

# AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, April 30, 2019

6:00 PM

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Recognition of the Suitcase Clinic
2. Recognition of Mental Health Month

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder*

of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

## Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

**Public Comment on Consent Calendar and Information Items Only:** The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

## Consent Calendar

### 1. Minutes for Approval

**From: City Manager**

**Recommendation:** Approve the minutes for the Council meetings of March 12, 2019 (regular), March 19, 2019 (special), and March 26, 2019 (special closed and regular).

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, 981-6900

### 2. Contract No. 10177B Amendment: Paw Fund for Spay and Neuter Services

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10177B with Paw Fund (Contractor) to add \$23,812 in General Fund to provide no-cost spay and neuter surgeries to eligible pet owners, and extend the contract through June 30, 2020, for a total not to exceed amount of \$95,248.

**Financial Implications:** See report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

## Consent Calendar

### 3. Public Art Guidelines Revisions

**From: City Manager**

**Recommendation:** Adopt a Resolution revising the City of Berkeley's Public Art Guidelines, modifying the Artwork Gifts and Loans Policy and adding an Artwork Deaccession Policy and a Memorial Artwork Policy.

**Financial Implications:** See report

Contact: Jordan Klein, Economic Development

### 4. Contract No. 010568 Amendment: Berkeley Food and Housing Project

**From: City Manager**

**Recommendation:** Authorize the City Manager to amend Contract No. 010568 with Berkeley Food and Housing Project by increasing the Not to Exceed (NTE) amount by \$114,000 for a total not to exceed limit of \$7,117,863 for the period July 1, 2017 through June 30, 2019 with vendor Berkeley Food and Housing Project.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

### 5. Contract No. 9655B Amendment: Socrata, Inc., Open Data Portal (ODP) Hosting and Assignment to Tyler Technologies, Inc.

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment and assignment to Contract No. 9655B with Socrata, Inc., now Tyler Technologies, Inc., for the purposes of hosting the City's Open Data Portal, increasing the amount by \$87,289 for a total contract amount not to exceed \$254,970 and extending the term through June 30, 2021.

**Financial Implications:** IT Cost Allocation Fund - \$87,289

Contact: Savita Chaudhary, Information Technology, 981-6500

### 6. Contract No. 7167I Amendment: Superior, LLC for AS400 Software Maintenance and Support

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7167I with Superior, LLC for software maintenance and support of the City's FUND\$ system on the AS400 platform, increasing the contract amount by \$271,864 for a total not-to-exceed amount of \$2,154,050 from July 1, 2006 through June 30, 2021.

**Financial Implications:** Various Funds - \$271,864

Contact: Savita Chaudhary, Information Technology, 981-6500

## Consent Calendar

- 7. Contract No. 7393D Amendment: Interactive Voice Response (IVR) and Interaction Web Response (IWR) System with Paymentus, Corp.**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7393D and all associated amendments with the Paymentus Corporation for maintenance and support of the Interactive Voice Response (IVR) and Interaction Web Response (IWR) System, increasing the contract amount by \$52,500, for a contract amount not-to-exceed \$324,475.  
**Financial Implications:** Permit Service Center Fund - \$52,500  
Contact: Savita Chaudhary, Information Technology, 981-6500
- 8. Contract: Kronos, Inc. for Fire Station Staffing Software**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Kronos, Inc. for the upgrade and software maintenance of the TeleStaff Fire Station Staffing Software, for an amount of \$64,680 from May 15, 2019 through June 30, 2022.  
**Financial Implications:** General Fund - \$64,680  
Contact: Savita Chaudhary, Information Technology, 981-6500
- 9. Contract: Berkeley Marina Area Specific Plan (BMASP) – Hargreaves Associates**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Hargreaves Associates to produce the Berkeley Marina Area Specific Plan (BMASP) in an amount not to exceed \$1,101,000.  
**Financial Implications:** Marina Fund - \$1,101,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 10. Contract: Lux Bus America for Charter Bus Transportation Services For Echo Lake Camp and Select Recreation Division Summer Programs**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Lux Bus America to provide charter bus transportation services for Echo Lake Youth Camp and other summer Recreation Division programs for a not-to-exceed total amount of \$226,000 over a five year period, beginning June 1, 2019 and ending June 1, 2024, contingent upon annual budget appropriations.  
**Financial Implications:** Various Funds - \$226,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

