of yourselves. You know darn well this wouldn't have happened in a more affluent neighborhood. Two hours spent on backyard nonsense on Grizzly Peak and bandaids to our existential issues. Shame on you.

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 1201-1205 San Pablo project

**From:** Gabe and Terri <carnivalwine@gmail.com>  
**Sent:** Friday, April 29, 2022 6:55 AM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Cc:** Dan Hayes <dan.hayes@yahoo.com>; Holly Turner <snow\_sylph@yahoo.com>; Kate O'Hara <katherine\_ohara1@yahoo.com>; Matthew Hardy <mhardy415@gmail.com>; Nick Shapiro <nick@nickshapiro.net>; Semianesh Ketema <sdmsrt@aol.com>; Steve Kosach <steve.kosach@gmail.com>; Susie Altman <susie.altman@gmail.com>; Yvette Bozzini <ybozzini@earthlink.net>  
**Subject:** 1201-1205 San Pablo project

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Zab,

We live in the blue house on the images of the project at the corner of Kains and Harrison.

We are discussing the results of last night's meeting with our 12 year old son this morning.

He is hoping the kids who move in to the new building will also be able to ride their bikes on our block without getting hit by cars zooming down to Gilman.

Please, please put in barriers at Gilman on Kains and Stannage, not a bike lane, and block off Harrison like at Trader Joe's on Berkeley Way.

Speaking on the impact of a shed on one homeowner in the hills, one of you said, "There's no amount of mitigation that makes up for the loss of light."

If this building had more than a measly 5 units (five! out of 66!) of low-income housing, all this would be worth it. But we really do feel like the safety of our families - and the safety of the new people who we welcome here - is being traded for developer profits.

Thank you for your consideration.

Gabriel Winer  
1112 Harrison St

--

Sent from Gmail Mobile

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: ZAB meeting of April 28, 2022.

-----Original Message-----

From: Margaret <margaretpritt@sbcglobal.net>  
Sent: Friday, April 29, 2022 2:34 PM  
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>; Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
Subject: ZAB meeting of April 28, 2022.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Good Morning,

After the meeting last night I am convinced that NOT ALL ZAB MEMBERS READ THE E-mails received about 1201 San Pablo. Yet they voted anyway! It is my feeling that the ZAB members just voted with the Planning recommendation...even though most of our e-mails filled with details were submitted AFTER THE PLANNING COMMISSION RECOMMENDATION!

I also feel that the 2 party dispute in Grizzly Peak was handled in a manner different than the San Pablo dispute. Exchange was allowed between the 2 parties AND several members had visited the site to assess the controversy. You even went back & forth asking if concessions were acceptable to both parties. You did no such thing with the 1201 San Pablo development. You did not come back to us to see if the "suggested" modifications were acceptable, or if we wished for others to be included! We know of NO ZAB members who visited 1201 and spoke with any of the concerned parties!

The e-mails detailed specific failures in the Shadow Study & Traffic Reports submitted. There were instances where City requirements were not fulfilled. The Transportation Assessment for 1201 San Pablo was based on the 2017 Traffic Impact Study from 1200 San Pablo. So many developments in the adjacent Albany area (Albany starts just 2 buildings away) make a 2017 Study invalid! Just these findings alone should have given you basis to deny the project as submitted!

I, and others in the neighborhood have been driving these streets daily, for some, up to 40 years. Even without a Traffic Impact Study, we KNOW this will be a traffic safety hazard.

IT WILL INDEED CREATE A TRAFFIC SAFETY PROBLEM IN THIS AREA!

Sincerely,  
Margaret Pritt

Sent from my iPhone

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 1201-1205 San Pablo Ave.

**From:** Yvette Bozzini <ybozzini@earthlink.net>  
**Sent:** Saturday, April 30, 2022 6:26 PM  
**To:** Kesarwani, Rashi <RKesarwani@cityofberkeley.info>; Gerstein, Beth <BGerstein@cityofberkeley.info>; Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>; Gong, Sharon <SGong@cityofberkeley.info>  
**Subject:** 1201-1205 San Pablo Ave.

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Now, to add insult to the injury of our neighborhood's mock hearing last Thursday night (April 28, 2022) with ZAB

all online requests for records about 1201 or ZAB hearing are met with this:

## 404: Page Not Found

**WE'RE SORRY, BUT THIS PAGE EITHER HAS BEEN MOVED, DELETED, OR DOES NOT EXIST.**

Please don't say "routine maintenance" or some such. Nothing like that is noted. Given the contentiousness of this issue, it's suspicious.

Please explain and rectify.

Yvette Bozzini  
1110 Harrison Street  
Berkeley, CA 94706

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 1201-1205 San Pablo Plans.  
**Attachments:** hcd-memo-on-haa-final-sept2020.pdf

**From:** Margaret <margaretpritt@sbcglobal.net>  
**Sent:** Monday, May 2, 2022 5:39 PM  
**To:** Gong, Sharon <SGong@cityofberkeley.info>; Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>; Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Subject:** Re: 1201-1205 San Pablo Plans.

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Hi,

Thank you for the link. I have already downloaded SB330, SB8, and the Updated CALTRANS Transportation Impact Study Guide since San Pablo is a State Highway.

I still feel that adding both developments across from each other at this intersection will not only create a traffic nightmare (resulting in MORE Greenhouse Gas Emission), but also create unsafe conditions at the "non-functional 4-way" intersection. There is no thoroughfare in the Eastbound direction at that intersection.

The residents of Berkeley should not have their pleasant lives destroyed to accommodate housing for UC Berkeley students because UC Berkeley continues to increase enrollment & NOT PROVIDE on-campus housing! City of Berkeley should look at UC Davis...they have built lots of on-campus housing! And don't tell me it is about affordable housing...only 5 of the 66 units are affordable. If the City of Berkeley wants to provide affordable housing they should buy property & create it themselves!

Also, the latest Traffic study in 2020, by 1200 San Pablo, states that their input would warrant a traffic signal at the intersection...and the Traffic study used by 1200 San Pablo based their findings on the 2017 Study of 1200 San Pablo, so it is not a valid or acceptable study. CALTRANS should be part of this discussion since San Pablo is a State Highway.

I am currently in contact with CALTRANS.

You are essentially destroying life for your Berkeley permanent residents in favor of students & transitional residents! At least those who aren't wealthy enough to afford homes in the Berkeley Hills.

Sincerely,  
Margaret Pritt  
1231 Kains

Sent from my iPhone

On May 2, 2022, at 11:30 AM, Gong, Sharon <[SGong@cityofberkeley.info](mailto:SGong@cityofberkeley.info)> wrote:



Hi Margaret,

I just replied to Yvette, explaining that the new City of Berkeley website, that went into effect on Friday. Please see the email below for links to ZAB.

As for your other question, the City makes no guarantees of profit for developers. The Planning Department implements the State Planning laws as well as local codes. The State has passed laws, more of them recently, which serve to promote the construction of new housing, to address the housing crisis. This may be a bit technical, but here attached is a document put out by the State's Department of Housing and Community Development that explains the Housing Accountability Act.

Here is a link to more information on State laws pertaining to housing:

<https://www.hcd.ca.gov/community-development/accountability-enforcement.shtml>

Regards,

Sharon



**Sharon Gong** (she/her/hers)  
Senior Planner  
Planning and Development, Land Use Division  
1947 Center St., 2<sup>nd</sup> Floor, Berkeley, CA 94704

**From:** Gong, Sharon  
**Sent:** Monday, May 2, 2022 11:17 AM  
**To:** Yvette Bozzini <[ybozzini@earthlink.net](mailto:ybozzini@earthlink.net)>  
**Cc:** Kesarwani, Rashi <[RKesarwani@cityofberkeley.info](mailto:RKesarwani@cityofberkeley.info)>; Gerstein, Beth <[BGerstein@cityofberkeley.info](mailto:BGerstein@cityofberkeley.info)>; Zoning Adjustments Board (ZAB) <[Planningzab@cityofberkeley.info](mailto:Planningzab@cityofberkeley.info)>  
**Subject:** RE: 1201-1205 San Pablo Ave.

Hello Yvette,

Sorry for the confusion. The new City of Berkeley website (which has been a couple of years in the making) was placed in effect as of Friday. As part of the renovation, unfortunately, all previously existing project webpages have been discontinued.

ZAB hearing information can now be found here: <https://cityofberkeley.info/your-government/boards-commissions/zoning-adjustments-board>. The hearing video has not been posted yet, however.

Application materials can still be found here:

Citizen's Access Portal

<https://aca.cityofberkeley.info/Community/>

Click on Zoning tab

Enter the address or project number, e.g. "ZP2020-xxxx", in the search field

Select the permit

Click on the "Record Info" drop down menu

Click on Attachments for a list of all application materials

Please pass this information onto the 1201 San Pablo neighbors, so that they know too.

Regards,

Sharon



**Sharon Gong** (she/her/hers)

Senior Planner

Planning and Development, Land Use Division

1947 Center St., 2<sup>nd</sup> Floor, Berkeley, CA 94704

-----Original Message-----

From: Margaret <[margaretpritt@sbcglobal.net](mailto:margaretpritt@sbcglobal.net)>

Sent: Saturday, April 30, 2022 8:43 PM

To: Gong, Sharon <[SGong@cityofberkeley.info](mailto:SGong@cityofberkeley.info)>

Subject: Re: 1201-1205 San Pablo Plans.

Hi Sharon,

Could you answer a question for me? Are developers guaranteed a specific minimum profit % when building a housing unit?

I don't understand being told a developer cannot reduce units because that would result in them not being able to offer affordable units.

Seems the only thing it would reduce would be their excess profit. So, if there is no minimum profit guarantee, then that is not a valid position.

Also, City of Berkeley website is not affording access to project data for the San Pablo sites.

Thank You,  
Margaret Pritt

Sent from my iPhone

> On Apr 22, 2022, at 6:00 PM, Margaret <margaretpritt@sbcglobal.net> wrote:

>

> Hi Sharon,

>

> Thank you for the response.

>

> Their shadow study is still inaccurate. I would have to question the guidelines about the noon shadow (virtually useless)! And, guidelines are just that...not mandates.

>

> Margaret Pritt

> 1231 Kains

>

> Sent from my iPhone

>

>> On Apr 22, 2022, at 3:46 PM, Gong, Sharon <SGong@cityofberkeley.info> wrote:

>>

>> Hello Margaret,

>>

>> Please see the City's shadow studies guide for the times required to be modeled.

>> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Land\\_Use\\_Division/Shadow%20Study%20Instructions.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Shadow%20Study%20Instructions.pdf)

>>

>> The required times are: June 21 and December 21: 2 hours after sunrise, noon, and 2 hours before sunset.

>>

>>

>> Sharon

>>

>> Sharon Gong (she/her/hers)

>> Senior Planner

>> Planning and Development, Land Use Division

>> 1947 Center St., 2nd Floor, Berkeley, CA 94704

>>

>>

>>

>>

>> -----Original Message-----

>> From: Margaret <margaretpritt@sbcglobal.net>

>> Sent: Friday, April 22, 2022 2:38 PM

>> To: Gong, Sharon <SGong@cityofberkeley.info>

>> Subject: 1201-1205 San Pablo Plans.

>>

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>>

>> Hi,

>>

>> Looking at the Shadow Study submitted...it is NOT ACCURATE, and should show shadow effect at 2PM. Having a study at noon is a non-issue since noon shadows are essentially just downward.

>>

>> I have just started reviewing the Planning staff recommendation. Will keep you updated as I find other concerns.

>>

>> Margaret Pritt

>> 1231 Kains

>>

>> Sent from my iPhone

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

**September 15, 2020**

**MEMORANDUM FOR:** Planning Directors and Interested Parties

**FROM:** Megan Kirkeby, Deputy Director  
Division of Housing Policy Development

**SUBJECT:** **Housing Accountability Act Technical Assistance  
Advisory (Government Code Section 65589.5)**

The Housing Accountability Act (HAA), Government Code section 65589.5, establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. The Legislature first enacted the HAA in 1982 and recently amended the HAA to expand and strengthen its provisions as part of the overall recognition of the critically low volumes of housing stock in California. In amending the HAA, the Legislature made repeated findings that the lack of housing and the lack of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life in California. This Technical Assistance Advisory provides guidance on implementation of the HAA, including the following amendments.

Chapter 368, Statutes of 2017 (Senate Bill 167), Chapter 373, Statutes of 2017 (Assembly Bill 678) - Strengthens the HAA by increasing the documentation necessary and the standard of proof required for a local agency to legally defend its denial of low-to-moderate-income housing development projects, and requiring courts to impose a fine of \$10,000 or more per unit on local agencies that fail to legally defend their rejection of an affordable housing development project.

Chapter 378, Statutes of 2017 (Assembly Bill 1515) – Establishes a reasonable person standard for determining conformance with local land use requirements.

Chapter 243, Statutes of 2018 (Assembly Bill 3194) -Expands the meaning of zoning consistency to include projects that are consistent with general plan designations but not zoning designation on a site if that zone is inconsistent with the general plan.

Chapter 654, Statutes of 2019 (Senate Bill 330) - Defined previously undefined terms such as objective standards and complete application and set forth vesting rights for projects that use a new pre-application process. Most of these provisions sunset on January 1, 2025, unless extended by the Legislature and Governor.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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What is the Housing Accountability Act?

## What is the Housing Accountability Act?

The Housing Accountability Act (HAA) (Government Code Section 65589.5), establishes the state's overarching policy that a local government may not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards. Before doing any of those things, local governments must make specified written findings based upon a preponderance of the evidence that a specific, adverse health or safety impact exists. Legislative intent language indicates that the conditions that would give rise to such a specific, adverse impact upon the public health and safety would occur infrequently.

Subdivision (d) of the HAA describes requirements applicable to housing development projects that include units affordable to very- low, low- and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments. Subdivisions (k), (l), and (m) expand the potential consequences for violations of the HAA. In 2017, the Legislature also granted the California Department of Housing and Community Development (HCD) authority to refer HAA violations to the Office of the Attorney General in Government Code section 65585.

The HAA was originally enacted in 1982 to address local opposition to growth and change. Communities resisted new housing, especially affordable housing, and, consequently, multiple levels of discretionary review often prevented or delayed development. As a result, developers had difficulty ascertaining the type, quantity, and location where development would be approved. The HAA was intended to overcome the lack of certainty developers experienced by limiting local governments' ability to deny, make infeasible, or reduce the density of housing development projects.

Recognizing that the HAA was falling short of its intended goal, in 2017, 2018, and again in 2019, the Legislature amended the HAA no less than seven times to expand and strengthen its provisions. Key restrictions on local governments' ability to take action against housing development projects are set out in Government Code section 65589.5, subdivisions (d) and (j). The law was amended by Chapter 368 Statutes of 2017 (Senate Bill 167), Chapter 373 Statutes of 2017 (Assembly Bill 678) and Chapter 378 Statutes of 2017 (Assembly Bill 1515), as part of the California 2017 Housing Package. The law was further amended by Chapter 243, Statutes of 2018 (Assembly Bill 3194) and Chapter 654, Statutes of 2019 (Senate Bill 330).

## Why Do We Need the Housing Accountability Act?

### Why Do We Need the Housing Accountability Act?

The Housing Accountability Act has been in effect since 1982. Since that time, California's housing supply has not kept up with population and job growth, and the affordability crisis has grown significantly due to an undersupply of housing, which compounds inequality and limits economic and social mobility. Housing is a fundamental component of a healthy, equitable community. Lack of adequate housing hurts millions of Californians, stifles economic opportunities for workers and businesses, worsens poverty and homelessness, and undermines the state's environmental and climate goals and compounds the racial equity gaps faced by many communities across the state.

The legislative intent of the HAA was to limit local governments' ability to deny, make infeasible, or reduce the density of housing development projects. After determining that implementation of the HAA was not meeting the intent of the statute, the Legislature has amended the HAA to expand its provisions, strengthening the law to meaningfully and effectively curb the capacity of local governments to deny, reduce the density or render housing development projects infeasible.

#### Legislative Housing Accountability Act Interpretation Guidance

"It is the policy of the state that this section (HAA) should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." Government Code Section 65589.5 (a)(2)(L)

The following are findings and declarations found in the HAA pursuant to Government Code sections 65589.5(a):

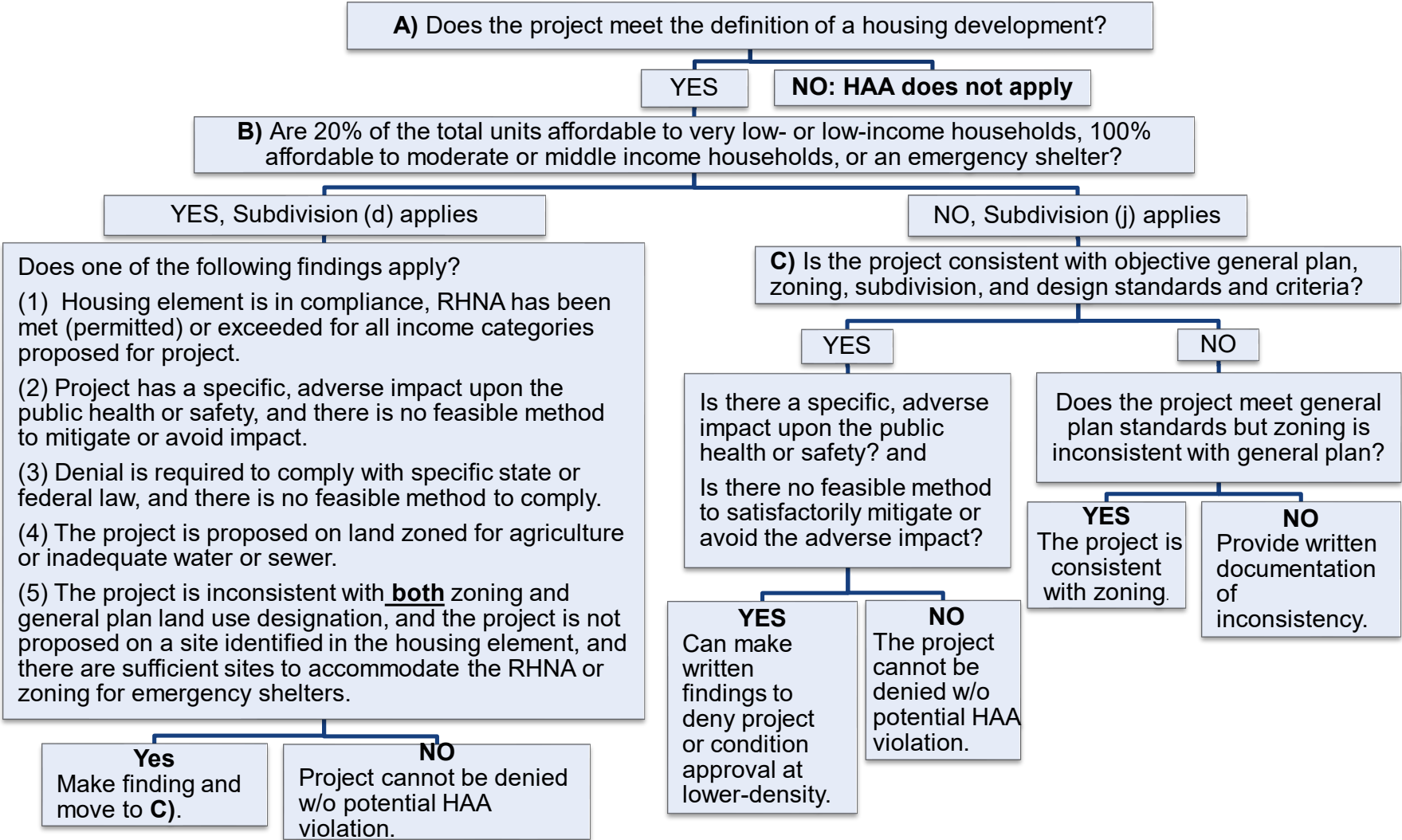
- The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.
- Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
- Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.
- California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

### Why Do We Need the Housing Accountability Act?

- While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.
- The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.
- According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.
- California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.
- Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.
- The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.
- When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.
- An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.
- California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

### Housing Accountability Act Decision Matrix

This decision tree generally describes the components of the HAA. Both affordable and market-rate developments are protected by components of the HAA. The statute contains detailed requirements that affect the applicability of the HAA to a specific housing project based on its characteristics.



## Key Provisions of the Housing Accountability Act

**Key Provisions of the Housing Accountability Act**

The HAA sets out restrictions on local governments' ability to take action against housing development projects in Government Code section 65589.5, subdivisions (d) and (j).

Subdivision (d) describes requirements applicable to housing development projects that include units affordable to very-low, low-, and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments<sup>1</sup>. In sum, the HAA significantly limits the ability of a local government to deny an affordable or market-rate housing project that is consistent with planning and zoning requirements. This table describes the various component parts of the HAA for ease of reference.

<b>Topic</b>	<b>Subdivisions of Government Code Section 65589.5</b>
Declarations and legislative intent	(a), (b), (c)
Provisions for housing affordable to very low, low-, or moderate-income households, or an emergency shelter	(d), (i)
Applicability of the statute to coastal zones, local laws, and charter cities	(e), (f), (g)
Definitions	(h)
Provisions relating to all housing developments	(j)
Consequences for violation	(k), (l), (m), (n)
Vesting rights for pre-applications (SB 330)	(o)

The following is an overview of key provisions of the HAA focusing on project qualifications, applicability of local standards, provisions that relate to all housing projects, provisions that relate just to housing affordable to lower- and moderate-income households and emergency shelters, and consequences for violation of the HAA. Appendix A includes a list of definitions of terms referenced throughout the HAA and Appendix B includes information related to the Preliminary Application Process pursuant to Senate Bill 330.

**Housing Development Project Qualifications**

In order for a development to qualify for the protections under the HAA it must meet the definition of a "housing development project". Furthermore, for a project to qualify for the affordable housing protections, it must also meet the definition of "Housing for very low-, low-, or moderate-income households".

<sup>1</sup> *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1072-1073

**Key Provisions of the Housing Accountability Act****Housing Development Project Definition**

Government Code, § 65589.5, subdivision (h)(2).

A “housing development project” means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term “units” is plural, a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

**Housing for Very Low, Low-, or Moderate-Income Households**

Government Code, § 65589.5, subdivision (h)(3).

In order to qualify as a housing development affordable to lower- or moderate- income households, the project must meet one of the following two criteria:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income.
- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

In addition, the rental or sales prices of that housing cannot exceed the following standards:

- Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based.
- Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

**Housing Developments Applying for the Streamlined Ministerial Approval Process Pursuant to Government Code Section 65913.4.**

To facilitate and expedite the construction of housing, Chapter 366, Statutes of 2017 (SB 35, Wiener) established the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need (RHNA). Recent amendments to the law clarified that projects utilizing the Streamlined Ministerial Approval Process qualify for the protections under the HAA (Gov. Code, § 65913.4, subd. (g)(2).)