## Consent Calendar

- 11. Approving Proposed Projects Anticipated to be Paid for by the State's Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2020**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California's Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission and receive funding.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300
- 12. Purchase Order: Toter Inc. for Refuse, Recycling and Organic Wheeled Carts**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Authorizing the City Manager to enter into additional FY 2019 purchase orders with Toter Incorporated for refuse, recycling and organic wheeled carts, for a total FY 2019 amount not to exceed \$292,045; and 2. Authorizing the City Manager to purchase refuse, recycling and organic wheeled carts from Toter Inc. to piggy-back off of a National Intergovernmental Purchasing Alliance contract with Toter Inc., for annual expenditures not to exceed: FY2020 - \$283,155; FY2021 - \$292,484; FY2022 - \$303,020; FY2023 - \$308,068.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300
- 13. Award of Contract: APB General Engineering for Hillview Road and Woodside Road Drainage Improvement Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for Hillview Road and Woodside Road Drainage Improvement Project, Specification No. 19-11283-C; accepting the bid of APB General Engineering as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$240,000.  
**Financial Implications:** Various Funds - \$240,000  
Contact: Phillip Harrington, Public Works, 981-6300
- 14. Contract: McLaughlin Waste Equipment, Inc. to Clean, Repair, and Paint Metal and Plastic Bins**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with McLaughlin Waste Equipment, Inc. to clean, repair, and paint metal and plastic bins for a three year period, with an option to extend the contract for two additional one year terms for a total amount not to exceed \$300,000.  
**Financial Implications:** Zero Waste Fund - \$300,000  
Contact: Phillip Harrington, Public Works, 981-6300

## Consent Calendar

- 15. Contract No. 31900046 Amendment: Harrison Engineering Inc. for On-Call Civil Engineering and Construction Management Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900046 with Harrison Engineering Inc. for On-Call Civil Engineering and Construction Management Services, increasing the contract by \$1,000,000, for a total amount not to exceed \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.  
**Financial Implications:** Capital Improvement Fund - \$1,000,000  
Contact: Phillip Harrington, Public Works, 981-6300
- 16. Resolution: No U.S. intervention in Venezuela**  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt a resolution that affirms the sovereign right of the Venezuelan people to negotiate their political differences free from foreign intervention, and urges that the U.S. government withdraw its illegal, unilateral financial sanctions and refrain from military, economic, or diplomatic intervention in the internal affairs of the sovereign state of Venezuela.  
**Financial Implications:** None  
Contact: Bre Slimick, Commission Secretary, 981-7000

## Council Consent Items

- 17. Appointing an Alternate Member to the Budget and Finance Committee and 3x3 Committee**  
**From: Mayor Arreguin**  
**Recommendation:** Adopt a Resolution approving the appointment of Mayor Jesse Arreguin as the Alternate to the Budget and Finance Policy Committee and the 3x3 Joint BHA/City Council Committee until January 2020 or until new appointments are approved.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, 981-7100
- 18. Allocation of \$150,000 to the Berkeley Unified School District for Planning/Pre-Development for Employee Housing**  
**From: Mayor Arreguin and Councilmembers Hahn, Droste, and Harrison**  
**Recommendation:** Approve the allocation of \$150,000 of General Fund revenues from Measure U1 receipts to the Berkeley Unified School District for a planning and pre-development grant for teacher/workforce housing.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100

## Council Consent Items

- 19. Appoint Max Levine to the Berkeley Housing Authority Board**  
**From: Mayor Arreguin**  
**Recommendation:** Adopt a Resolution appointing Max Levine to serve a four-year term on the Berkeley Housing Authority Board of Commissioners.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, 981-7100
- 20. Proclaiming May 2019 as Mental Health Month**  
**From: Councilmember Davila and Mental Health Commission**  
**Recommendation:** Adopt a Resolution proclaiming May 2019 as Mental Health Month in the City of Berkeley.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120; Karen Klatt, Commission Secretary, 981-5400
- 21. Spiral Gardens and Movement Generation Justice & Ecology Project: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Spiral Gardens and Movement Generation Justice & Ecology Project's May 11, 2019, welcoming of Leah Penniman for a wonderful talk and dialogue about Farming While Black: Soul Fire Farm's Practical Guide to Liberation on Land: her new book with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Cheryl Davila, Councilmember, District 2