## Key Provisions of the Housing Accountability Act

### Applicability of Local Standards

In addition to limiting the conditions for which a housing development project can be denied, the HAA also sets parameters around aspects of the approval process. Specifically, it defines:

- The type of development standards, conditions, and policies with which a housing development or emergency shelter can be required to comply
- Parameters for fees and exactions that can be imposed
- Standards that can be applied once an application is deemed complete
- Actions by a local government that would constitute a denial of a project or impose development conditions

These requirements are intended to provide developers with greater transparency and clarity in the entitlement process.

### Objective Development Standards, Conditions, Policies, Fees, and Exactions

Government Code, § 65589.5, subdivision (f)

Local governments are not prohibited from requiring a housing development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies (subject to the vesting provisions of the HAA and other applicable laws). However, those standards, conditions, and policies must meet the following criteria:

- Be appropriate to, and consistent with, meeting the local government's share of the RHNA or meeting the local government's need for emergency shelters as identified in the housing element of the general plan.
- Be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development or to facilitate and accommodate the development of the emergency shelter project.
- Meet the definition of "objective". Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

The intent of these provisions of the HAA is that developers are given certainty in what standards, conditions, and policies apply to their project and how those standards can be met. Local governments that deny a project due to a failure to meet subjective standards (those standards that are not objective as defined) could be in violation of the HAA. In addition, objective standards that do apply should make it feasible for a developer to build to the density allowed by the zoning and not constrain a local government's ability to achieve its RHNA housing targets.

Nothing in the statute generally prohibits a local government from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter. However, the HAA does impose limitations on the fees and exactions that can be imposed on a specific housing development project once a preliminary application is submitted (see Appendix C).

## Key Provisions of the Housing Accountability Act

**Determination of Application Completeness**

Government Code, § 65589.5, subdivisions (d)(5), (h)(5) and (9), and (j)(1).

The process of submitting an application for a housing development project can be iterative. For example, applications that are missing information cannot be fully evaluated by a local government for compliance with local objective standards. Therefore, an application is not typically processed until it is “determined to be complete”. The HAA currently uses two terms related to completeness, “deemed complete” and “determined to be complete.”

*Deemed Complete:* For the purposes of the HAA, until January 1, 2025, “deemed complete” means the date on which a preliminary application was submitted under the provisions of Government Code section 65941.1. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the full information required by the local government for a housing development application. Submittal of this information allows a housing developer to “freeze” the applicable standards for their project while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, potentially adding costs to a project. No affirmative determination by a local government regarding the completeness of a preliminary application is required. (See Appendix C).

The term “deemed complete” triggers the “freeze date” for applicable development standards, criteria, or condition that can be applied to a project. Changes to the zoning ordinance, general plan land use designation, standards, and criteria, subdivision ordinance, and design review standards, made subsequent to the date the housing development project preliminary application was “deemed complete”, cannot be applied to a housing development project or used to disapprove or condition approval of the project.

However, if the developer does not submit a preliminary application, the standards that must be applied are those that are in effect when the project is determined to be complete under the Permit Streamlining Act (Gov. Code § 65943).

*Determined to be complete:* Until January 1, 2025, the full application is “determined to be complete” when it is found to be complete under the Permit Streamlining Act (Gov. Code § 65943). This phrase triggers the timing provisions for the local government to provide written documentation of inconsistency with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision (see page 10 below for inconsistency determinations).

**Completeness Determination of Development Application**

Government Code section 65943 states that local governments have 30 days after an application for a housing development project is submitted to inform the applicant whether or not the application is complete. If the local government does not inform the applicant of any deficiencies within that 30-day period, the application will be “deemed complete”, even if it is deficient.

If the application is determined to be incomplete, the local government shall provide the applicant with an exhaustive list of items that were not complete pursuant to the local government’s submittal requirement checklist. Information not included in the initial list of deficiencies in the application cannot be requested in subsequent reviews of the application.



**Key Provisions of the Housing Accountability Act**

A development applicant who submitted a preliminary application has 90 days to complete the application after receiving notice that the application is incomplete, or the preliminary application will expire. Each time an applicant resubmits new information, a local government has 30 calendar days to review the submittal materials and to identify deficiencies in the application.

Please note, Government Code section 65943 is triggered by an application submitted with all of the requirements on lists compiled by the local government and available when the application was submitted that specifies in detail the information that will be required from any applicant for a development project pursuant to Government Code section 65940. This is not the “preliminary application” referenced in Government Code section 65941.1.

**Triggers for a Disapproval of a Housing Development Project**

Government Code, § 65589.5, subdivisions (h)(6)

The HAA does not prohibit a local government from exercising its authority to disapprove a housing development project, but rather provides limitations and conditions for exercising that authority. The HAA defines disapproval as when the local government takes one of the following actions:

- Votes on a proposed housing development project application and the application is disapproved. This includes denial of other required land use approvals or entitlements necessary for the issuance of a building permit. Examples include, but are not limited to, denial of the development application, tentative or final maps, use permits, or design review. If the project is using the Streamlined Ministerial Approval Process, disapproval of the application would trigger the provisions of the HAA.
- Fails to comply with decision time periods for approval or disapproval of a development application<sup>2</sup>. Until 2025, the following timeframes apply:
  - 90 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project.
  - 60 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project where at least 49 percent of the units in the development project are affordable to very low or low-income households<sup>3</sup>, and where rents for the lower income units are set at an affordable rent<sup>4</sup> for at least 30 years and owner-occupied units are available at an affordable housing cost<sup>5</sup>, among other conditions (see Gov Code § 65950).
  - 60 days from the date of adoption by the lead agency of a negative declaration.
  - 60 days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act.

<sup>2</sup> Timeframes are pursuant to Government Code section 65950

<sup>3</sup> As defined by Health and Safety Code sections 50105 and 50079.5

<sup>4</sup> Pursuant to Section 50053 of the Health and Safety Code

<sup>5</sup> Pursuant to Section 50052.5 of the Health and Safety Code

**Key Provisions of the Housing Accountability Act****Imposition of Development Conditions**

Government Code, § 65589.5, subdivisions. (d), (h)(7), and (i)

Like the ability to deny a project, the HAA does not prohibit a local government from exercising its authority to condition the approval of a project, but rather provides limitations and conditions for the application of certain conditions. Specifically, the HAA limits the application of conditions that lower the residential density of the project, and, for housing affordable to lower- and moderate-income households and emergency shelters, conditions that would have a substantial adverse impact on the viability or affordability of providing those units unless specific findings are made and supported by a preponderance of the evidence in the record<sup>6</sup>.

For purposes of the HAA, “lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing. This could include a condition that directly lowers the overall number of units proposed (e.g., the development proposes 50 units, but the local government approves only 45 units). It could also include indirect conditions that result in a lower density (e.g., a development proposes 50 units at 800 square feet per unit but the local government conditions the approval on the provision of 850 square feet per unit, resulting in the project having to provide fewer units to accommodate the increase in square footage). Another example would be a reduction in building height that would result in the project being able to provide fewer units than originally proposed.

Local governments must also consider if imposed conditions of approval would have an adverse effect on a project’s ability to provide housing for very low-, low-, or moderate-income households at the affordability levels proposed in the housing development project. This includes provisions that would render the project for very low-, low-, or moderate-income households infeasible or would have a substantial adverse effect on the viability or affordability of the proposed housing. For example, project approval for an affordable housing development might be conditioned on the need to use specific materials that significantly increase the cost of the project. This additional cost could either render the project financially infeasible altogether or require substantial changes to the affordability mix of the units where fewer very low-income units could be provided. In these cases, it is possible that the conditions would violate the HAA.

Conditions that should be analyzed for their effect on density and project feasibility (for affordable projects) include, but are not limited to, the following:

- Design changes
- Conditions that directly or indirectly lower density
- Reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning.

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<sup>6</sup> See Page13 for more information on the preponderance of the evidence standard.

## Key Provisions of the Housing Accountability Act

### Housing Accountability Act Provisions That Apply to All Housing Projects

The following provisions apply to all housing development projects regardless of affordability.

#### **Determination of Consistency with Applicable Plans, Standards, or Other Similar Provision Based on the Reasonable Person Standard**

Government Code, § 65589.5, subdivision (f)(4)

A key component of the HAA is the determination as to whether or not the proposed housing development project is consistent, compliant and in conformity with all applicable plans, programs, policies, ordinances, standards, requirements, and other similar provisions.

Traditionally, this determination is made by local government, which is given significant deference to interpret its own plans, programs, policies, ordinances, standards, requirements, and other similar provisions. In most planning and zoning matters, courts traditionally uphold an agency's determination if there is "substantial evidence" to support that determination. If substantial evidence supports the agency's decision, an agency can reach a conclusion that a development project is inconsistent with applicable provisions, even if there is evidence to the contrary.

Departing from these traditional rules, the HAA sets forth its own standard for determining consistency with local government rules for housing development projects and emergency shelters. A housing development project or emergency shelter is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that could allow a *reasonable person* to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity with applicable standards and requirements. The intent of this provision is to provide an objective standard and increase the likelihood of housing development projects being found consistent, compliant and in conformity.

#### **Applicability of Density Bonus Law**

Government Code, § 65589.5, subdivision (j)(3)

The receipt of a density bonus pursuant to Density Bonus Law (Government Code § 65915) does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. Receipt of a density bonus can include a bonus in number of units, incentives, concessions, or waivers to development standards allowed under Density Bonus Law.<sup>7</sup>

#### **General Plan and Zoning Consistency Standard**

Government Code, § 65589.5, subdivision (j)(4)

For various reasons, there is at times inconsistency between standards in a general plan and zoning standards. For example, a local government may have amended the general plan, but

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<sup>7</sup> Please note pursuant to Government Code § 65915, subd. (f) a receipt of a density bonus does not require an increase in density. An applicant can elect to ask for just the concessions, incentives, and waivers that the project qualifies for under State Density Bonus Law.

**Key Provisions of the Housing Accountability Act**

has not yet amended all of its municipal ordinances to assure vertical consistency<sup>8</sup>.

Recognizing this, the HAA clarifies that if the zoning standards and criteria are inconsistent with applicable, objective general plan standards, but the development project is consistent with the applicable objective general plan standards for the site, then the housing development project cannot be found inconsistent with the standards and criteria of the zoning. Further, if such an inconsistency exists, the local agency may not require rezoning prior to housing development project approval.

However, the local agency may require the proposed housing development project to comply with the objective standards and criteria contained elsewhere in the zoning code that are consistent with the general plan designation. For example, if a site has a general plan land use designation of high density residential, but the site is zoned industrial, then a local government can require the project to comply with objective development standards in zoning districts that are consistent with the high density residential designation, such as a multifamily high density residential zone.

However, under the HAA, the standards and criteria determined to apply to the project must facilitate and accommodate development at the density allowed the general plan on the project site and as proposed by the housing development project.

**Written Notification of Inconsistency**

Government Code, § 65589.5, subdivision (j)(2)

If a local government considers a proposed housing development project to be inconsistent, non-compliant, or not in conformity with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision, the local government must provide written notification and documentation of the inconsistency, noncompliance, or inconformity. This requirement applies to all housing development projects, regardless of affordability level. The documentation must:

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.
- Be provided to the applicant within 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- Be provided to the applicant within 60 days of a project application being deemed complete for projects containing over 150 units.

**Consequence for Failure to Provide Written Documentation**

If the local government fails to provide the written documentation within the required timeframe, the housing development project is deemed consistent, compliant and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, or other similar provisions.

<sup>8</sup> Pursuant to Government Code § 65860, city and county, including a charter city, zoning ordinances must be consistent with the adopted general plan. This is known as vertical consistency.

## Key Provisions of the Housing Accountability Act

**Denial of a Housing Project that is Consistent with Applicable Plans, Standards, or Other Similar Provisions Based on the Preponderance of the Evidence Standard**

Government Code, § 65589.5, subdivision (j)(1)

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.

A **“specific, adverse impact”** means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Pursuant to Government Code section 65589.5 (a)(3) it is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety arise infrequently.

An example of a condition that does not constitute a specific, adverse impact would be criteria that requires a project to conform with “neighborhood character”. Such a standard is not quantifiable and therefore would not meet the conditions set forth under the HAA.

- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

**Preponderance of the Evidence Standard**

In most actions, a local government is tasked with making findings or determinations based on “substantial evidence.” Under the substantial evidence standard, local government is merely required to find reasonable, adequate evidence in support of their findings, even if the same or *even more* evidence supports a finding to the contrary.

Findings or determinations based on a “preponderance of the evidence” standard require that local governments weigh the evidence and conclude that the evidence on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed<sup>9</sup>. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard.

<sup>9</sup> People v. Miller (1916) 171 Cal. 649, 652. Harris v. Oaks Shopping Center (1999) 70 Cal.App.4th 206, 209 (“‘Preponderance of the evidence’ means evidence that has more convincing force than that opposed to it.”).

## Key Provisions of the Housing Accountability Act

**Provisions Related to Housing Affordable to Very Low-, Low-, or Moderate-Income Household, Emergency Shelters, and Farmworker Housing****State Policy on Housing Project Approval**

“It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article (RHNA) without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d)” Government Code, § 65589.5, subdivision (b).

The HAA provides additional protections for projects that contain housing affordable to very low-, low- or moderate-income households, including farmworker housing, or emergency shelters. State policy prohibits local governments from rejecting or otherwise making infeasible these types of housing development projects, including emergency shelters, without making specific findings.

**Denial or Conditioning of Housing Affordable to Very Low-, Low- or Moderate-Income Households, Including Farmworker Housing, or Emergency Shelters**

Government Code, § 65589.5, subdivision (d) and (i)

The HAA specifies findings that local governments must make, in addition to those in the previous section, if they wish to deny a housing development affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters. These requirements also apply when a local government wishes to condition such a project in a way that it would that render it infeasible or would have a substantial adverse effect on the viability or affordability of a housing development project for very low-, low-, or moderate-income households. In addition to the findings, described above, that apply to all housing development projects, a local government must also make specific findings based upon the preponderance of the evidence of one of the following:

- (1) The local government has an adopted housing element in substantial compliance with California’s Housing Element Law, contained in Article 10.6 of Government Code, *and* has met or exceeded development of its share of the RHNA in all income categories proposed in the housing development project. In the case of an emergency shelter, the local government shall have met or exceeded the need for emergency shelters as identified in the housing element. This requirement to meet or exceed its RHNA is in relationship to units built in the local government, not zoning. A local government’s housing element Annual Progress Report pursuant to Government Code section 65400 can be used to demonstrate progress towards RHNA goals.
- (2) The housing development project would have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development project unaffordable or financially infeasible. Specific to housing development projects affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters, specific, adverse impacts do not include inconsistency with the zoning ordinance or general plan land use designation or eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.
- (3) Denial of the housing development project or the imposition of conditions is required to comply with specific state or federal law, *and* there is no feasible method to comply without

**Key Provisions of the Housing Accountability Act**

rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project is proposed on land zoned for agriculture or resource preservation that is either: (a) surrounded on two sides by land being used for agriculture or resource preservation; or (b) does not have adequate water or wastewater facilities to serve the housing development project.

(5) The housing development project meets both the following conditions:

- Is inconsistent with both the local government's zoning ordinance and the general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. This means this finding cannot be used in situations where the project is inconsistent with one (e.g., the general plan designation), but is consistent with the other (e.g., zoning ordinance).
- The local government has an adopted housing element in substantial compliance with housing element Law.

Finding (5) *cannot* be used when any of the following occur:

- The housing development project is proposed for a site identified as suitable or available for very low-, low-, or moderate-income households within a housing element and the project is consistent with the specified density identified in the housing element.
- The local government has failed to identify sufficient adequate sites in its inventory of available sites to accommodate its RNHA, and the housing development project is proposed on a site identified in any element of its general plan for residential use or in a commercial zone where residential uses are permitted or conditionally permitted.
- The local government has failed to identify a zone(s) where emergency shelters are allowed without a conditional use or other discretionary permit, or has identified such zone(s) but has failed to demonstrate that they have sufficient capacity to accommodate the need for emergency shelter(s), and the proposed emergency shelter is for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses.

Any of these findings must be based on a preponderance of the evidence. For details, see "Preponderance of the evidence standard" on page 12 for further information.

**Violations of Housing Accountability Act**

The courts are the primary authority that enforces the HAA. Actions can be brought by eligible plaintiffs and petitioners to the court for potential violations of the law. Similarly, HCD under Government Code section 65585 (j), can find that a local government has taken an action in violation of the HAA. In that case, after notifying a local government of the violation, HCD would refer the violation to the Office of the Attorney General who could file a petition against a local government in the Superior Court.

## Key Provisions of the Housing Accountability Act

**Eligible Plaintiffs and Petitioners**

Government Code, § 65589.5, subdivision (k)(1)(A) and (k)(2)

The applicant, a person eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring action to enforce the HAA. A housing organization, however, may only file an action to challenge the disapproval of the housing development project and must have filed written or oral comments with the local government prior to its action on the housing development project.

**“Housing organizations”** means a trade or industry group engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households. A housing organization is entitled to reasonable attorney fees and costs when prevailing in an action. Labor unions, building associations, multifamily apartment management companies, and legal aid societies are examples of housing organizations.

**Remedies**

Government Code, § 65589.5, subdivision (k)(1)(A)

If the plaintiff or petitioner prevails, the court must issue an order compelling compliance with the HAA within 60 days. The court’s order would at a minimum require the local agency to take action on the housing development project or emergency shelter during that time period. The court is further empowered to issue an order or judgment that actually directs the local government to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. “Bad faith” includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

If the plaintiff or petitioner prevails, the court shall award reasonable attorney fees and costs of the suit to the plaintiff or petitioner for both affordable and market-rate housing development projects,<sup>10</sup> except in the “extraordinary circumstances” in which the court finds that awarding fees would not further the purposes of the HAA.

**Local Agency Appeal Bond**

Government Code, § 65589.5, subdivision (m)

If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant. In this provision, the Legislature has waived, to some degree, the immunity from damages that normally extends to local agencies, recognizing that the project applicant incurs costs due to the delay of its project when a local agency appeals. (Contrast Gov. Code, § 65589.5, subd. (m), with Code Civ. Proc., § 995.220, subd. (b) [local public entities do not have to post bonds].)

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<sup>10</sup> / *Honchariw v. County of Stanislaus* (2013) 218 Cal.App.4th 1019, 1023–1024, which ruled to the contrary, was superseded by statutory changes in Senate Bill 167 (Stats. 2017, ch. 368, § 1), Assembly Bill 678 (Stats. 2017, ch. 373, § 1), and Senate Bill 330 (Stats. 2019, ch. 654, § 3).



## Key Provisions of the Housing Accountability Act

**Failure to Comply with Court Order**

Government Code, § 65589.5, subdivision (k)(1)(B)(i), (k)(1)(C), and (l)

If the local government fails to comply with the order or judgment within 60 days of issuance, the court must impose a fine on the local government. The *minimum* fine that may be imposed is \$10,000 per housing unit in the housing development project as proposed on the date the application was deemed complete. Please note, the use of the term “deemed complete” in this instance has the same meaning as “determined to be complete” as referenced on page 7. The monies are to be deposited into the State’s Building Homes and Jobs fund or the Housing Rehabilitation Loan fund. In calculating the amount of the fine in excess of the minimum, the court is directed to consider the following factors:

- The local government’s progress in meeting its RHNA and any previous violations of the HAA.
- Whether the local government acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. If the court finds that the local government acted in bad faith, the total amount of the fine must be multiplied by five.

The court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and an order to approve the housing development project.

**Court-Imposed Fines**

Court-imposed fines begin at \$10,000 per housing unit and could be much higher. If the court determines the local government acted in bad faith, the fine is multiplied by five. This equates to a minimum fine of \$50,000 per unit.

Bad faith includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. For example, in a recent Los Altos Superior Court order, the court issued an order directing the local agency to approve the housing development project and found that the local agency acted in bad faith when it disapproved the housing development because its denial was entirely without merit. The city’s denial letter did not reflect that the city made a benign error in the course of attempting, in good faith, to follow the law by explaining to the developer how the project conflicted with objective standards that existed at the time of application; instead, the city denied the application with a facially deficient letter, employed strained interpretations of statute and local standards, and adopted a resolution enumerating insufficient reasons for its denial<sup>11</sup>. Bad faith can be demonstrated through both substantive decisions and procedural actions. In the Los Altos case, the court found that demanding an administrative appeal with less than a days’ notice revealed bad faith. Repeated, undue delay may likewise reveal bad faith.

<sup>11</sup> Order Granting Consolidated Petitions for Writ of Mandate, 40 Main Street Offices, LLC v. City of Los Altos et al. (Santa Clara Superior Court Case No. 19CV349845, April 27, 2020), p. 38

## Appendix A: Frequently Asked Questions

**APPENDIX A: Frequently Asked Questions****What types of housing development project applications are subject to the Housing Accountability Act (HAA)?**

The HAA applies to both market rate and affordable housing development projects. (*Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1073.) It applies to housing development projects that consist of residential units and mixed-use developments when two-thirds or more of the square footage is designated for residential use. It also applies to transitional housing, supportive housing, farmworker housing, and emergency shelters. (Gov. Code, § 65589.5, subds. (d) and (h)(2).)

**Does the Housing Accountability Act apply to charter cities?**

Yes, the HAA applies to charter cities (Gov. Code, § 65589.5, subd. (g).)

**Does the Housing Accountability Act apply to housing development projects in coastal zones?**

Yes. However, local governments must still comply with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) (Gov. Code, § 65589.5, subd. (e).)

**Are housing developments still subject to the California Environmental Quality Act (CEQA) if they qualify for the protections under the Housing Accountability Act?**

Yes. Jurisdictions are still required to comply with CEQA (Division 13 (commencing with Section 21000) of the Public Resources Code) as applicable to the project. (Gov. Code, § 65589.5, subd. (e).)

**Does the California Department of Housing and Community Development have enforcement authority for the Housing Accountability Act?**

Yes. HCD has authority to find that a local government's actions do not substantially comply with the HAA (Gov. Code, § 65585, subd. (j)(1).) In such a case, HCD may notify the California State Attorney General's Office that a local government has taken action in violation of the HAA.

**If approval of a housing development project triggers the No-Net Loss Law, may a local government disapprove the project?**

No. Triggering a required action under the No-Net Loss Law is not a valid basis to disapprove a housing development project. (Gov. Code, § 65863, subd. (c)(2).) The only valid reasons for disapproving a housing development project are defined in the HAA under subdivisions (d) and (j). Subdivision (j) contains requirements that apply to all housing development projects; subdivision (d) contains additional requirements for housing development projects for very low-, low- or moderate-income households or emergency shelters.

**Does the Housing Accountability Act apply to a residential development project on an historic property?**

Yes. The HAA does not limit the applicability of its provisions based on individual site characteristics or criteria. The local government may apply objective, quantifiable, written development standards, conditions, and policies related to historic preservation to the housing development project, so long as they were in effect when the application was deemed

**Appendix A: Frequently Asked Questions**

complete<sup>12</sup>. The standards should be appropriate to, and consistent with, meeting the local government's regional housing need and facilitate development at the permitted density. (Gov. Code, § 65589.5, subd. (f)(1).) However, it should be noted that compliance with historic preservation laws may otherwise constrain the approval of a housing development.