## Council Consent Items

- 22. Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans**  
**From: Councilmembers Davila and Bartlett**  
**Recommendation:** Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following: - Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society. - Develop rules and regulations to halt the loss of People of Color including the African American communities. - Develop a “right to return” for Berkeley’s People of Color including the African American communities who have been displaced by these economic and social developments, especially those who continue to be employed in our City, even after having to relocate beyond our boundaries. - Solicit expert and lived experience testimonies regarding displacement and gentrification. - Recommend alternatives to prevent displacement and gentrification of our valued Berkeley citizens of color and African Americans.  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120
- 23. Good Food Purchasing Program Resolution**  
**From: Councilmember Hahn, Mayor Arreguin, and Councilmembers Davila and Robinson**  
**Recommendation:** Adopt a resolution in support of the Good Food Purchasing Program’s core values and join San Francisco, Oakland, Los Angeles and Chicago as one of the first five cities nationwide to become a Good Food Purchasing partner, and refer to the City Manager to incorporate over time the vision and standards of the Good Food Purchasing Program (GFPP) into City of Berkeley food purchasing practices.  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, 981-7150
- 24. Referral: Report on Public Realm Pedestrianization Opportunities**  
**From: Councilmembers Robinson and Hahn**  
**Recommendation:** Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.  
**Financial Implications:** Staff time  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public*



## Action Calendar

*comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

*Action items may be reordered at the discretion of the Chair with the consent of Council.*

## Action Calendar – Public Hearings

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

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

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

### 25. **FlixBus Franchise Agreement for Long-Distance Bus Service**

**From: City Manager**

**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a franchise agreement between FlixBus, Inc. and the City of Berkeley to provide long distance bus service to the public.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, 981-6300

### 26. **New Marina Fee – South Cove Parking Lots** *(Continued from April 2, 2019. Item contains supplemental material.)*

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving a new Marina Fee Schedule to include a new \$10 parking fee in the South Cove Parking lot, and rescinding Resolution No. 68,415-N.S. and all amendatory resolutions.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

## Action Calendar – Public Hearings

27. **Appeal of ZAB Decisions: Denial of Use Permit #ZP2018-0116 (Pardee Block Parking Lot, 2700 Tenth Street), Approval of Use Permit #ZP2018-0117 (Medical Office Building, 1050 Parker Street), and Associated Environmental Review**  
**From: City Manager**

**Recommendation:**

1. Adopt a Resolution that adopts an Initial Study - Mitigated Negative Declaration (IS-MND) under the California Environmental Quality Act (CEQA) that determines how potential impacts are to be mitigated, concludes that all impacts of the project known as “1050 Parker,” including the medical office facility and the off-site parking lot, can be reduced to a less-than-significant level under CEQA, and adopts a Mitigation Monitoring and Reporting Program that ensures the mitigation measures will be implemented.
2. Conduct a public hearing and, upon conclusion, uphold the applicant’s appeal and adopt a Resolution to approve Use Permit #ZP2018-0116 (Pardee Block Parking Lot, 2700 Tenth Street) for construction of a 43,847 square-foot surface parking lot based on the Findings and Conditions presented by staff to the Zoning Adjustments Board (ZAB) on January 24, 2019. A total of 123 automobile and 18 bicycle parking spaces would be provided to meet a portion of the required parking for the medical office building at 1050 Parker Street (Use Permit #ZP2018-0117); and
3. Conduct a public hearing and, upon conclusion, uphold the applicant’s appeal and adopt a resolution to approve Use Permit #ZP2018-0117 (Medical Office Building, 1050 Parker Street) to allow the 60,670 square-foot building to be used entirely for medical offices based on the Findings and Conditions presented by staff to the Zoning Adjustments Board (ZAB) on January 24, 2019, for a modification to Use Permit #ZP2016-0170. Approval of Use Permit #ZP2018-0117 is contingent on approval of Use Permit #ZP2018-0116 for off-site parking.