**Under the Housing Accountability Act, is the retail/commercial component of a mixed-use project subject to review when the housing component must be approved?**

Yes. The local government may apply objective, quantifiable, written development standards, conditions and policies to the entirety of the mixed-use project, so long as they were in effect when the application was deemed complete. (Gov. Code, § 65589.5, subd. (f)(1).)

**Does the Housing Accountability Act apply to subdivision maps and other discretionary land use applications?**

Yes. The HAA applies to denials of subdivision maps and other discretionary land use approvals or entitlements necessary for the issuance of a building permit (Gov. Code, § 65589.5, subd (h)(6).)

**Does the Housing Accountability Act apply to applications for individual single-family residences or individual Accessory Dwelling Units (ADUs)?**

No. A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development has to consist of more than one unit to qualify under the HAA (Gov. Code, § 65589.5, subd. (h)(2).).

**Does the Housing Accountability Act apply to an application that includes both a single-family residence and an Accessory Dwelling Unit?**

Yes. Since an application for both a single-family residence and an ADU includes more than one residential unit, the HAA applies (Gov. Code, § 65589.5, subd. (h)(2).)

**Does the Housing Accountability Act apply to an application for a duplex?**

Yes. Since an application for a duplex includes more than one residential unit, the HAA applies. (Gov. Code, § 65589.5, subd. (h)(2).)

**Does the Housing Accountability Act apply to market-rate housing developments?**

Yes. Market-rate housing developments are subject to the HAA (Gov. Code, § 65589.5, subd. (h)(2).) In *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, the court found the definition of "housing development project" was not limited to projects involving affordable housing and extended to market-rate projects. Market-rate housing development projects are subject to the requirements of paragraph (j) (Gov. Code, § 65589.5, subd. (j).)

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<sup>12</sup> For purposes of determination of whether a site is historic, "deemed complete" is used with reference to Government Code §65940. See Government Code § 65913.10.

## Appendix A: Frequently Asked Questions

**Under the Housing Accountability Act, if a housing development project is consistent with local planning rules, can it be denied or conditioned on a density reduction?**

Yes. However, a local government may deny a housing development that is consistent with local planning rules, or condition it on reduction in density, only under very specific circumstances. (Gov. Code, § 65589.5, subds. (j)(1)(A), (B).) The local government must make written findings based on a preponderance of the evidence that both:

- (1) The housing development project would have a specific, adverse impact upon public health or safety unless disapproved or approved at a lower density; and
- (2) There is no feasible method to satisfactorily mitigate or avoid the impact.

(See definition of and specific requirements for finding of “specific, adverse impact” discussed below.)

**Under the Housing Accountability Act, can a housing development project affordable to very low-, low-, or moderate-income households (including farmworker housing) or emergency shelter that is inconsistent with local planning requirements be denied or conditioned in a manner that renders it infeasible for the use proposed?**

Yes, but only under specific circumstances. The local government must make written findings based on a preponderance of the evidence as to specific criteria. However, inconsistency with zoning does not justify denial or conditioning if the project is consistent with the general plan. (See Page 11 for more details). See also Gov. Code, § 65589.5, subds. (d)(1)-(5).)

**Is there a definition for “specific, adverse impact” upon public health and safety?**

Yes. The HAA provides that a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation is not such a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2) and (j)(1)(A).)

The HAA considers that such impacts would be rare: “It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.” (Gov. Code, § 65589.5, subd. (a)(3).)

## Appendix B: Definitions

**Appendix B: Definitions**

**Area median income** means area median income as periodically established by the HCD pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years. (Gov. Code, § 65589.5, subd. (h)(4).)

**Bad faith** includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. (Gov. Code, § 65589.5, subd. (l).) This definition arises in the context of the action a local government takes when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA.

**Deemed complete** means that the applicant has submitted a preliminary application pursuant to Government Code section 65941.1 (Gov. Code, § 65589.5, subd. (h)(5).) However, in Government Code section 65589.5(k)(1)(B)(i) deemed complete has the same meaning as “Determined to be Complete”.

**Determined to be complete** means that the applicant has submitted a complete application pursuant to Government Code section 65943 (Gov. Code, § 65589.5, subd. (h)(9).)

**Disapprove the housing development project** means a local government either votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit, or fails to comply with specified timeframes in the Permit Streamlining Act. (Gov. Code, § 65589.5, subd. (h)(5).)

**Farmworker housing** means housing in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households.

**Feasible** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Gov. Code, § 65589.5, subd. (h)(1).)

**Housing development project** means a use consisting of any of the following: (1) development projects with only residential units, (2) mixed-use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, (3) transitional or supportive housing.

**Housing organization** means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. (Gov. Code, § 65589.5, subd. (k)(2).) This definition is relevant to the individuals or entities that have standing to bring an HAA enforcement action against a local agency.

**Housing for very low-, low-, or moderate-income households** means that either:

- At least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or

## Appendix B: Definitions

- One hundred (100) percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code.

Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based. (Gov. Code, § 65589.5, subd. (h)(3).)

**Lower density** (as used in the sense of “to lower density”) means a reduction in the units built per acre. It includes conditions that directly lower density and conditions that effectively do so via indirect means. (Gov. Code, § 65589.5, subd. (h)(7).)

**Mixed use** means a development consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

**Objective** means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

**Regional housing needs allocation (RHNA)** means the share of the regional housing needs assigned to each jurisdiction by income category pursuant to Government Code section 65584 through 65584.6.

**Specific adverse impact** means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2), (j)(1)(A).) This definition is relevant to the written findings that a local agency must make when it disapproves or imposes conditions on a housing development project or an emergency shelter that conforms with all objective standards. It is the express intent of the Legislature that the conditions that would give rise to a specific, adverse impact upon the public health and safety occur infrequently. (Gov. Code, § 65589.5, subd. (a)(3).)

## Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)

**Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)**

The Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019 (SB 330)) strengthens protections for housing development projects under the Housing Accountability Act (HAA), Planning and Zoning Law, and the Permit Streamlining Act. The provisions set forth under SB 330 sunset in 2025.

Among other provisions, to increase transparency and certainty early in the development application process, SB 330 allows a housing developer the option of submitting a “preliminary application” for any housing development project. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the complete information required by the local government. Upon submittal of an application and a payment of the permit processing fee, a housing developer is allowed to “freeze” the applicable standards to their project early while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, adding costs to a project due to potential redesigns due to changing local standards.

**Benefits of a Preliminary Application**

Government Code, § 65589.5, subdivision (o)

The primary benefit of a preliminary application is that a housing development project is subject only to the ordinances, policies, standard, or any other measure (standards) adopted and in effect when a preliminary application was submitted. “Ordinances, policies, and standards” includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

However, there are some circumstances where the housing development project can be subjected to a standard beyond those in effect when a preliminary application is filed:

- In the case of a fee, charge, or other monetary exaction, an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.
- A preponderance of the evidence in the record establishes that the standard is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
- The standard is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- The housing development project has not commenced construction within two and a-half years following the date that the project received final approval. “Final approval” means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:
  - The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition,

## Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)

request for reconsideration, or legal challenge have been filed. If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

- The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. "Square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations). However, a local government is not prevented from applying the standards in effect at the time of the preliminary application submittal.
- Once a residential project is complete and a certificate of occupancy has been issued, local governments are not limited in the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

### Contents of a Preliminary Application

Government Code, § 65941.1

Each local government shall compile a checklist and application form that applicants for housing development projects may use for submittal of a preliminary application. However, HCD has adopted a standardized form that may be used to submit a preliminary application if a local agency has not developed its own application form. The preliminary application form can be found on HCD's [website](#).

The following are the items that are contained in the application form. Local government checklists or forms cannot require or request any information beyond these 17 items.

1. The specific location, including parcel numbers, a legal description, and site address, if applicable.
2. The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
3. A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
4. The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
5. The proposed number of parking spaces.
6. Any proposed point sources of air or water pollutants.
7. Any species of special concern known to occur on the property.
8. Whether a portion of the property is located within any of the following:
  - A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.
  - Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).



## Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)

- A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.
  - A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
  - A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
  - A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.
9. Any historic or cultural resources known to exist on the property.
10. The number of proposed below market rate units and their affordability levels.
11. The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.
12. Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
13. The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.
14. For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:
- Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.
  - Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.
  - A tsunami run-up zone.
  - Use of the site for public access to or along the coast.
15. The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.
16. A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.
17. The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

## **Timing Provisions from Filing of a Preliminary Application to Determination of Consistency with Applicable Standards under the Housing Accountability Act**

### **Step 1: Preliminary Application Submittal GC 65941.1**

- Applicant submits preliminary application form.
- Applicant pays permit processing fees.
- No affirmative determination by local government regarding the completeness of a preliminary application is required.

### **Step 2: Full Application Submittal**

- Applicant submits full application within 180 days of preliminary application submittal.
- Application contains all information required by the local government application checklist pursuant to Government Code Sections 65940, 65941, and 65941.5<sup>13</sup>.

### **Step 3: Determination of Application Completeness GC 65943**

- Local government has 30 days to determine application completeness and provide in writing both the determination of whether the application is complete and, when applicable, a list of items that were not complete. This list is based on the agency's submittal requirement checklist. If written notice is not provided within 30 days, the application is deemed complete.
- An applicant that has submitted a preliminary application has 90 days to correct deficiencies and submit the material needed to complete the application<sup>14</sup>.
- Upon resubmittal, local government has 30 days to evaluate. Evaluation is based on previous stated items and the supplemented or amended materials. If still not correct, the local agency must specify those parts of the application that were incomplete and indicate the specific information needed to complete the application.
- Upon a third determination of an incomplete application, an appeals process must be provided.

### **Step 4: Application Consistency with Standards (HAA) GC 65589.5**

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.

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<sup>13</sup> Government Codes § 65940, 65941, and 65941.5 require, among other things, a local government to compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Copies of the information shall be made available to all applicants for development projects and to any person who requests the information.

<sup>14</sup> The statute is silent on applications that did not use the preliminary application process. There is no statutory timeline for resubmittal in those instances.

## Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)

- 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- 60 days of a project application being deemed complete for projects containing over 150 units.

**Step 5: Other Entitlement Process Requirements Pursuant to SB 330**

- Pursuant to Government Code section 65905.5, if a proposed housing development project complies with the applicable, objective general plan and zoning standards, the local government can conduct a maximum of five hearings, including hearing continuances, in connection with the approval of the project. Compliance with applicable, objective general plan and zoning standards has the same meaning and provisions as in the HAA, including circumstances when there is inconsistency between the general plan and zoning.

A “hearing” includes any public hearing, workshop, or similar meeting conducted by the local government with respect to the housing development project, whether by the legislative body of the city or county, the planning agency, or any other agency, department, board, commission, or any other designated hearing officer or body of the city or county, or any committee or subcommittee thereof. A “hearing” does not include a hearing to review a legislative approval required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.

However, it should be noted nothing in this requirement supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to CEQA.

- Pursuant to Government Code section 65950, a local government must make a final decision on a residential project within 90 days after certification of an environmental impact report (or 60 days after adoption of a mitigated negative declaration or an environment report for an affordable housing project).

**Appendix D: Housing Accountability Act Statute (2020)****GOVERNMENT CODE - GOV****TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]****DIVISION 1. PLANNING AND ZONING [65000 - 66301]****CHAPTER 3. Local Planning [65100 - 65763]****ARTICLE 10.6. Housing Elements [65580 - 65589.11]****65589.5.**

(a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per

## Appendix D: Housing Accountability Act Statute (2020)

capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local governments should encourage, to the maximum extent practicable, in filling existing urban areas.

## Appendix D: Housing Accountability Act Statute (2020)

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The local government has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the local government has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the local government has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the local government shall be calculated consistently with the forms and definitions that may be adopted by HCD pursuant to Section 65400. In the case of an emergency shelter, the local government shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

## Appendix D: Housing Accountability Act Statute (2020)

(5) The housing development project or emergency shelter is inconsistent with both the local government's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the local government has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the local government's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the local government's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the local government's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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(f) (1) Except as provided in subdivision (o), nothing in shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the local government's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Except as provided in subdivision (o), nothing in shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the local government's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this



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code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the HCD pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) Notwithstanding any other law, until January 1, 2025, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1.

(6) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(7) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(8) Until January 1, 2025, "objective" means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(9) Notwithstanding any other law, until January 1, 2025, "determined to be complete" means that the applicant has submitted a complete application pursuant to Section 65943.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time housing development project's the application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings are supported by a preponderance of the evidence in the record, and with the requirements of subdivision (o).

## Appendix D: Housing Accountability Act Statute (2020)

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and

## Appendix D: Housing Accountability Act Statute (2020)

accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(III) (ia) Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(ib) This subclause shall become inoperative on January 1, 2025.

(ii) If the court finds that one of the conditions in clause(i) is met, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated

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to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, “housing organization” means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney’s fees and costs if it is the prevailing party in an action to enforce this section.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court’s order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, “bad faith” includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any

## Appendix D: Housing Accountability Act Statute (2020)

other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years following the date that the project received final approval. For purposes of this subparagraph, "final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

## Appendix D: Housing Accountability Act Statute (2020)

(i) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(ii) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

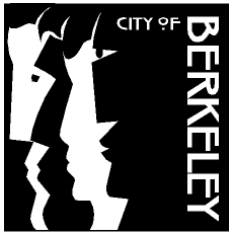
(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(8) This subdivision shall become inoperative on January 1, 2025.

(p) This section shall be known, and may be cited, as the Housing Accountability Act.



Planning and Development Department  
Land Use Planning Division

### **PROOF OF SERVICE**

DATE: May 5, 2022

TO: Whom It May Concern

FROM: Melinda Jacob, OSII

SUBJECT: **USE PERMIT #ZP2021-0070 – 1201-1205 SAN PABLO AVENUE**

I, the undersigned, certify that I am employed in the City of Berkeley, County of Alameda, California; that I am over eighteen years of age; that I am not a party to the within action; and that my business address is 1947 Center Street, Berkeley, California 94704. On this date, I served the following documents:

#### **ZONING ADJUSTMENTS BOARD NOTICE OF DECISION**

On the parties stated below by placing true copies thereof in sealed envelope(s) addressed as shown below by the following means of service:

Isaiah Stackhouse  
Trachtenberg Architects  
2421 Fourth Street  
Berkeley, CA 94710

Lanhai Su  
4500 Great America Pkwy  
Santa Clara, CA 95054

- By First Class Mail - I am readily familiar with the City's practice for collecting and processing of correspondence for mailing. Under the practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with First Class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.
- By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 5, 2022 at Berkeley, California.

Melinda Jacob, OSII



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
NOTICE OF DECISION

**DATE OF BOARD DECISION:** April 28, 2022

**DATE NOTICE MAILED:** May 5, 2022

**APPEAL PERIOD EXPIRATION:** May 19, 2022

**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)<sup>1</sup>:** May 23, 2022

## 1201-1205 San Pablo Avenue

Use Permit #ZP2021-0070 to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very Low-Income units), 1,680 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.

The Zoning Adjustments Board of the City of Berkeley, upon conducting a public hearing, **APPROVED** the following permits:

### A. Zoning Permits Required:

- Administrative Use Permit under Berkeley Municipal Code (BMC) §23D.04.020.C2 to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum average height limit for the district;
- Use Permit under BMC §23E.64.030.A to construct a mixed-use development with floor area of more than 9,000 square feet;
- Use Permit under BMC §23E.64.030.A to construct new dwelling units; and
- Use Permit under BMC §23E.64.050.B, to create new gross floor area of 5,000 square feet or more.

### B. Waivers/Concessions Pursuant to State Density Bonus Law:

- Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
- Waiver of BMC §23E.64.070.B to increase maximum average building height to be 68'-3", where 50' is the limit for a mixed-use building;

<sup>1</sup> Pursuant to BMC Section 23B.32.090, 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. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

<sup>2</sup> The prior Zoning Ordinance was in effect at the time this application was deemed complete. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online:

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Land\\_Use\\_Division/Zoning\\_Ordinance\\_Revision\\_Project\\_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)



ZONING ADJUSTMENTS BOARD  
 April 28, 2022

1201-1205 SAN PABLO AVENUE  
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- Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building; and
- Concession to reduce the Usable Open Space requirement from 2,640 to 2,514 square feet.

**ZONING:** C-W–West Berkeley Commercial District, Gilman and San Pablo Designated Node

**APPLICANT:** Isaiah Stackhouse, Trachtenberg Architects, 2421 Fourth Street, Berkeley, CA 94710

**PROPERTY OWNER:** Lanhai Su, 4500 Great America Parkway, Santa Clara, CA 95054


**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”).

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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

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	Yes	No	Abstain	Absent
DUFFY	X			
MATTHEWS	X			
KIM	X			
SHEAHAN			X	
OLSON	X			
SANDERSON	X			
THOMPSON			X	
GAFFNEY	X			
TREGUB	X			
<b>BOARD VOTE:</b>	<b>7</b>	<b>0</b>	<b>2</b>	<b>0</b>

  
**ATTEST:**  
 Samantha Updegrave, Zoning Adjustments Board  
 Secretary

**PUBLICATION OF NOTICE:**

Pursuant to BMC Section 23B.32.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning

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Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.x

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Sharon Gong, at (510) 981-7429 or [sgong@cityofberkeley.info](mailto:sgong@cityofberkeley.info). All project application materials, including full-size plans, may be viewed online at <https://aca.cityofberkeley.info/Community/> or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

**TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):**

To appeal a decision of the Zoning Adjustments Board to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
2. Submit the required appeal fee (checks and money orders payable to "City of Berkeley"):
  - A. The fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - B. The fee for all appeals by Applicants is \$2,500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown on page 1 (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Zoning Adjustments Board at, or prior to, the public hearing.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

ZONING ADJUSTMENTS BOARD

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If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

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**ATTACHMENT 1****FINDINGS AND CONDITIONS**

APRIL 28, 2022

**1201-1205 San Pablo Avenue**

**Use Permit #ZP2021-0070 to construct a six-story, mixed-use building on a vacant lot, with 66 units (including five Very Low-Income units), 1,680 square feet of commercial space, 2,514 square feet of usable open space, and 17 to 28 ground-level parking spaces.**

**PERMITS REQUIRED**

- Administrative Use Permit under Berkeley Municipal Code (BMC) §23D.04.020.C to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum average height limit for the district;
- Use Permit under BMC §23E.64.030.A to construct a mixed-use development with floor area of more than 9,000 square feet;
- Use Permit under BMC §23E.64.030.A to construct new dwelling units; and
- Use Permit under BMC §23E.64.050.B, to create new gross floor area of 5,000 square feet or more.

**CONCESSIONS/ WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918**

- Concession to reduce the Usable Open Space requirement from 2,640 to 2,514 square feet;
- Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
- Waiver of BMC §23E.64.070.B to increase maximum average building height to be 68'-3", where 50' is the limit for a mixed-use building; and
- Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building.

**I. CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to §15332 ("In-Fill Development Projects").

The project meets all of the requirements of this exemption, as follows:

- A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.

- E. The site can be adequately served by all required utilities and public services.
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

## II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
- Under the City's methodology for implementing density bonuses, the "base project" consists of 50 units;
  - The project will provide at least 5 Very Low Income qualifying units in the 50-unit "base project", as more fully set forth in Conditions 62 to 66;
  - The project is entitled to a density increase of 32.5% over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus two concessions or incentives. This equates to a density bonus of 16 units above the Base Project (project is including 16 out of 17 allowable units), for a total of 66 units.
2. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:
- Reduce the Usable Open Space requirement from 2,640 to 2,514 square feet.
3. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) would not be contrary to State or Federal law.
4. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers:
- Waiver of BMC §23E.64.070.A to increase maximum FAR to 3.6 where 3.0 is the limit;
  - Waiver of BMC §23E.64.070.B to increase maximum average building height to be 68'-3", where 50' is the limit for a mixed-use building; and
  - Waiver of BMC §23E.64.070.B to increase maximum number of stories to be 6 stories, where 4 stories is the limit for a mixed-use building.

These waivers are required because state law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the Zoning Adjustments Board hereby finds that the density bonus units can best be accommodated by granting these waivers.

5. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board

finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

### III. FINDINGS FOR APPROVAL

6. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
  - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
  - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Because the Base Project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff. The project includes construction of 66 dwelling units.

7. As required by Section 23.406.040.E.1 of the BMC, 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 consistent with all applicable C-W District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915;
  - B. Shadow impact on adjacent dwellings to the east, south, and west (104-unit mixed-use building, approved November, 2020) are to be expected, because the subject site is located in the C-W district, which allows heights of up to 50' and four stories for mixed-use buildings. A waiver is granted for additional height beyond the district height limits to accommodate the density bonus units to allow a 68-foot, 3-inch-tall, six-story building. Staff believes that shadow impacts from the project would be reasonable and not detrimental; and
  - C. 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 would 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.

**IV. OTHER FINDINGS FOR APPROVAL**

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8. As required by Section 23E.64.090.B of the BMC, the Zoning Adjustments Board finds that:
- A. The mixed-use building at this location will be a more appropriate utilization of a currently underutilized site that will bring 66 new residential units (including five below-market-rate units) and 1,680 square feet of new commercial space to the district and the neighborhood;
  - B. The project will further the purposes of the district by increasing the neighborhood population with new residents of mixed income who would patronize the local businesses and contribute to the livability and character of an underutilized portion of the San Pablo Avenue commercial corridor;
  - C. The new residents and commercial patrons from the project will increase street-level activity to provide continuity for the ground-level activation near this intersection of San Pablo Avenue and Harrison Street, and would extend the existing ground-level activation near the Tokyo Fish Market (1220 San Pablo) on the west side of San Pablo Avenue to the east side of the avenue;
  - D. The project's corner commercial space and primary building orientation toward San Pablo Avenue, along with a similar configuration at the approved mixed-use building to be constructed across the street at 1200-1214 San Pablo, would serve to engage both the southwest and southeast corners of this intersection, and would contribute to the continuity of ground-level activation in the Gilman node of the West Berkeley Plan area;
  - E. At six stories tall, the proposed project will help realize the development potential in the C-W district along San Pablo Avenue, which allows up to four stories (for mixed use buildings; additional height allowed by density bonus provisions), and will add to the trend of taller, mixed-use development along San Pablo Avenue, north of University Avenue; and
  - F. The project will be an appropriate intensity of use that will not exceed local traffic and parking capacities. The City's parking reform ordinance (effective March, 2021) eliminated the residential parking requirement and established parking maximums for this district. The proposed 17 to 28 parking spaces falls within the minimum and maximum requirements.
9. As required by Section 23E.64.090.C of the BMC, the Zoning Adjustments Board finds that:
- A. The project includes a commercial space at the northwest corner of the building at the intersection of San Pablo Avenue and Harrison Street. The commercial space has floor-to-ceiling windows all along the ground level, with its longer, entry (west) side oriented toward San Pablo Avenue, to activate both the Harrison Street and San Pablo Avenue sidewalks. Floor-to-ceiling windows along the commercial space, lobby, and bike room line approximately 90 percent of the project's San Pablo elevation with active spaces behind transparent glazing.
  - B. The project's strong orientation toward the San Pablo Avenue streetscape would add to the pedestrian activity and interest on this portion of the Avenue that already draws visitors daily. The project would contribute to the pedestrian activity near existing businesses by bringing new residents to the area, and by helping to draw in local visitors – potentially, those from beyond the immediate neighborhood.
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**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 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. Compliance Required (BMC Section 23.102.050)**

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

**3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)**

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

**4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)**

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

**5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)**

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

**6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)**

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

**7. Permit Modifications (BMC Section 23.404.070)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. 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.