**Financial Implications:** See report

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

28. **Zoning Ordinance Amendments That Apply Inclusionary Housing Regulations to Contiguous Lots under Common Control or Ownership**  
**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of Zoning Ordinance amendments that modify Inclusionary Housing Requirements (BMC Section 23C.12.020: Applicability of Regulations) to apply to new residential development projects on contiguous lots under common ownership or control.

**Financial Implications:** See report.

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

## Action Calendar – New Business

**29. Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement From: City Manager**

**Recommendation:** Review and provide feedback on the Berkeley Police Department responses to inter-related Council and Police Review Commission referrals, reports and recommendations, including the Center for Policing Equity report recommendations, regarding stop data collection, data analysis, community engagement, and related topics.

**Financial Implications:** See report

Contact: Andrew Greenwood, Police, 981-5900

## Information Reports

**30. City Council Short Term Referral Process – Monthly Update From: City Manager**

Contact: Mark Numainville, City Clerk, 981-6900

## Public Comment – Items Not Listed on the Agenda

## Adjournment

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

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

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

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

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

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



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

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on April 18, 2019.***

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

## Communications

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

### Encampments

1. Richard James (2)
2. Jessica Jennings
3. Barbara Fisher
4. Liz Wiener
5. Margy Wilkinson

**RV**

6. Nigel Guest, on behalf of BCA Steering Committee
7. Donna Mickleson

**North Berkeley BART**

8. Naomi Pearce
9. Mere Ours
10. Lawrence Mock
11. Merle Weinter
12. Fran Smith
13. Joshua Schnoll
14. Erin Meadows
15. Bruce Hayes
16. Fran Segal
17. Carol Valk

**Codornices Creek & Firefighting Foam**

18. Shirley Dean & Robert Cheasty, on behalf of Citizens for East Shore Parks
19. Susan Schwartz, on behalf of Friends of Five Creeks

**West Campus Pool**

20. Diane Tomkins
21. Donna Mickleson
22. Stevanne Auerbach & Ralph Whitten
23. Chuck Herndon

**5G**

24. Gar Smith
25. Christopher Lewis Macy
26. Wanda Warkentin
27. Phoebe Anne Sorgen

**Campaign Finance Rules**

28. Barbara Gilbert

**Green Infrastructure Plan**

29. Nicholas Dominguez, on behalf of the Public Works Commission

**Boarded Up House at 1646 Ashby**

30. KF Carpenter

**Bay Area Book Festival & Reception**

31. Cherilyn Parsons, founder of Bay Book Fest

**Use Permit for 3100 San Pablo Avenue**

32. Scott Landsittel, LBA Realty

### **Parking Suggestion for the BPD**

33. Christine Schwartz

### **Leases at 2435 & 2439 Channing Way**

34. Kirstie Bennett, Co-Owner of Corporate Art& Framing Specialist

### **King Middle School Fire Alarm**

35. Erika

### **Amending Contracts with the Eviction Defense Center**

36. Shun Suzuki

### **Bay Area Diversified Tennis Foundation**

37. Pil Orbison

### **Clandestine Gang Fixing Rome Illegally**

38. Mary Ann Brewin

### **Civility at Council Meetings**

39. Eric Friedman

40. Nick

### **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.



Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of March 12, 2019 (regular), March 19, 2019 (special), and March 26, 2019 (special closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. March 12, 2019—Regular City Council Meeting
2. March 19, 2019—Special City Council Meeting
3. March 26, 2019—Special Closed City Council Meeting
4. March 26, 2019—Regular City Council Meeting

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 12, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION – 670 RIDGEWOOD DRIVE, CIRCLEVILLE, OH 43113

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
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DISTRICT 4 – KATE HARRISON

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

**Preliminary Matters**

**Roll Call:** 6:10 p.m.

**Present:** Bartlett, Droste, Hahn, Harrison, Robinson, Wengraf, Arreguin

**Absent:** Davila, Kesarwani

Councilmember Davila present at 6:12 p.m