**8. Permit Revocation (BMC Section 23.404.080)**

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

**9. Pay Transparency Acknowledgement (BMC Section 13.104.030)**

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

**10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)**

Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City.

**11. Posting of Ordinance (BMC Section 13.104.050)**

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.



have an initial height of 10' and full height of 25-30 feet height minimum. The project Landscape Plan shall include the proposed plantings to be reviewed by Land Use staff.

17. Fence at East Property Line. The Project Proponent shall replace/rebuild the retaining wall and fence along the eastern property line to six feet in height.
18. 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.
19. Geotechnical Plan Review. The applicant's geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e., site preparation and grading including removal and replacement/treatment of expansive soils, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and hardscape) to ensure that their recommendations have been properly incorporated and to ensure that the project concept has not changed significantly since preparation of their report. The results of the plan review should be summarized by the geotechnical consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.
20. 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.

21. 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.

22. Compliance with Conditions and Environmental Mitigations. The building permit application is subject to verification of compliance to the adopted. 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.

### **Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)**

23. 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 during extended work hours and reason for extended hours, (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, and (5) 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.

- 24. 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.
- 25. Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
- 26. 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 2 years 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 2 years 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 Issuance of Any Building (Construction) Permit**

27. **Bike Boulevard.** The Project Proponent shall responsible for establishing Kains Avenue, between Harrison Street and Gilman Avenue, as a Class 3 bike boulevard (installing sharrow pavement markings and signage as required), consistent with the bike network improvements stated in the City's Bicycle Plan (May 2017). The Project Proponent shall coordinate with the Public Works (Engineering and Transportation Divisions) to obtain necessary approvals.
28. **Traffic Study.** The Project Proponent shall retain the project traffic consultant to perform an analysis of the remaining eight traffic signal warrants at San Pablo and Harrison Avenues for consideration of a traffic signal for the intersection. The traffic study shall include an analysis of Loss of Service (LOS) levels at this intersection for consideration of a left turn prohibition at the intersection. The traffic study shall be submitted to the Transportation Division for review and approval.
29. **Parking Garage Exit.** The Project Proponent shall submit plans showing the installation of a "Left Turn Only" sign and left turn pavement markings at the parking garage exit, to facilitate left turns only onto Harrison Street. The Project Proponent shall also consider modifying the driveway to angle toward the left to facilitate left turns. Sound level specifications for a pedestrian alert system at the garage exit shall be submitted for review and approval by the Land Use staff.

30. Geotechnical Construction Inspections. The geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and retaining walls prior to the placement of steel and concrete. The results of these inspections and the as-built conditions of the project shall be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.
31. Parcel Merger. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
32. 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.
33. Affordable Housing Mitigation Fee. Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant shall 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.
34. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
35. 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.
36. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
37. Electric Vehicle (EV) Charging. At least 20% of the project parking spaces for residential parking shall be "EV Charger Ready": equipped with raceway, wiring, and power to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, and at least 80% of the project parking spaces for residential parking shall be "EV Spaces Raceway Equipped": equipped with a raceway between an enclosed, inaccessible, or concealed area and an electrical service panel/subpanel as specified by the Berkeley Green Code (BMC Section 19.37.040). Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable



readiness requirement. Readiness for EV charging and EV charging station installations shall be noted on the construction plans.

38. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET<sub>o</sub>) for Berkeley is 41.8.
39. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
40. 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).
41. 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.
42. Required Parking Spaces for Persons with Disabilities. Per BMC Section 23.322.040.H of the Zoning Ordinance, "If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons with disabilities shall be calculated as if there had been no reduction in required spaces."

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

43. 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:**

44. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
45. 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.

- 46. 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.
- 47. 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.
- 48. 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 Land Use Planning Division for review and approval prior to the issuance of building permits; or
  - 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.

**49. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

**50. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.

**51. 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.

- 52. 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.
- 53. 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.
- 54. 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.

- 55. 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.
- 56. 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.
- 57. 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.
- 58. 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.

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59. 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.
60. 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.
61. 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.
62. 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.
63. 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:**

64. Compliance with Conditions. 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.
65. 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 **March 23, 2022**, except as modified by conditions of approval.
66. Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
  - A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
  - B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.

1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
  2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.
- Property owners may be required to pay administrative fees associated with compliance with this Condition.

### **BELOW MARKET RATE UNITS**

- 67.** Number of Below Market Rate Units. The project shall provide **five (5) Very Low Income**, below market rate rental dwelling units ("BMR Units"), which are required to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
- 68.** Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to [affordablehousing@cityofberkeley.info](mailto:affordablehousing@cityofberkeley.info) for review and approval.
- 69.** In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
  - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
  - C. BMR units will be provided for the life of the project under Section 22.20.065.



**70. Determination of Area Median Income (AMI).**

- The "AMI" (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

<b>Unit Size</b>	<b>AMI Standard</b>
Studio unit	AMI for a one person household
One-bedroom unit	AMI for a two person household
Two-bedroom unit	AMI for a three person household
Three-bedroom unit	AMI for a four person household

71. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

**At All Times:**

72. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
73. 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.
74. 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.
75. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
76. 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.
77. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
78. 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

1201-1205 SAN PABLO AVENUE - USE PERMIT #ZP2021-0070  
April 28, 2022

FINDINGS & CONDITIONS  
Page 22 of 22

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.

- 79. 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.
  - 80. Transit Subsidy Condition.** The applicant shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.
  - 81.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
-

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SAN PABLO  
MIXED-USE**

Berkeley, CA 94706

- 03.11.2021 SB-330 PRE-APPLICATION
- 04.29.2021 ZONING APPLICATION
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JOB: 1928

SHEET:

GENERAL  
INFORMATION

**A0.0**

**DRAWING LIST**

SHEET NO. & TITLE  
ARCHITECTURAL  
A0.0 GENERAL INFORMATION  
A0.1 ZONING INFORMATION

- A3.6 PERSPECTIVE VIEWS
- A3.7 PERSPECTIVE VIEWS
- A3.8 PERSPECTIVE VIEWS
- A3.9 PERSPECTIVE VIEWS
- A3.10 PERSPECTIVE VIEWS
- A3.11 PERSPECTIVE VIEWS
- A3.12 PERSPECTIVE VIEWS
- A3.13 PERSPECTIVE VIEWS
- A3.14 PHOTO MATCH PERSPECTIVES
- A4.1 BUILDING SECTIONS
- A4.2 WALL SECTIONS & DETAILS
- SW-1 PRELIMINARY STORMWATER MANAGEMENT PLAN
- G-1 CONCEPTUAL GRADING PLAN
- MAT MATERIAL BOARD
- LANDSCAPE
- L-1.1 LANDSCAPE PLAN - GROUND LEVEL
- L-1.2 LANDSCAPE PLAN - LEVEL 2
- L-1.3 LANDSCAPE PLAN - LEVEL 6
- L-1.4 LANDSCAPE SECTIONS & PLANT PALETTE
- L-1.5 EAST PROPERTY LINE SCREEN

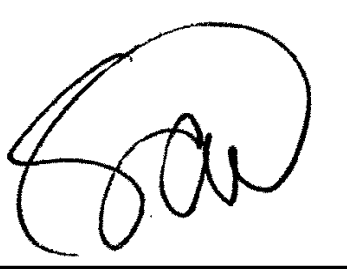
**PROJECT DESCRIPTION**

PROJECT ADDRESS: 1201 SAN PABLO AVENUE, BERKELEY, CA 94706  
APN: 060 240500100; 060 240503101

SCOPE OF WORK:  
SB-330 APPLICATION FOR THE CONSTRUCTION OF A NEW 6-STORY MIXED-USE RESIDENTIAL DEVELOPMENT WITH 66 DWELLING UNITS, GROUND LEVEL LOBBIES, COMMERCIAL, AND PARKING, WITH A STATE OF CALIFORNIA DENSITY BONUS.

ZONING CODE S  
(BASED ON THE BERKELEY  
ZONING: C-W  
SEE SHEET A0.1 FOR COM

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**



**April 28, 2022**

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

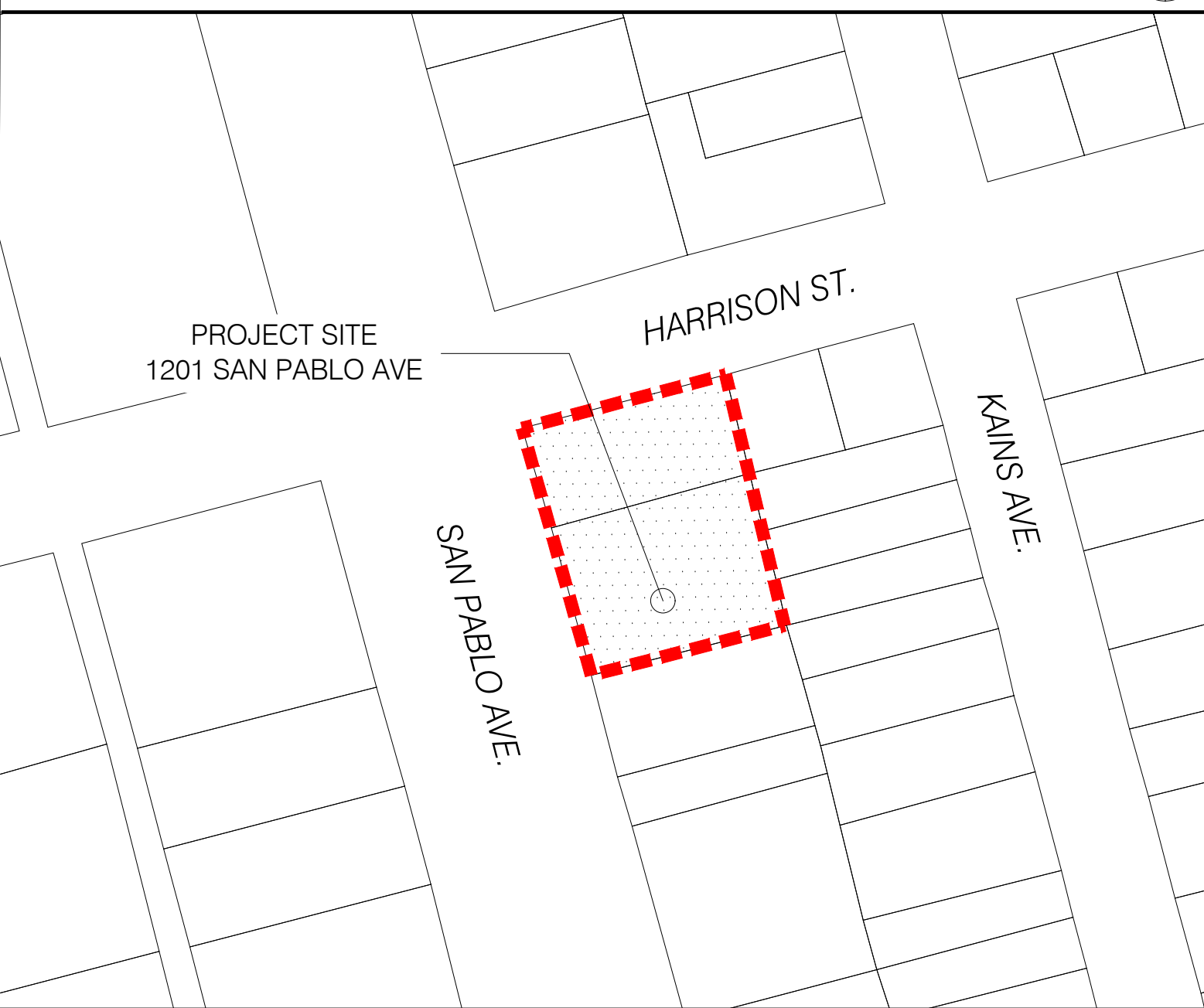
**\* Findings and Conditions Attached**

**PROJECT DIRECTORY**

OWNER/APPLICANT:  
Lanhai Su  
4500 Great America Pkwy  
Santa Clara CA, 95054

ARCHITECT:  
David Trachtenberg, Principal  
TRACHTENBERG ARCHITECTS  
2421 Fourth Street  
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**VICINITY MAP**



**CONCEPTUAL VIEW OF PROJECT LOOKING SOUTH ALONG SAN PABLO**



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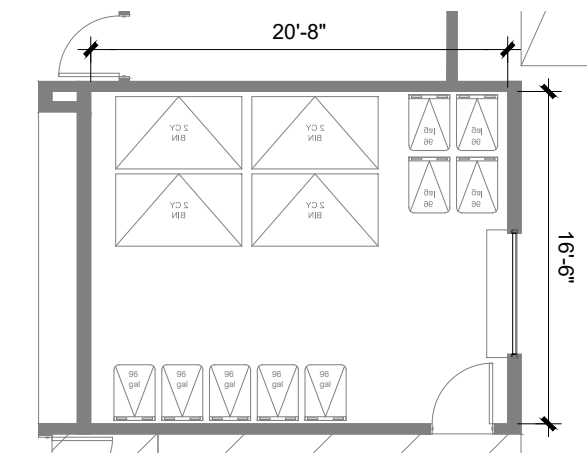
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SHEET:

ZONING DATA

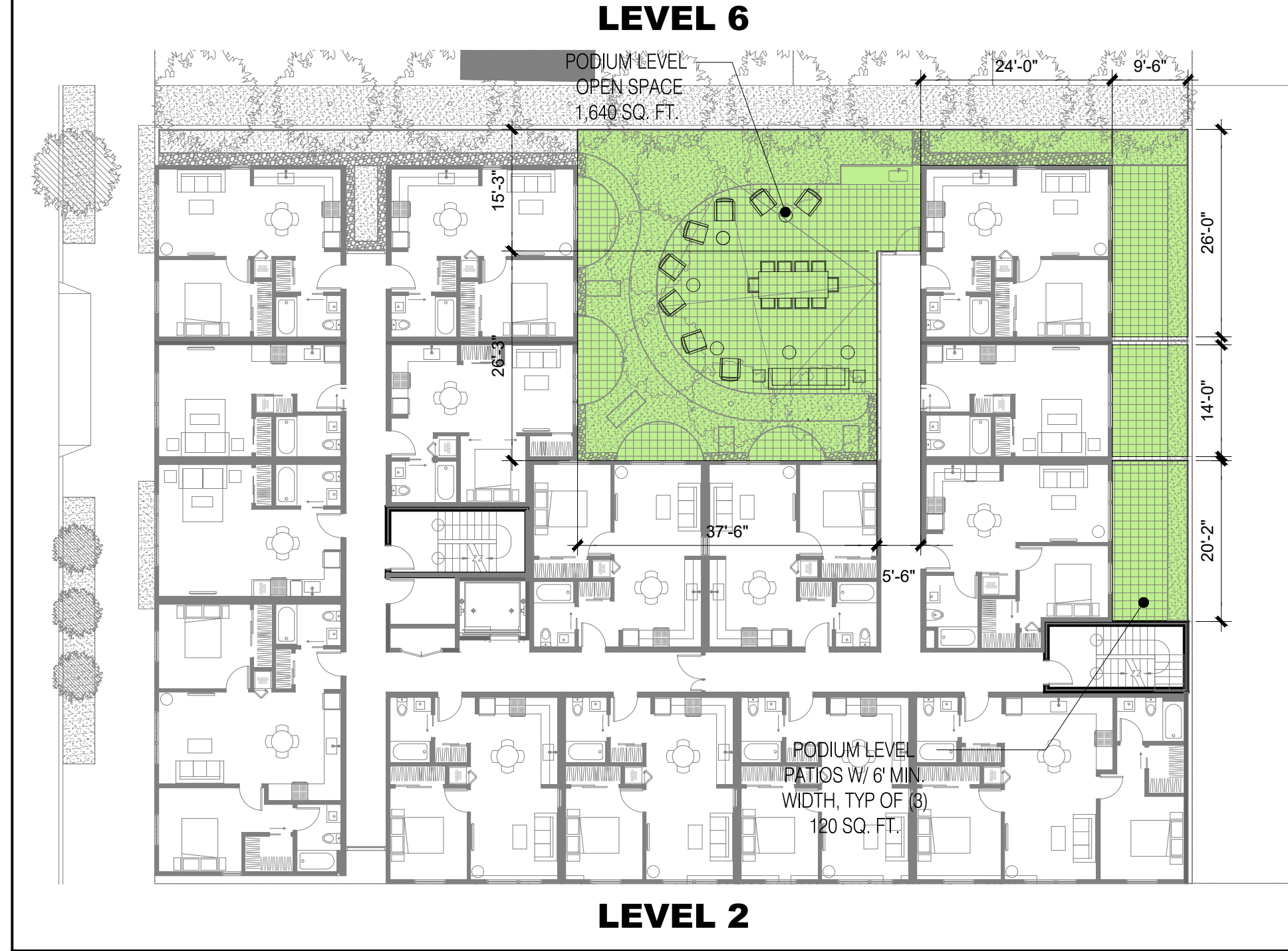
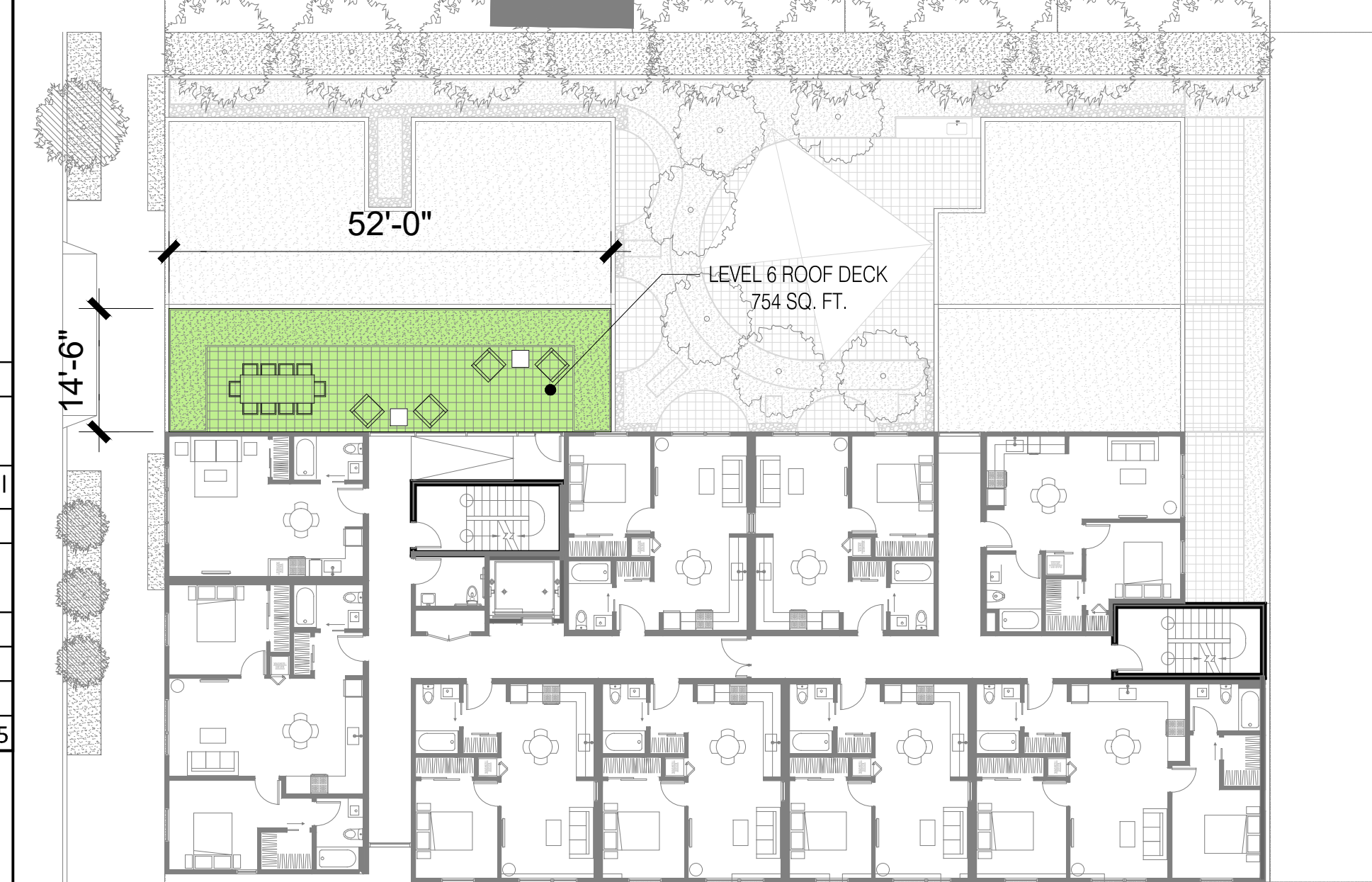
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## REFUSE AND RECYCLING

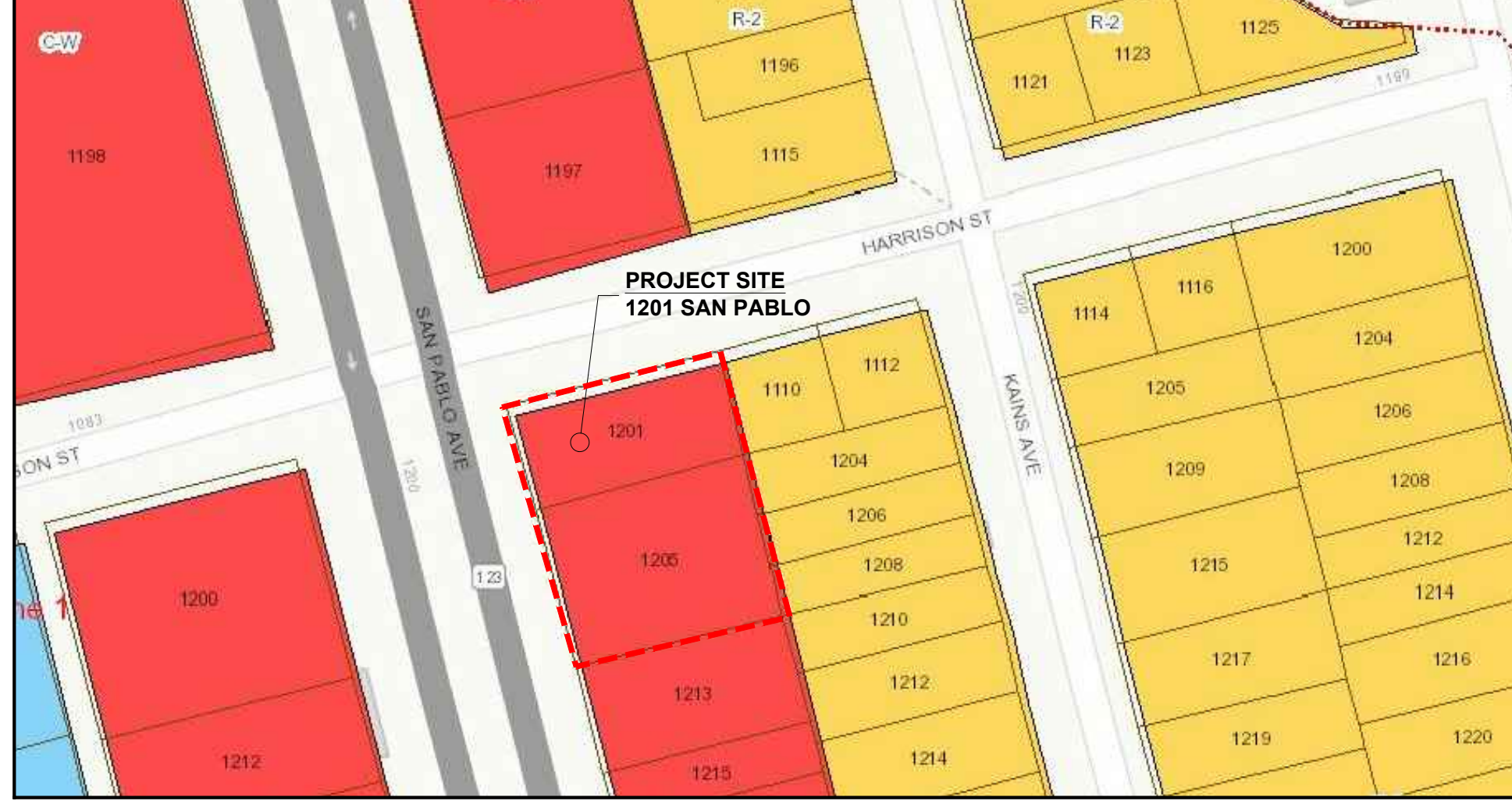


Waste and Recycling Calculation							
# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3)		Waste (40%)	Recycling (40%)	Organics (20%)
72	1.75	126	10.50 cy	2,100 gal	4.20 cuft	840 gal	420 gal
Space Calculation		Container Quantities			Space Required		150% Additional
	Waste	Recycling	Organics	Factor/container	Space/ Container	Required	Provided
2 cy bin (404 gal)	2	2			28 sf	112 sf	
96 gallon cart	1	1	5		7 sf	49 sf	
64 gallon cart					6 sf	sf	
<b>Total capacity</b>	<b>904 gal</b>	<b>904 gal</b>	<b>480 gal</b>		<b>161 sf</b>	<b>242 sf</b>	<b>375</b>

## OPEN SPACE DIAGRAMS



## ZONING MAP



## ZONING CODE DATA

CITY OF BERKELEY ZONING TABULATIONS			
	PROPOSED	PERMITTED/ REQUIRED	ALLOWABLE W/ 32.5% DENSITY BONUS
NUMBER OF DWELLING UNITS	66	N/A	N/A
COMMERCIAL AREA	1,680	N/A	N/A
PARKING	SEE TABLE	SEE TABLE	SEE TABLE
BIKE PARKING	68	28	N/A
FRONT YARD SETBACK (HARRISON)	0'	0'	N/A
STREET SIDE YARD SETBACK (SAN PABLO)	VARIES; 5' TO 0' TO 1'	0'	N/A
SIDE YARD SETBACK	47'-0"	VARIES; 0' TO 5'-0"	N/A
REAR YARD SETBACK	VARIES; 0' TO 10'-0"	0'	N/A
BUILDING HEIGHT	68'-3" **	50'	70' **
BUILDING STORIES	6	4	6
LOT AREA	13,000	13,000	13,000
LOT AREA (ACRES)	0.30	0.30	0.30
GROSS FLOOR AREA (SEE TABLE)	46,996	N/A	51,740
BUILDING FOOTPRINT	12,056	13,000	N/A
LOT COVERAGE	93%	100%	N/A
USABLE OPEN SPACE (SEE TABLE)	SEE TABLE	SEE TABLE	SEE TABLE
PROJECT FAR	3.60 **	3.0	3.98 **

\*\* Via Density Bonus Waiver

FAR CALCULATIONS				
		BASE PROJECT ALLOWABLE	ALLOWABLE W/ 35% DENSITY BONUS	PROPOSED W/ DENSITY BONUS
SITE AREA		13,000	13,000	13,000
FAR		3.00	4.05	3.62
FLOOR AREA		39,000	52,650	46,996

PROPOSED FLOOR AREA WITH DENSITY BONUS				
	COMMERCIAL	RESIDENTIAL	MECH.	TOTAL
LEVEL 6		6,303		6,303
LEVEL 5		7,526		7,526
LEVEL 4		9,244		9,244
LEVEL 3		9,244		9,244
LEVEL 2		9,244		9,244
GROUND LEVEL (EXCLUDES PARKING)	1,680	2,906	849	5,435
TOTAL FLOOR AREA W/ DENSITY BONUS	1,680	44,467		46,996
FAR (FLOOR AREA RATIO)				3.62
PARKING				6,583
TOTAL WITH PARKING				53,579

UNIT COUNTS				
UNIT TYPE	STUDIO	1-BED	2-BED	TOTAL
LEVEL 6	2	5	2	9
LEVEL 5	5	5	2	12
LEVEL 4	5	8	2	15
LEVEL 3	5	8	2	15
LEVEL 2	5	8	2	15
GROUND LEVEL				
TOTAL	22	34	10	66
PERCENT OF TOTAL	33%	52%	15%	
TOTAL BEDROOM COUNT	22	34	20	76

OPEN SPACE TABLE				
	UNITS	RATIO	TOTAL	LANDSCAPE AREA
TOTAL UNITS	66	40	2,640	
TOTAL REQUIRED			2,640	
TOTAL CONCESSION REQUESTED			126	
TOTAL AREA PROVIDED			2,514	1,346
PODIUM LEVEL GARDEN			1,640	902
PODIUM LEVEL PATIOS			120	115
LEVEL 6 ROOF DECK			754	329

BICYCLE PARKING CALCULATIONS				
	UNITS/SF	SPACES PER BEDROOM/SF	TOTAL REQ	PROVIDED
NEW COMMERCIAL	1,680	1/2000	2	2
RESIDENTIAL (LONG TERM)	76	0.33	26	64
RESIDENTIAL (SHORT TERM)	76	0.025	2	6
<b>TOTAL PARKING</b>			<b>28</b>	<b>66</b>

PARKING TABLE				
	UNITS/SF	MIN.	MAX (.5/UNIT)	PROPOSED
RESIDENTIAL	66	0	33	UP TO 13-24*
COMMERCIAL	1680	2/1000 SF	N/A	4

ROOFTOP ARCHITECTURAL ELEMENTS CALCS			
AVERAGE AREA	8936		
TOTAL AREA OF ROOFTOP ELEMENTS	392		
% AREA OF ROOFTOP ARCH. FEATURES	4.4%		
ALLOWABLE % (PER 23E.04.020C)	15.0%		

\* ON A VOLUNTARY BASIS, THE PROJECT PROPOSES TO PROVIDE UP TO 17 STANDARD NON-LIFT SPACES OR UP TO 28-SPACES IN DOUBLE-LIFTS.

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JOB: 1928

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**DENSITY BONUS  
DIAGRAMS**

**A0.3**

**DENSITY BONUS TABLE**

Base Project	Base	Base # Units	% VLI units	# VLI Units	#VLI Bonus Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
sq. ft. - see calc. below	base project area / avg. unit size	Base Units/Max. Residential Density (rounds up)	VLI = Very Low Income <50% AMI	% VLI x Base # Units		% Bonus x Base # Units	% Bonus x Base # Units (rounded up)	% Bonus x Base # Units (rounded up)	
32,865	49.46	50	10%	5.00	5.00	32.5%	16,2500	17	67

Base Project Res. Area	Floor	Proposed Project Res. Area	%VLI	%DB
	Sixth	6,303	5%	20.00%
	Fifth	7,526	6%	22.50%
10,190	Fourth	9,244	7%	25.00%
10,190	Third	9,244	8%	27.50%
10,190	Second	9,244	9%	30.00%
2,295	Ground	2,295	10%	32.50%
<b>Total</b>		<b>43,856</b>		<b>35.00%</b>

Proposed Area: **43,856**  
Proposed Units: **66**  
Avg Unit Size: **664**

Base Project # of Units	Floor	Proposed Project # of Units
	Sixth	9
	Fifth	12
16	Fourth	15
17	Third	15
17	Second	15
	Ground	
<b>Total</b>		<b>66</b>

**BASE PROJECT ZONING COMPLIANCE CHECKS**

**Base Project - FAR**

	Res. Area	Commercial	Total GFA
GFA	32,865	1720	34,585
Site Area			13,000
FAR			2.660

**Base Project - Open Space**

	Units	Ratio	Total Area
Base Units	50	40	2000
Total Provided Open Space			2447
Podium Open Space			1692
Roof Deck			755

**Base Project - Parking**

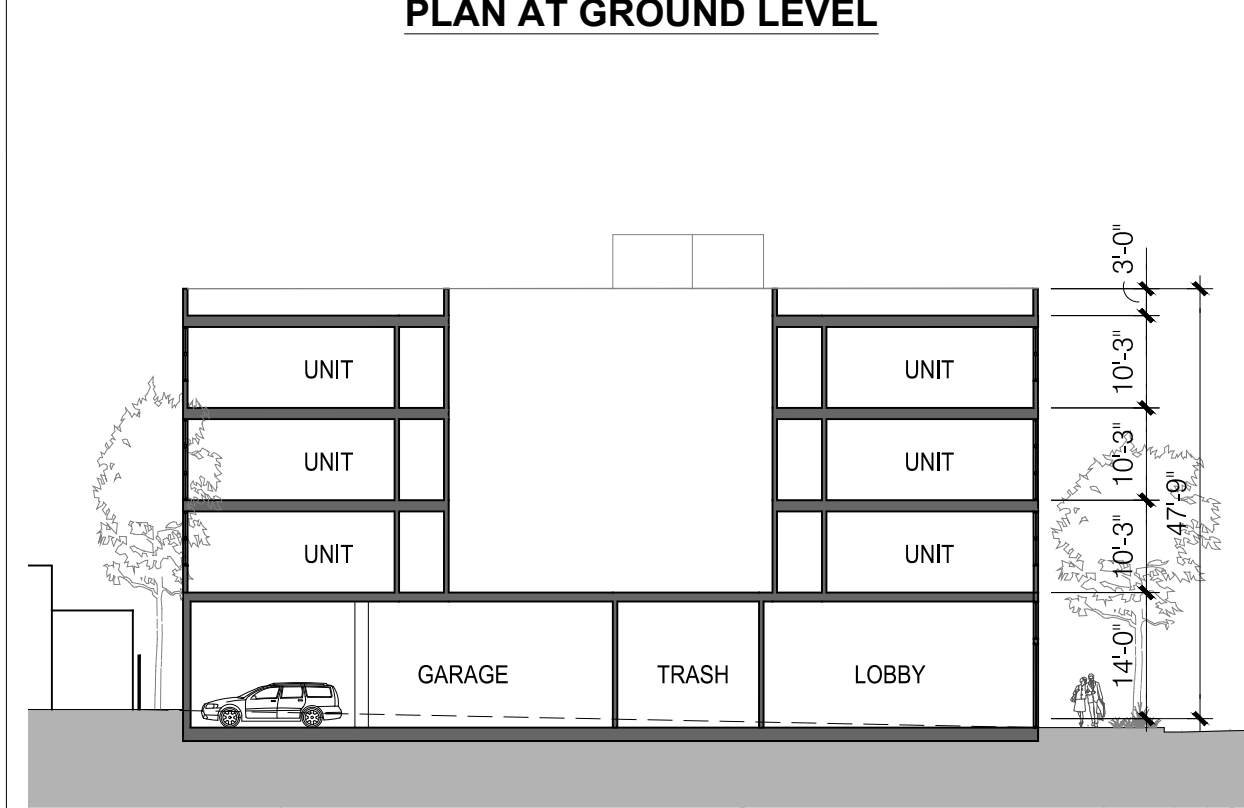
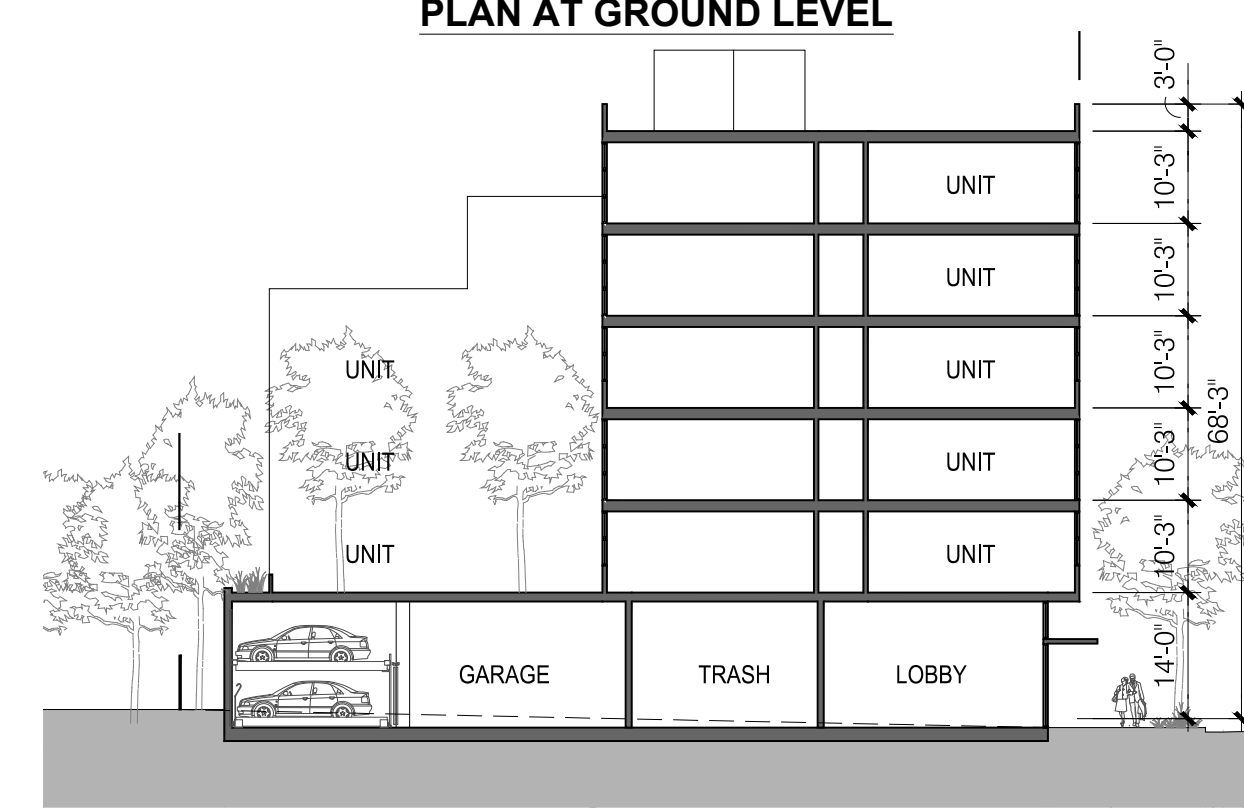
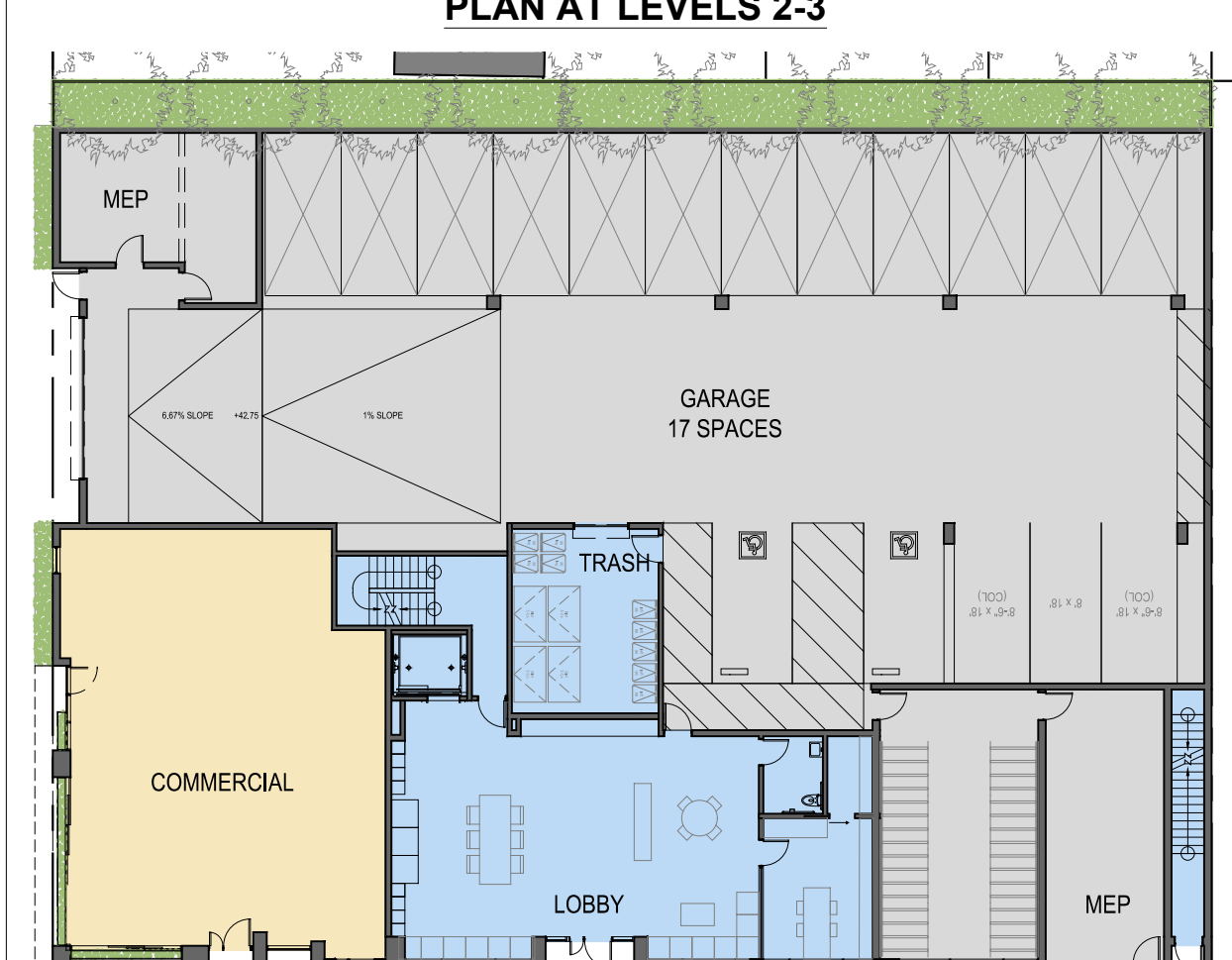
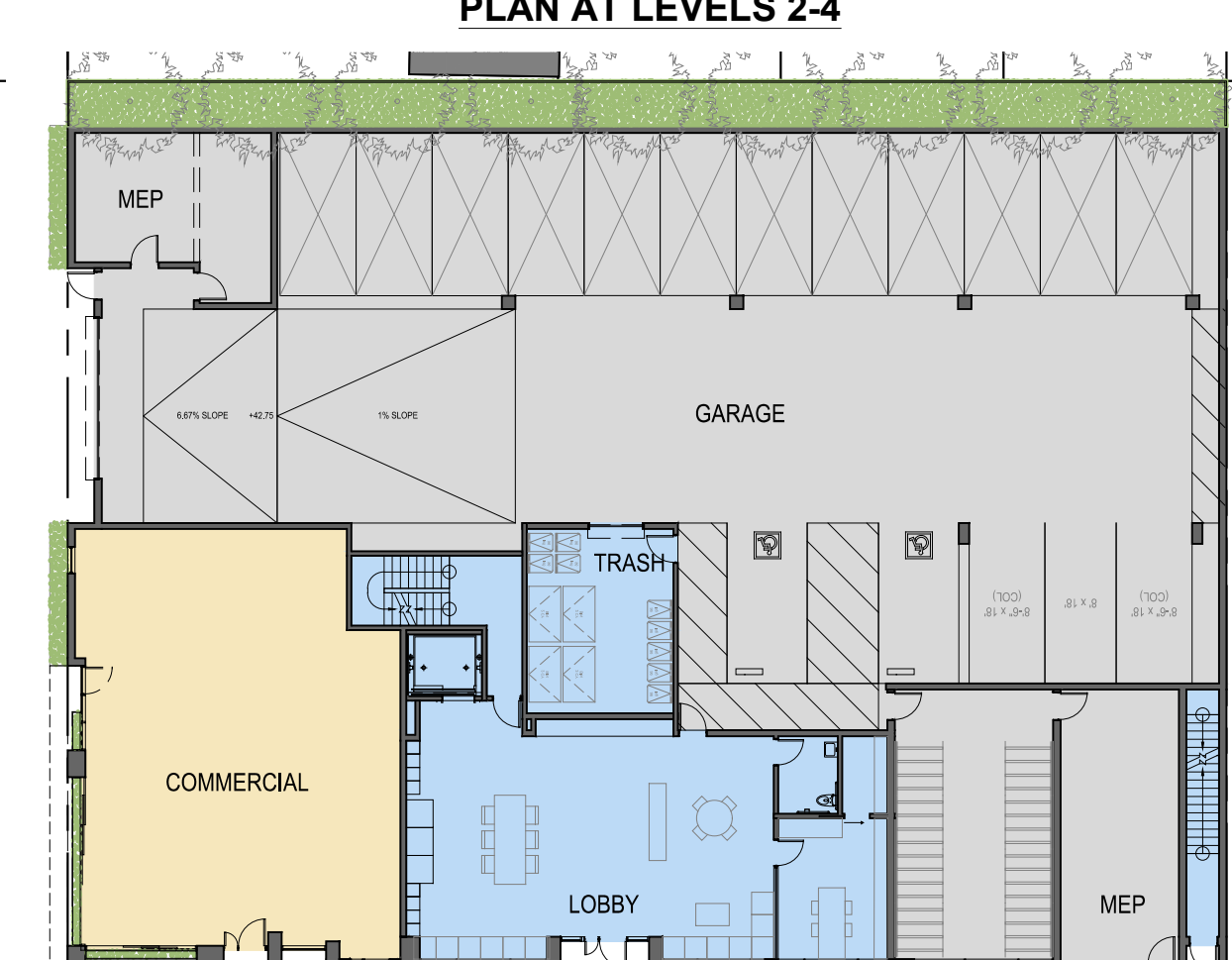
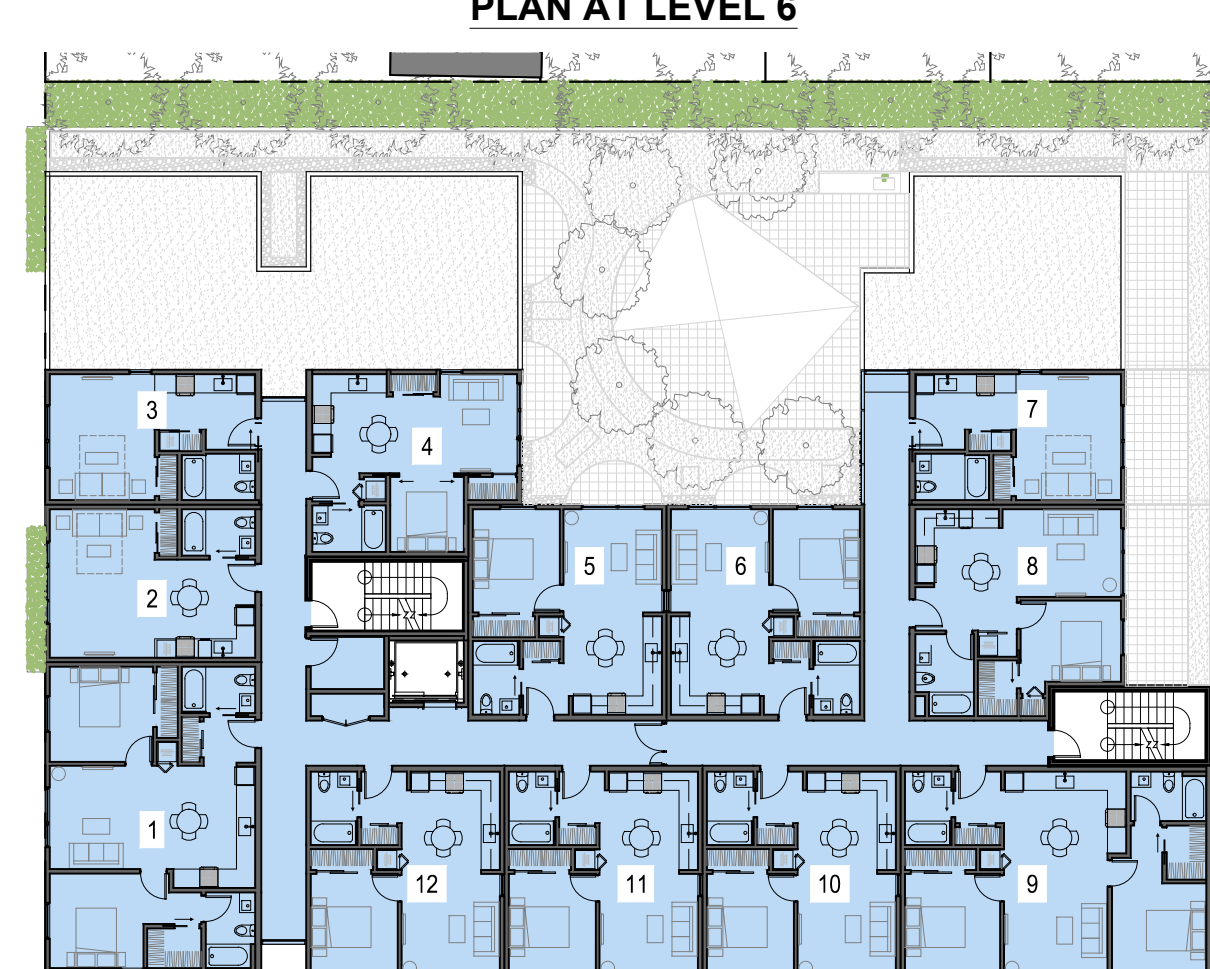
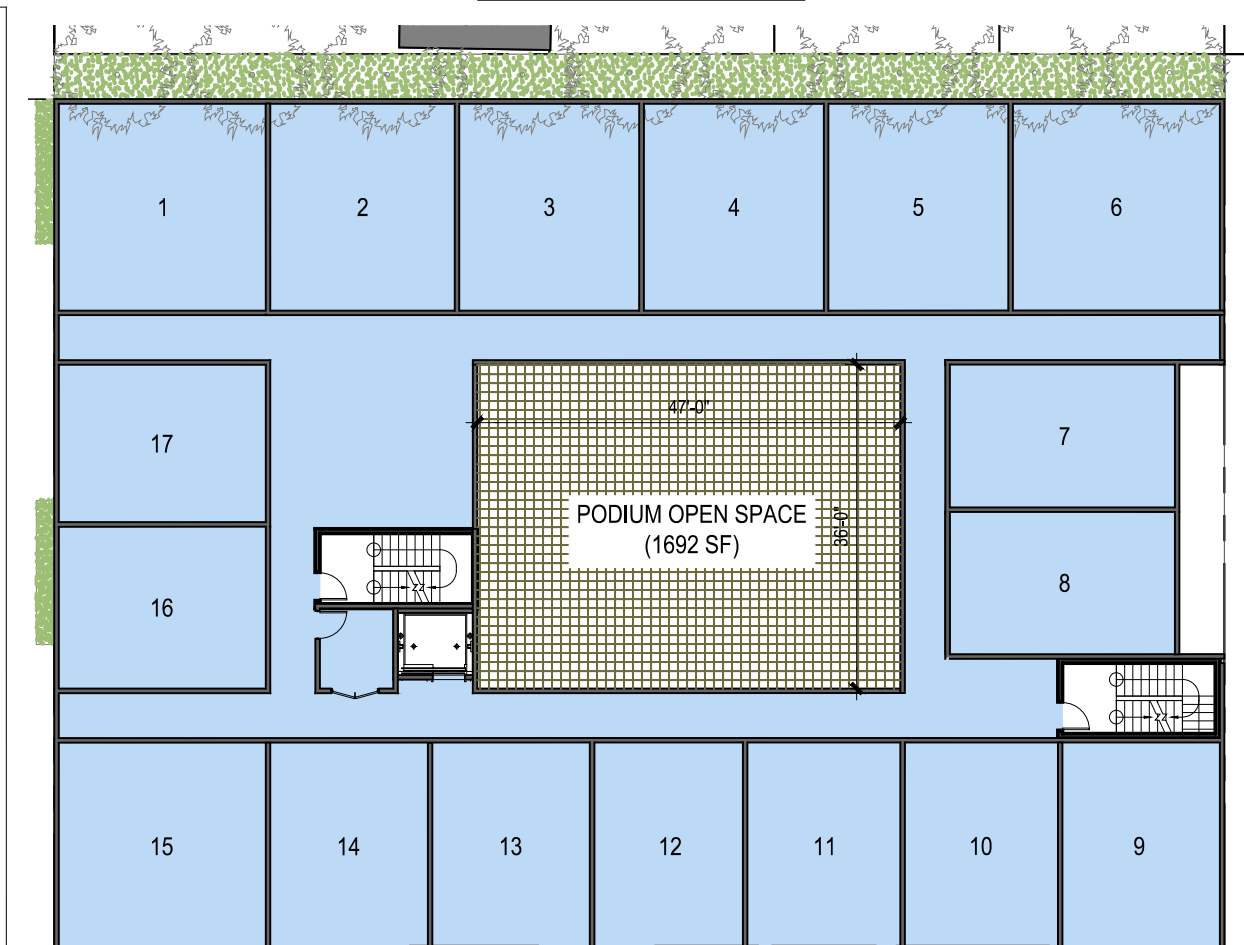
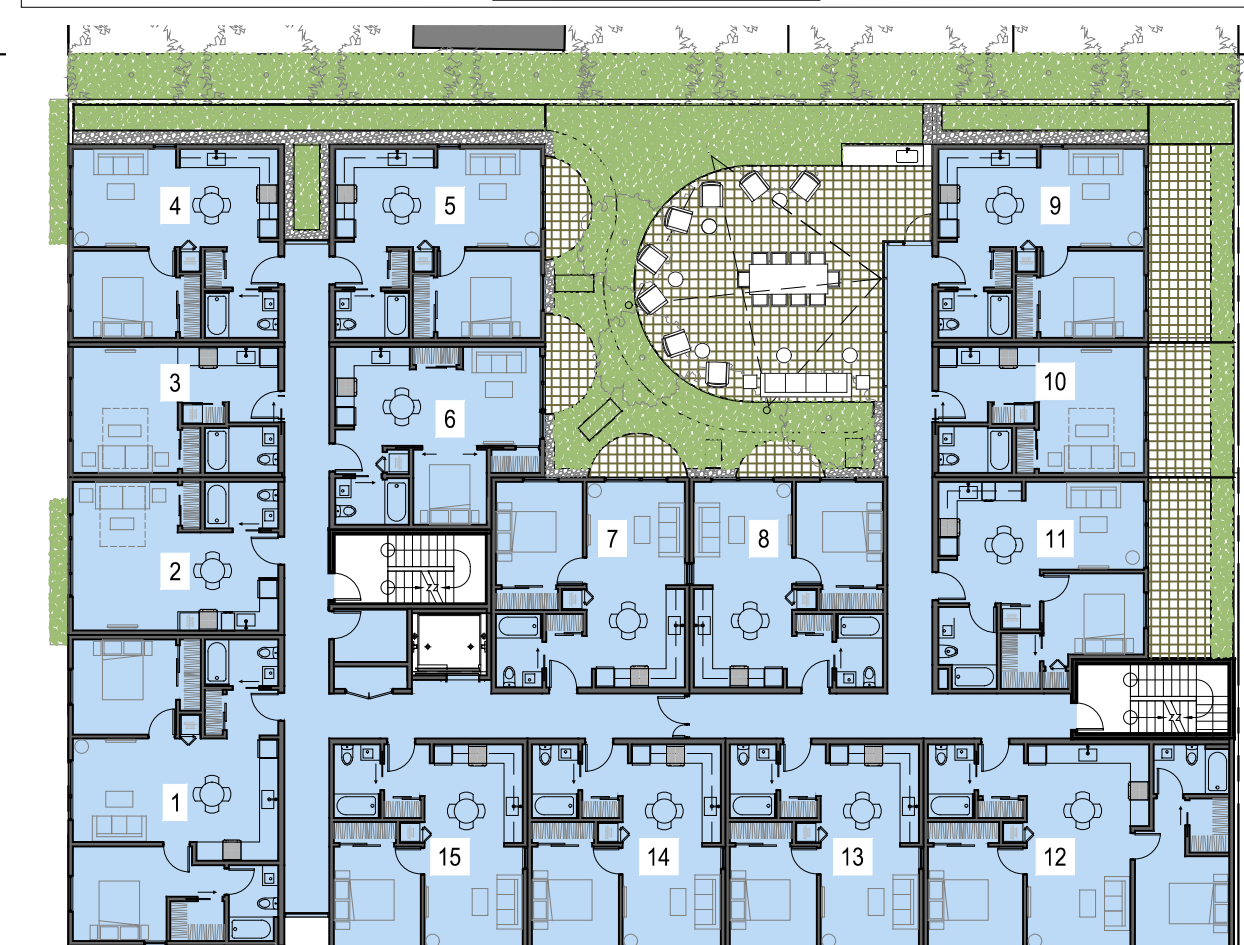
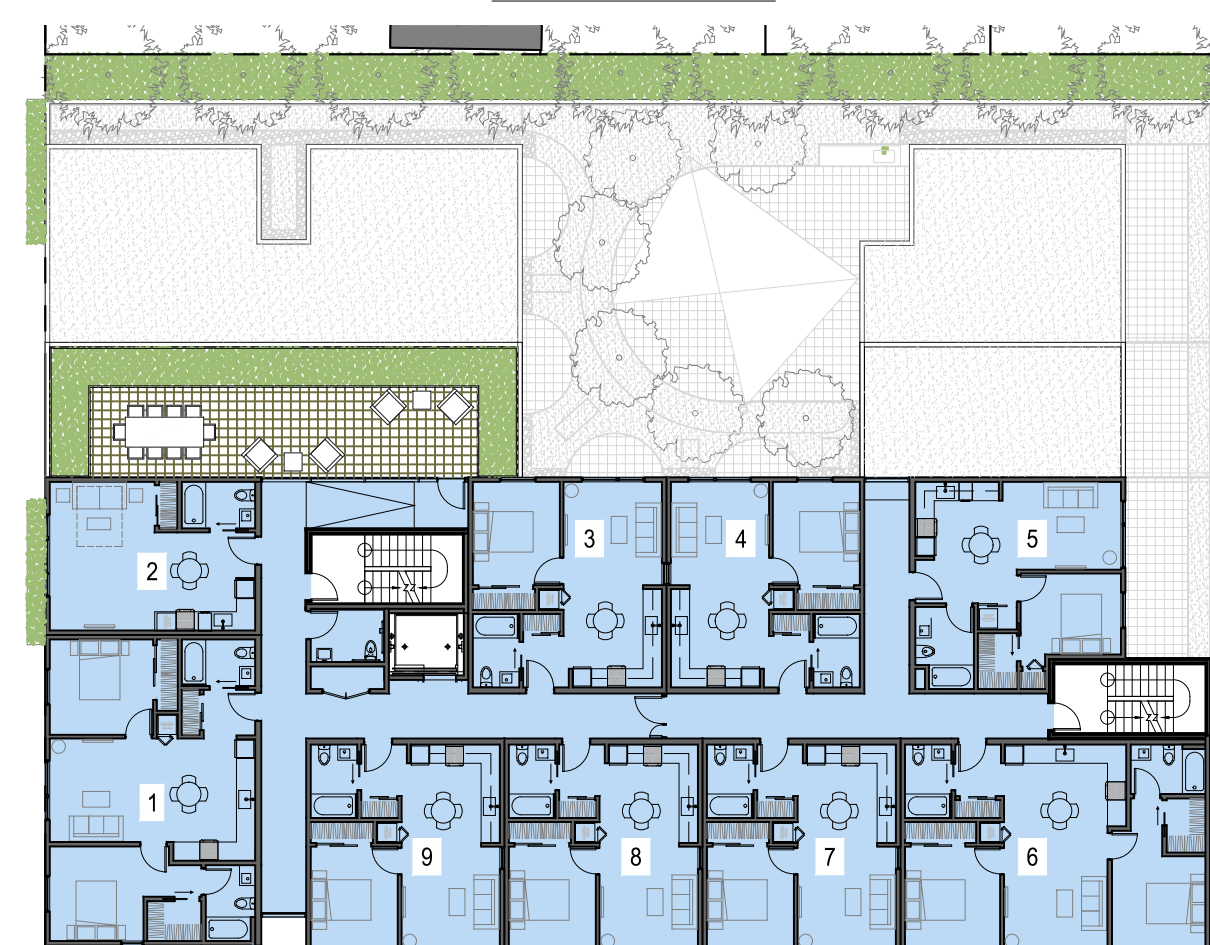
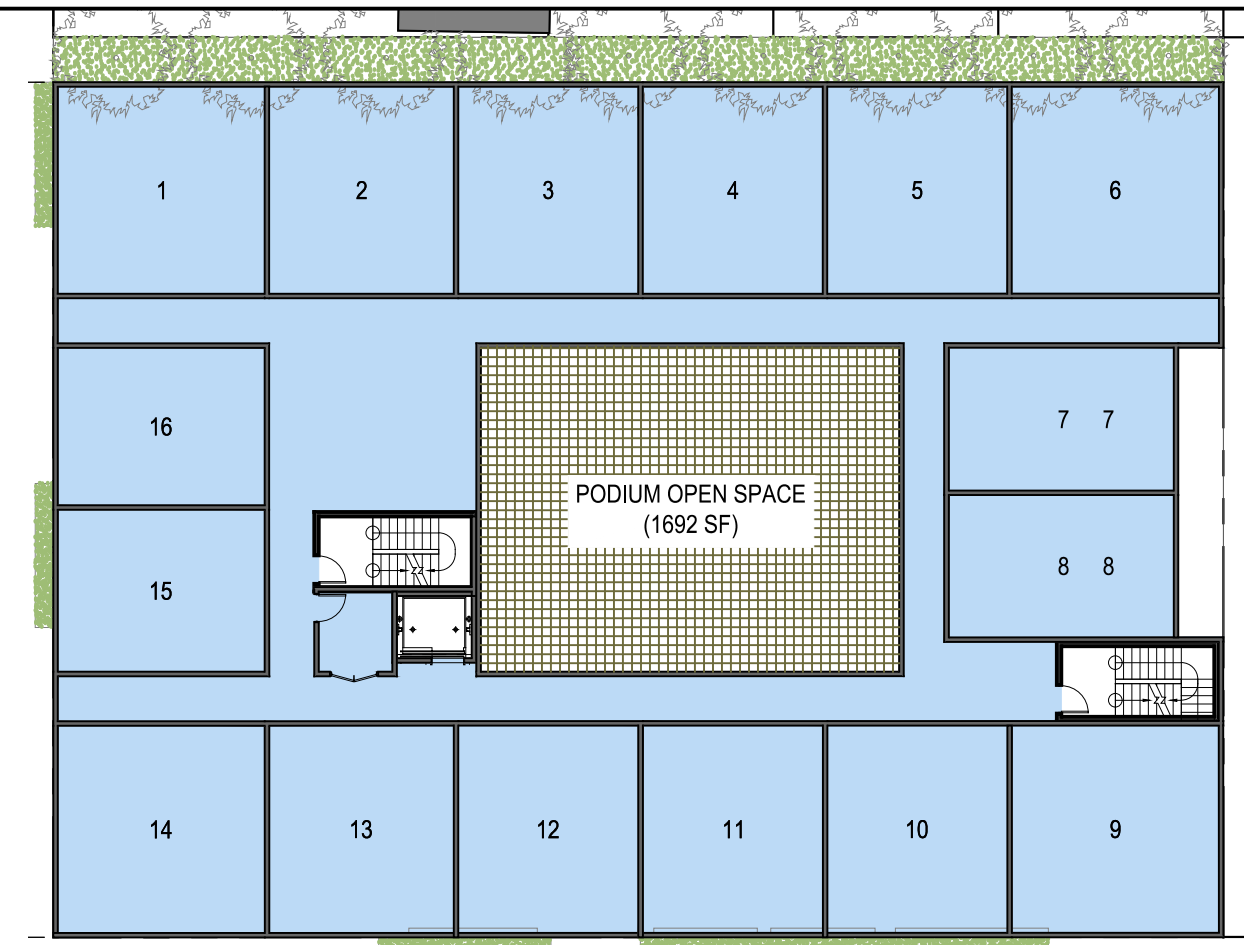
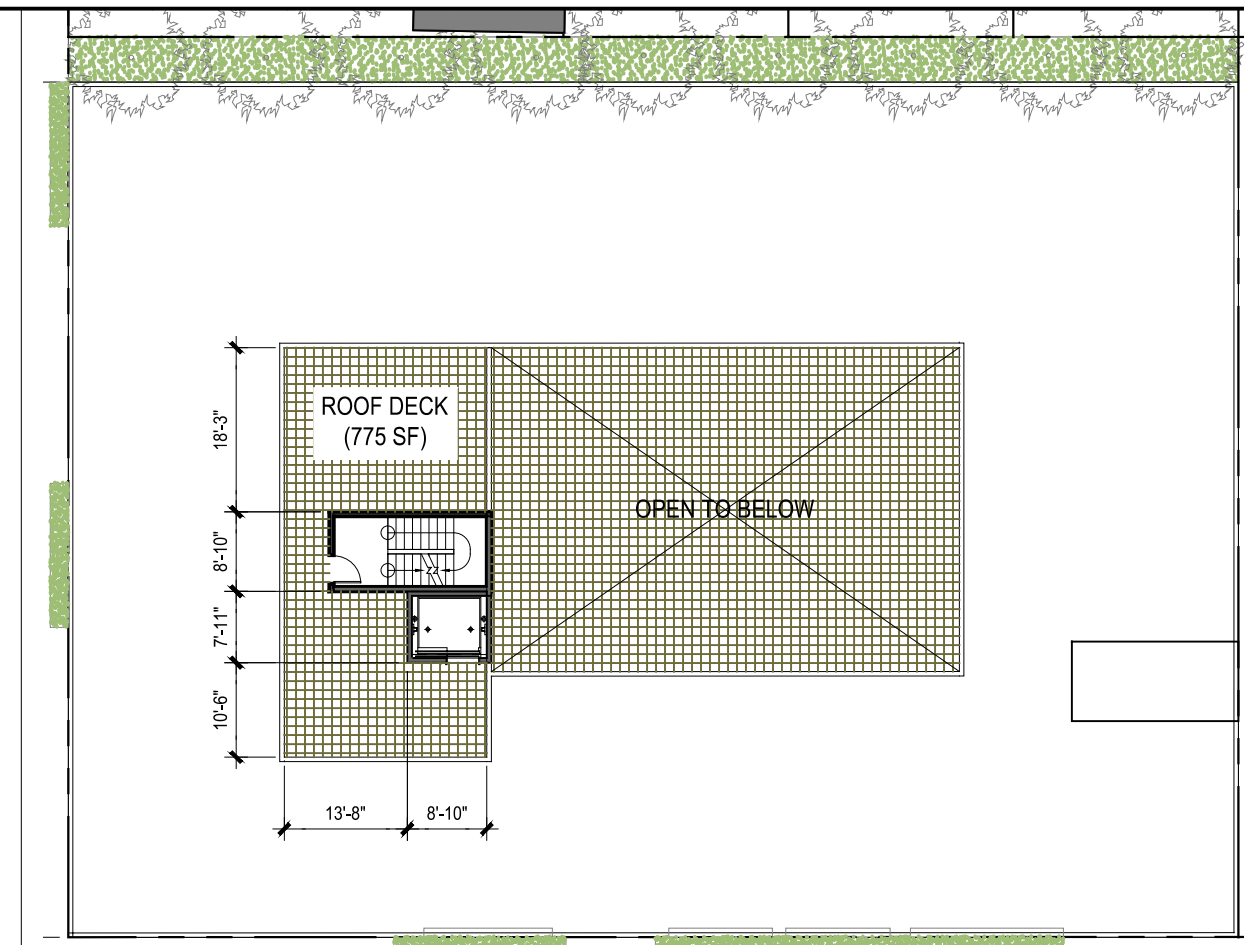
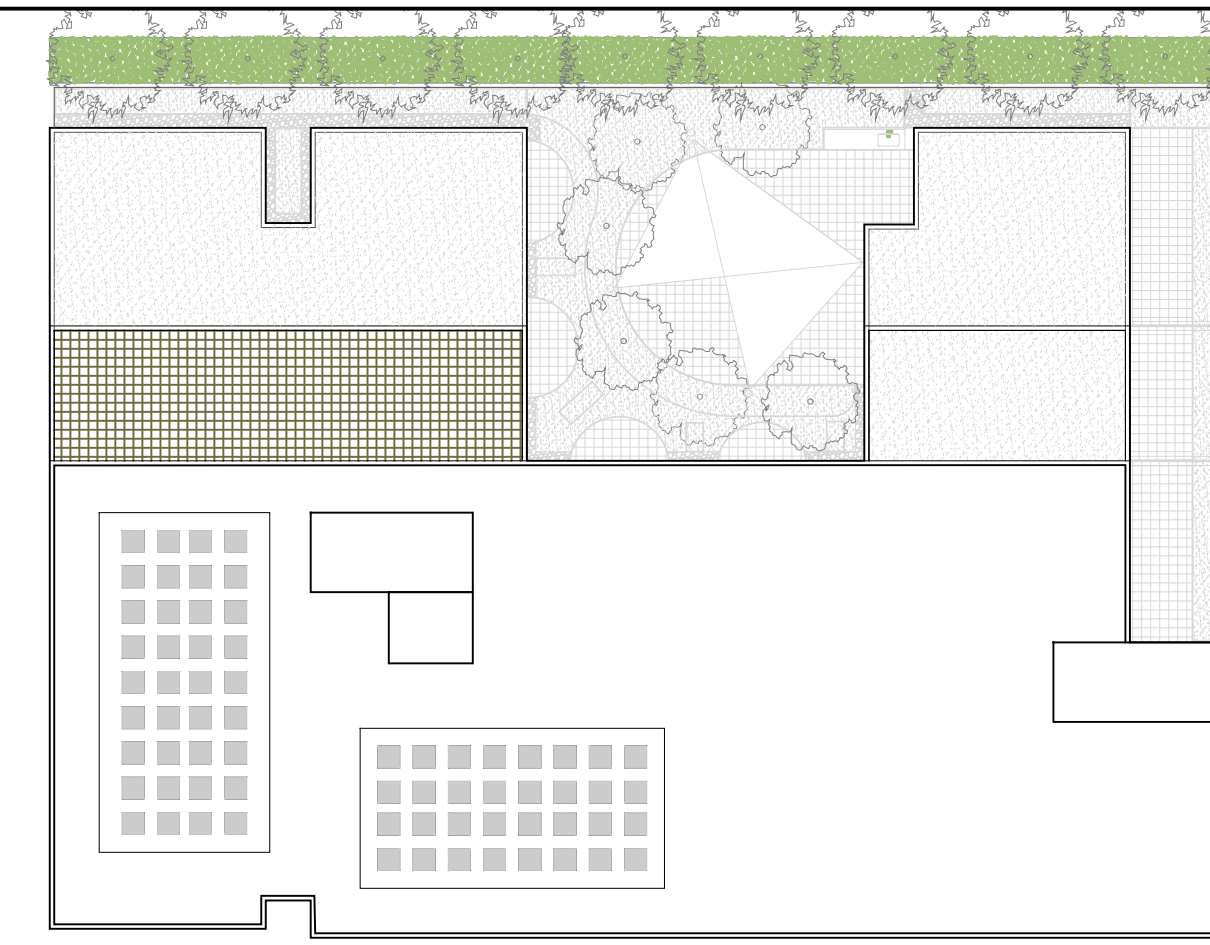
	Units/SF	Bedrooms	Ratio	Total Req.	Provided
Residential				0	13
Commercial	1,680	N/A	2/1000 SF	4	4

**Base Project - Bicycle Parking**

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
New Comm.	1,680		1/2000	2	2
Res. (Long)		58	0.33	19	64
Res. (Short)		58	0.025	1	6

**Base Project - Stormwater**

	Roof Area	%	Required	Provided
Base Units	13361	4%	534	534



**PROPOSED DENSITY BONUS PROJECT**  
SCALE: 3/64" = 1'-0" @ 24 X 36



**BASE PROJECT**  
SCALE: 3/64" = 1'-0" @ 24 X 36



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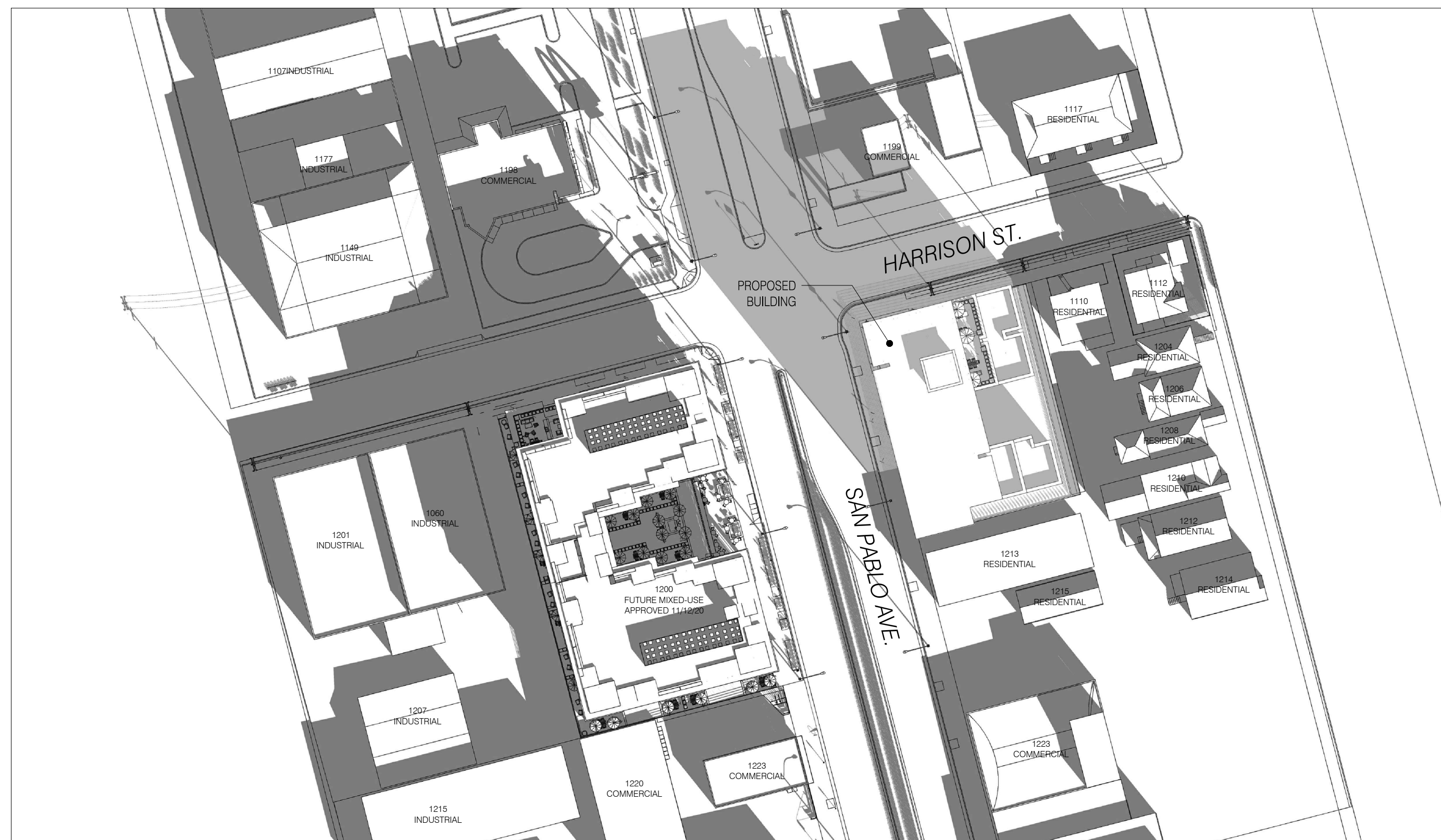
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**SHADOW STUDIES  
DECEMBER 21ST**

**A0.4A**



4 SHADOW STUDY AXONOMETRIC - DEC 21: 2-HRS AFTER SUNRISE  
NTS

2 SHADOW STUDY - DECEMBER 21: 2 HRS AFTER SUNRISE  
1:100 @ 11X17 1:50 @ 24X36



3 SHADOW STUDY - DECEMBER 21: NOON  
1:100 @ 11X17 1:50 @ 24X36

1 SHADOW STUDY - DECEMBER 21: 2-HRS BEFORE SUNSET  
1:100 @ 11X17 1:50 @ 24X36



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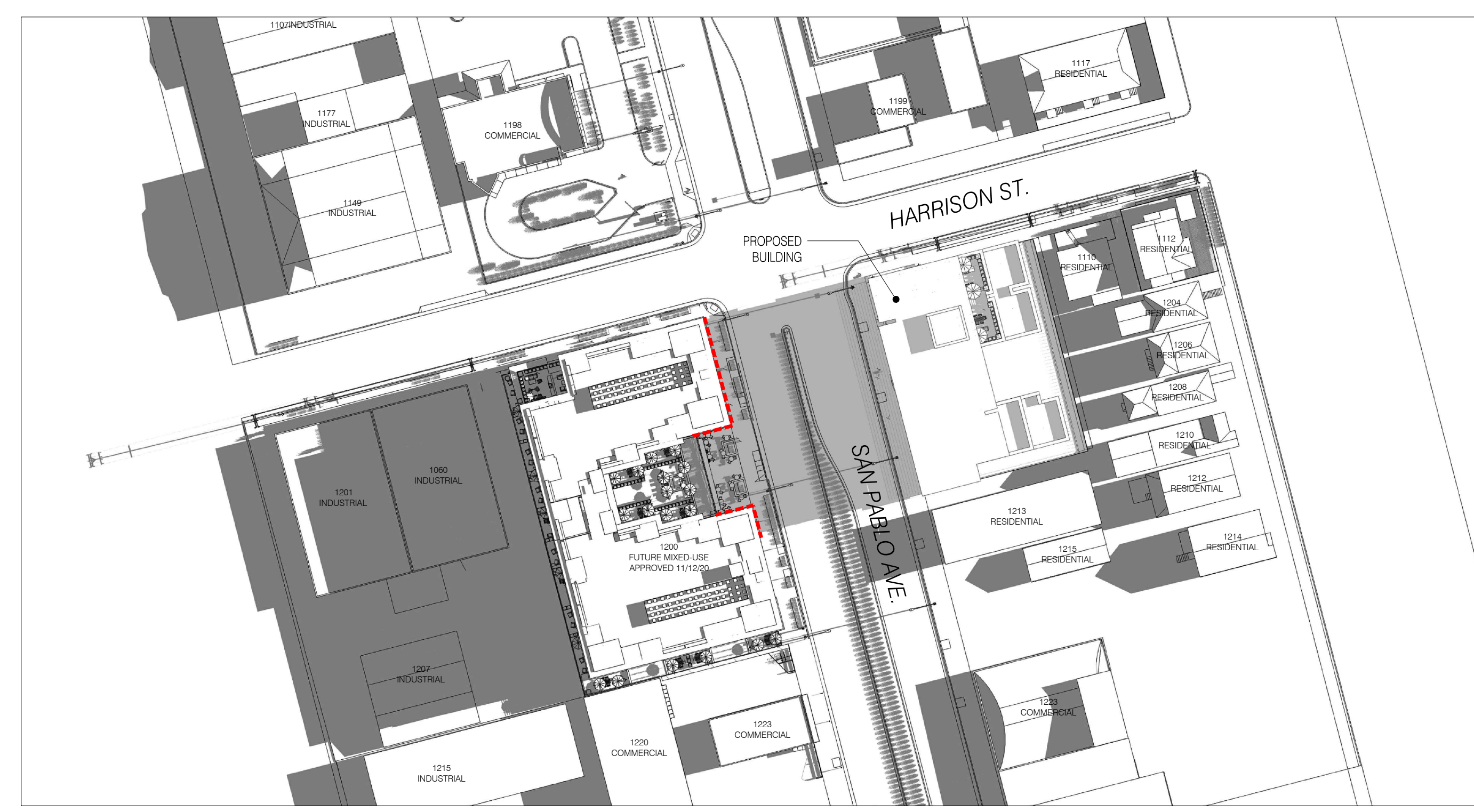
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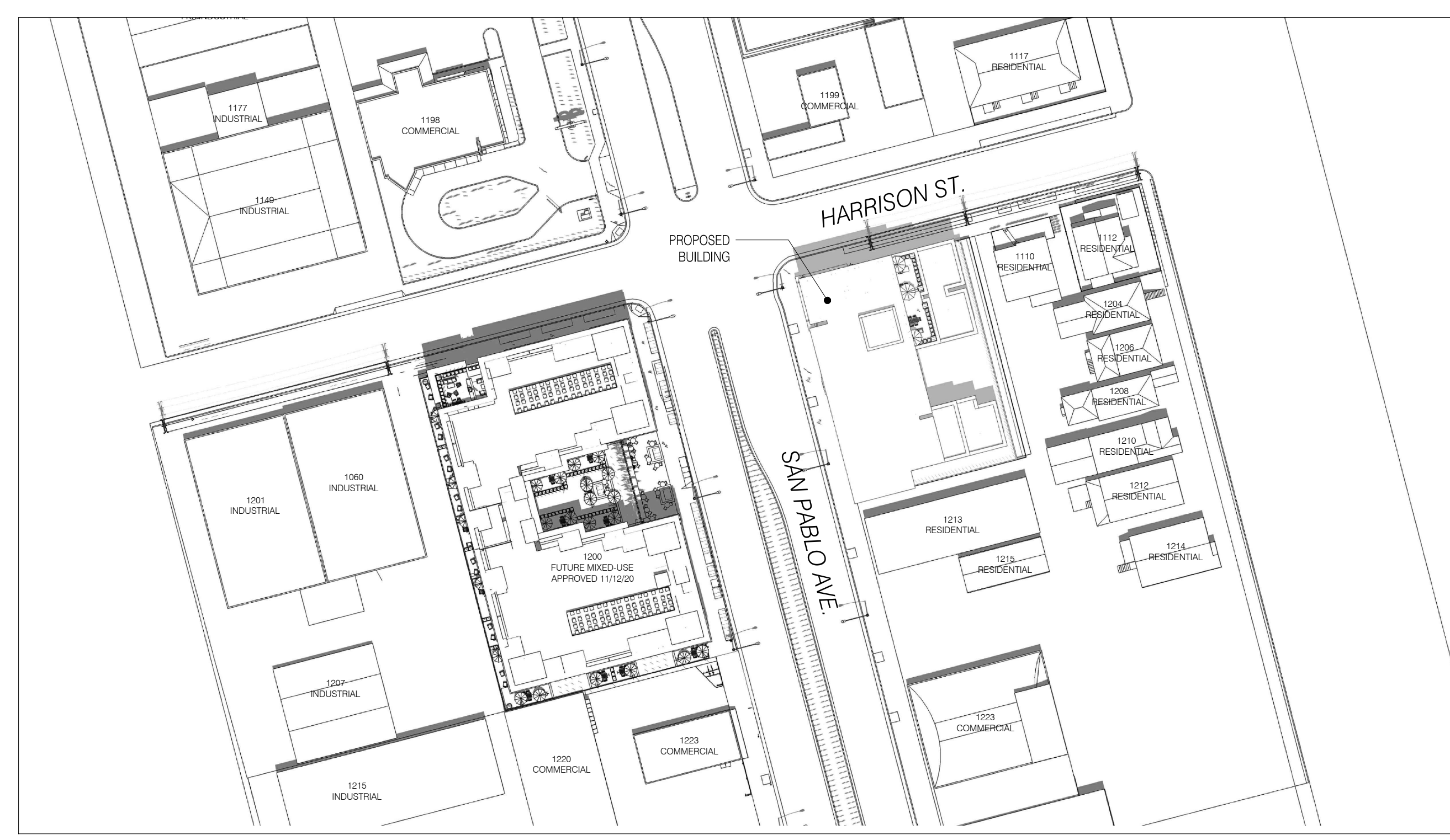
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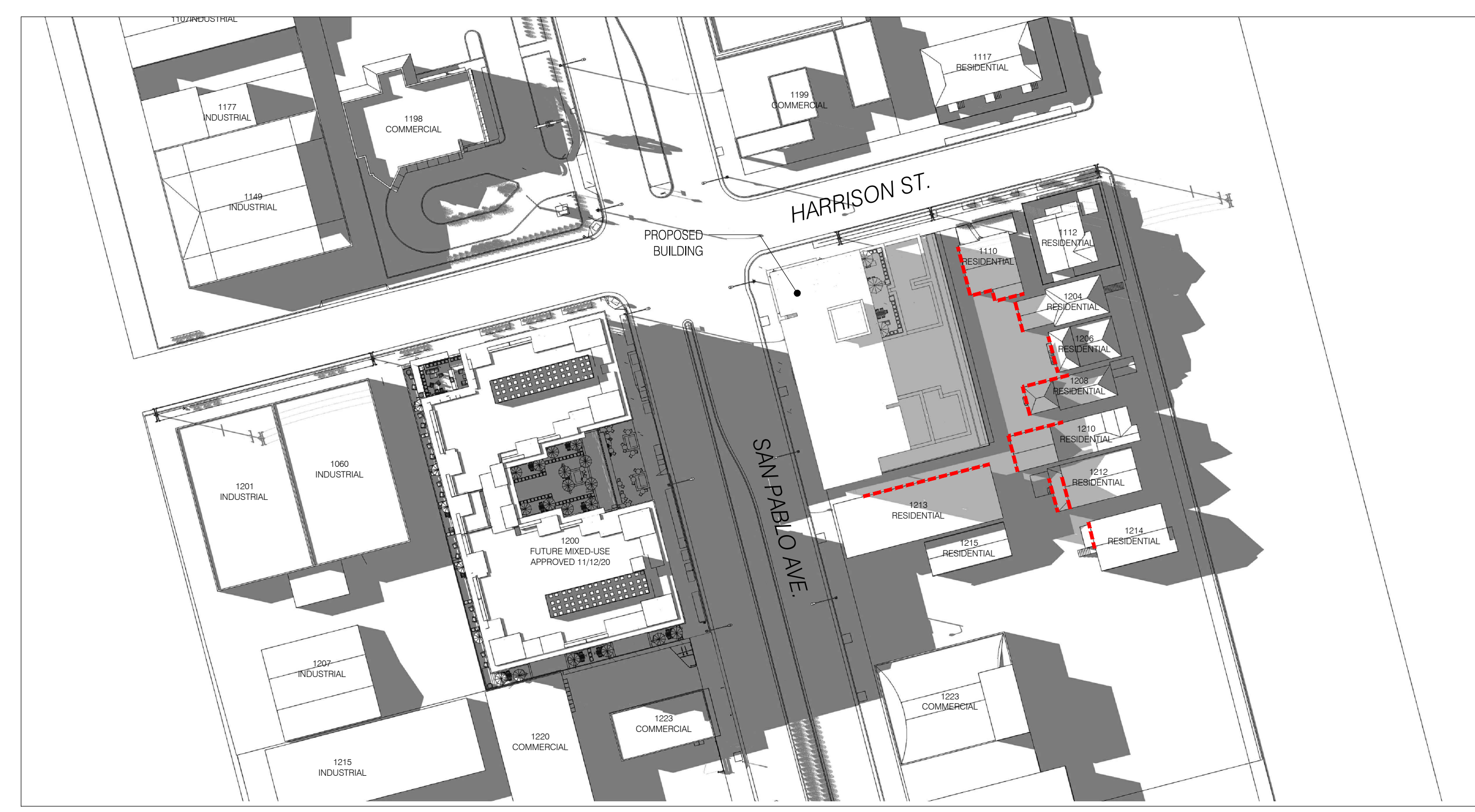
# A0.4B



2 SHADOW STUDY - JUNE 21: 2 HRS AFTER SUNRISE  
 1:100 @ 11X17 1:50 @ 24X36



3 SHADOW STUDY - JUNE 21: NOON  
 1:100 @ 11X17 1:50 @ 24X36



1 SHADOW STUDY - JUNE 21: 2-HRS BEFORE SUNSET  
 1:100 @ 11X17 1:50 @ 24X36

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- 03.11.2021 SB-330 PRE-APPLICATION
- 04.29.2021 ZONING APPLICATION
- 07.13.2021 ZONING COMPLETENESS
- 08.30.2021 ZONING COMPLETENESS
- 01.07.2022 ZAB REVISIONS
- 03.15.2022 DRC REVISIONS
- 03.23.2022 DRC REVISIONS

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JOB: 1928

SHEET:  
**SHADOW STUDIES  
JUNE 21ST**

**A0.4C**



**2 SHADOW STUDY AXONOMETRIC - JUN 21: 2-HRS BEFORE SUNSET**  
NTS



**1 SHADOW STUDY AXONOMETRIC - JUN 21: 2-HRS BEFORE SUNSET**  
NTS



**3 SHADOW STUDY AXONOMETRIC - JUNE 21: 2 HRS AFTER SUNRISE**  
1:100 @ 11X17 1:50 @ 24X36



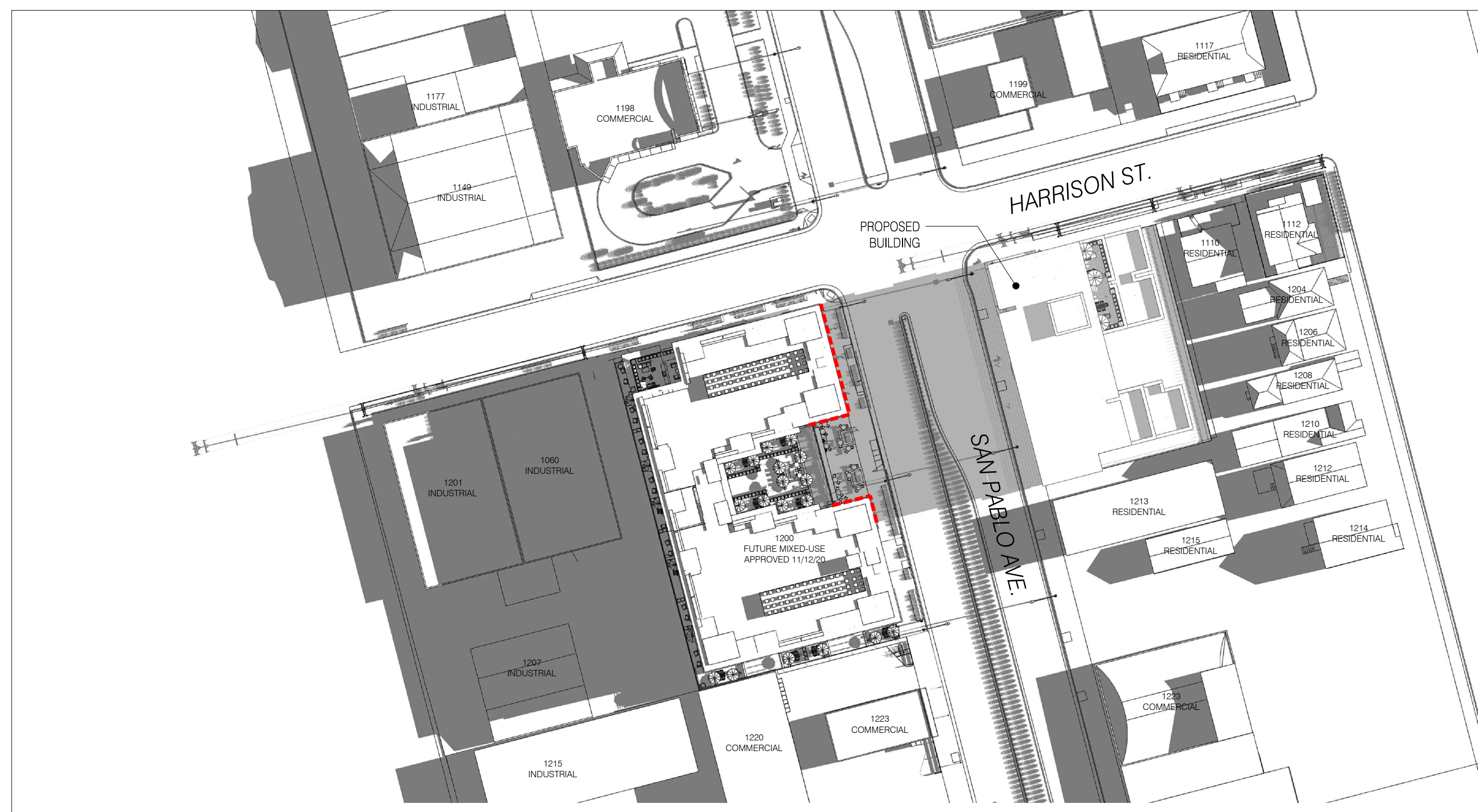
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**2 SHADOW STUDY - JULY 2: 2 HRS AFTER SUNRISE**  
1:100 @ 11X17 1:50 @ 24X36

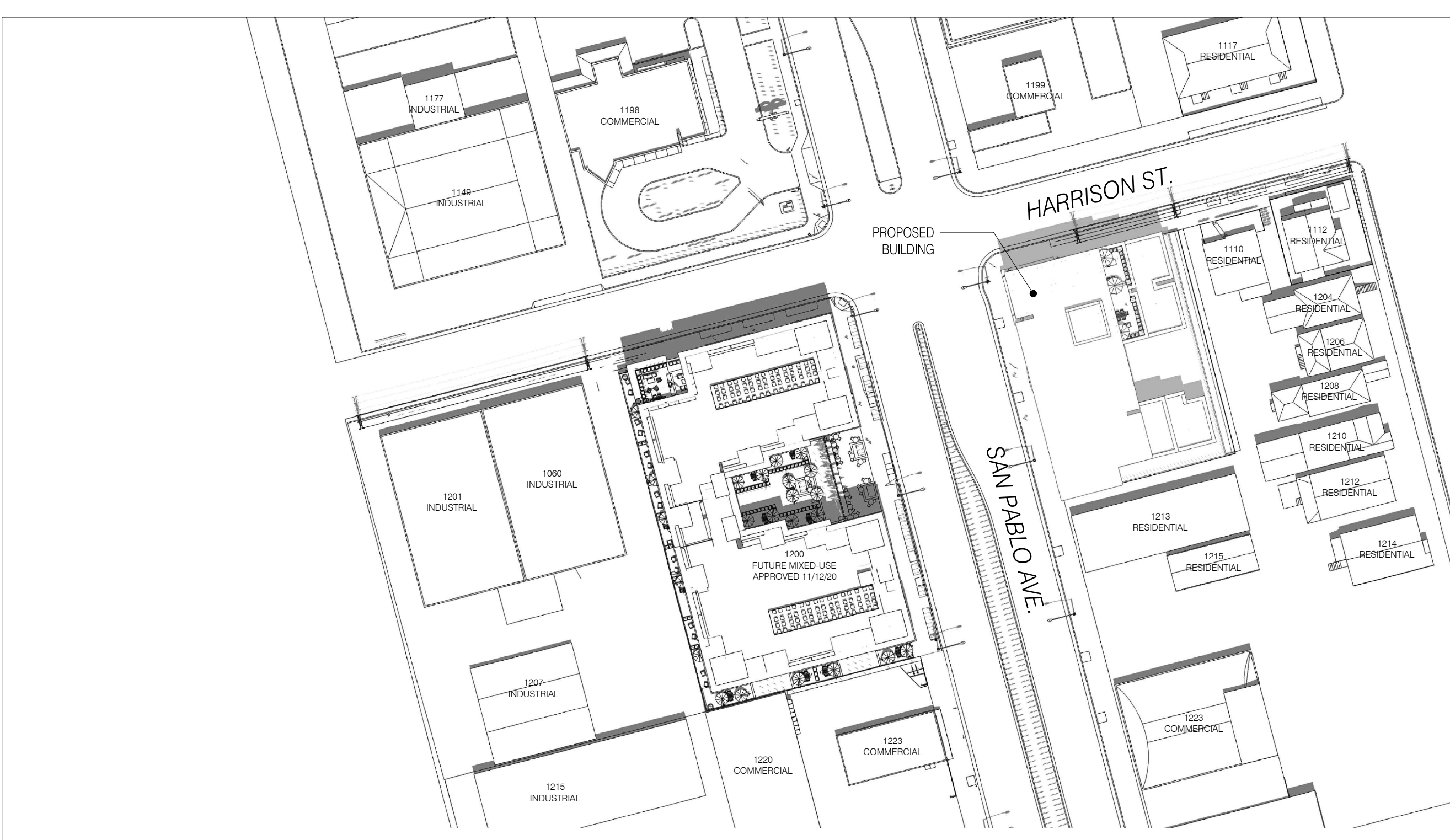
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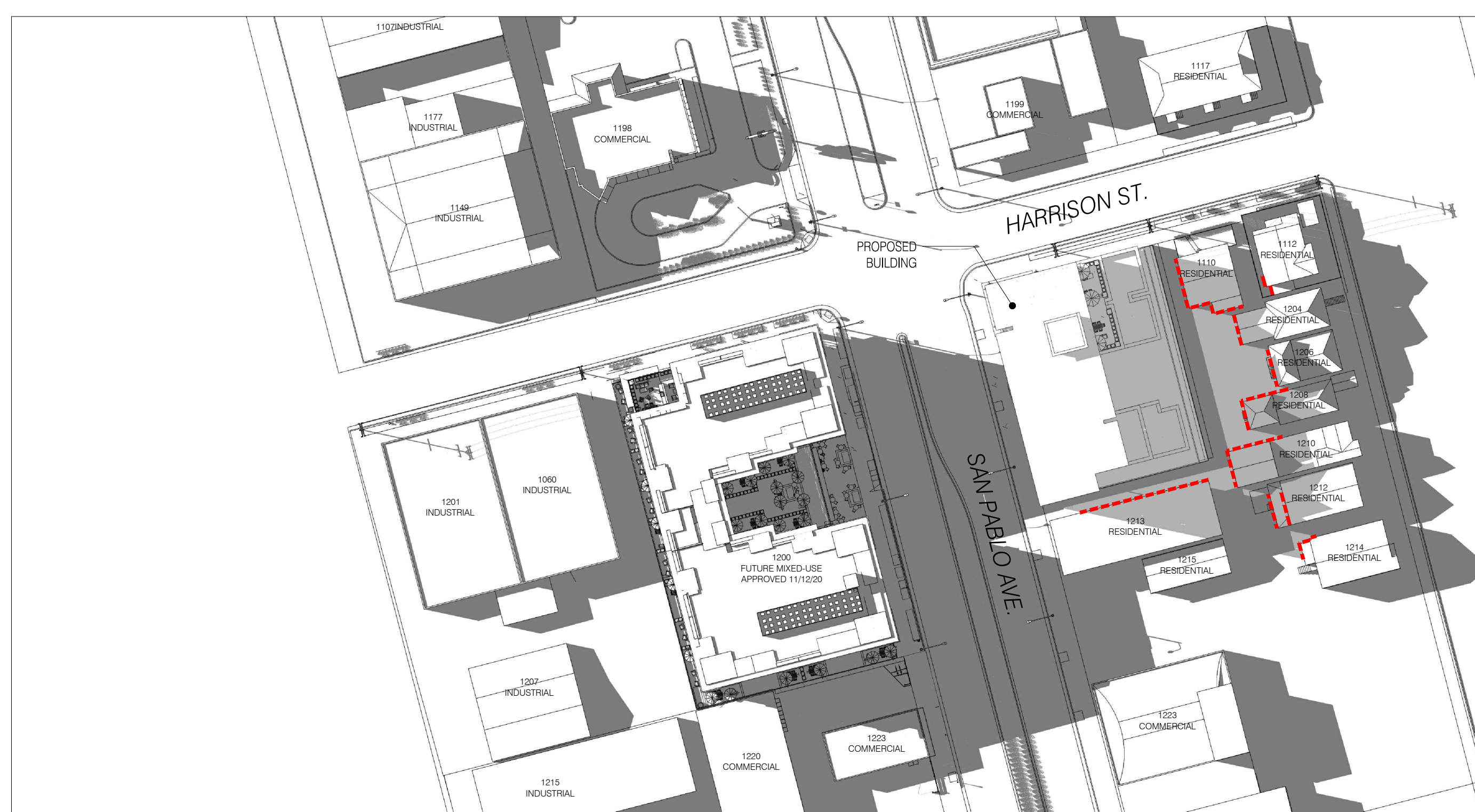
JOB: 1928

SHEET:  
**SHADOW STUDIES  
JULY 2ND**

**A0.4D**



**3 SHADOW STUDY - JULY 2: NOON**  
1:100 @ 11X17 1:50 @ 24X36



**1 SHADOW STUDY - JULY 2: 2-HRS BEFORE SUNSET**  
1:100 @ 11X17 1:50 @ 24X36

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JOB: 1928

SHEET:  
**SHADOW STUDIES  
JULY 2ND**

**A0.4E**



**2 SHADOW STUDY AXONOMETRIC - JULY 2: 2 HRS BEFORE SUNSET**  
1:100 @ 11X17 1:50 @ 24X36



**1 SHADOW STUDY AXONOMETRIC - JULY 2: 2-HRS BEFORE SUNSET**  
NTS

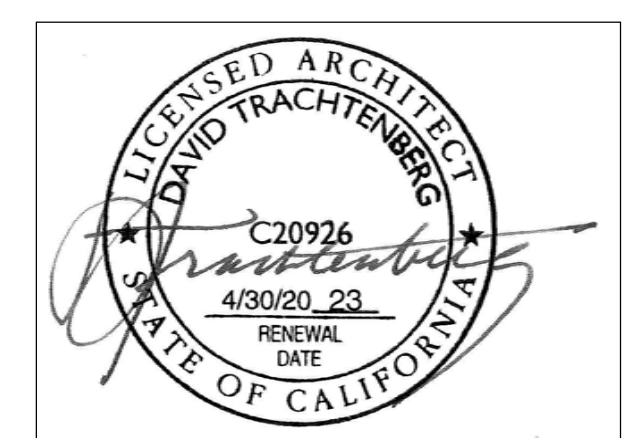


**3 SHADOW STUDY AXONOMETRIC - JULY 2: 2 HRS AFTER SUNRISE**  
1:100 @ 11X17 1:50 @ 24X36

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS  
LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING  
NEW SHADOW AT RESIDENTIAL BUILDING  
ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS

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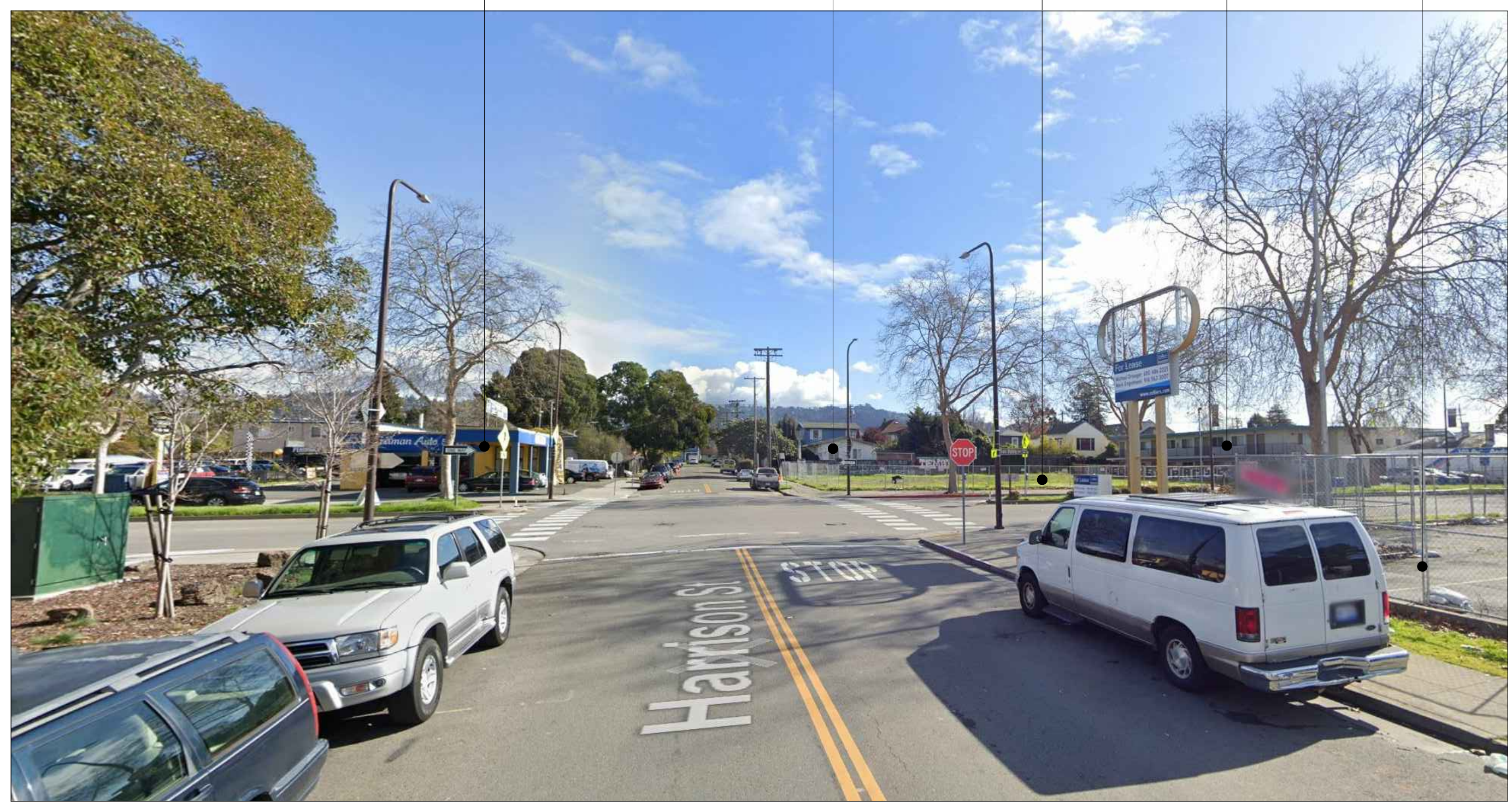
JOB: 1928

SHEET:

SITE CONTEXT  
PHOTOS

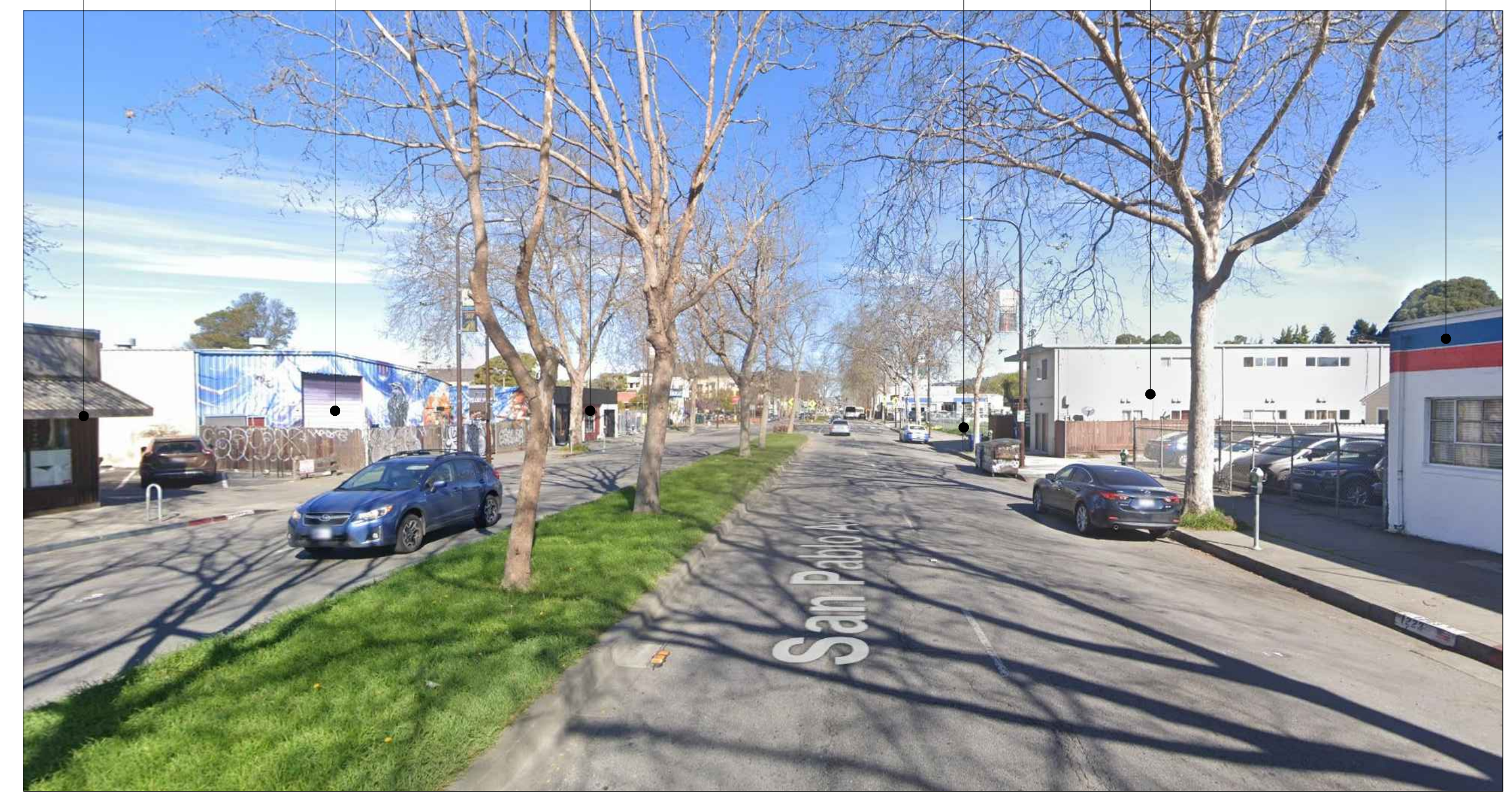
**A0.5**

1197 SAN PABLO (GILMAN AUTO)      1110 HARRISON SINGLE FAMILY RESIDENCE      PROJECT SITE 1201 SAN PABLO      1213 SAN PABLO (2-STORY MULTIFAMILY)      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)



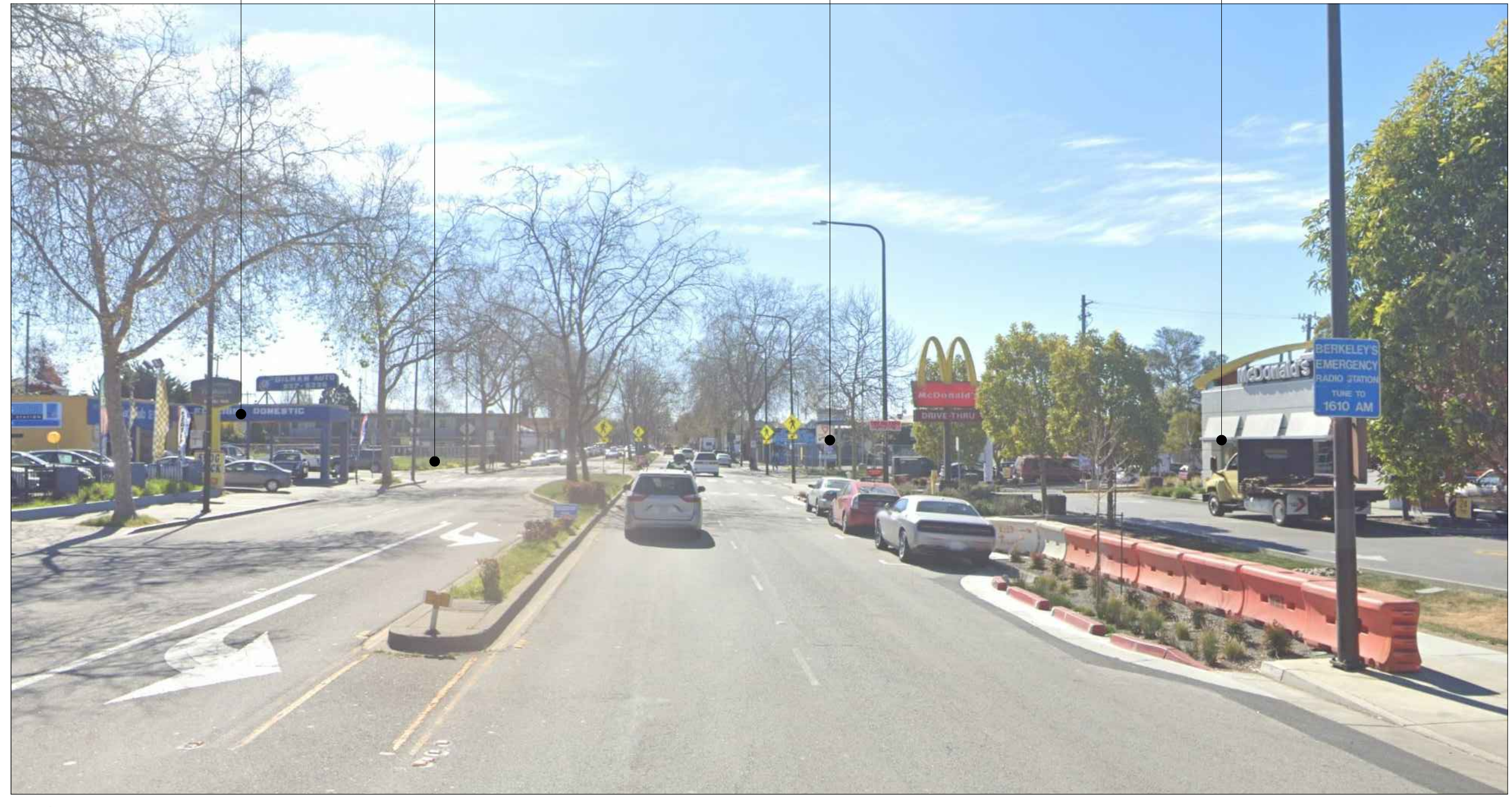
4 - VIEW FROM HARRISON LOOKING EAST

1220 SAN PABLO (TOKYO FISH MARKET)      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)      PROJECT SITE 1201 SAN PABLO      1213 SAN PABLO (2-STORY MULTIFAMILY)      1223 SAN PABLO (101 AUTOBODY)



2 - VIEW FROM SAN PABLO LOOKING NORTH

1197 SAN PABLO (GILMAN AUTO)      PROJECT SITE 1201 SAN PABLO      1200 - 1212 SAN PABLO (FUTURE 6-STORY MIXED-USE)      1198 SAN PABLO (MCDONALD'S)



3 - VIEW FROM SAN PABLO LOOKING SOUTH

PROJECT SITE 1201 SAN PABLO



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW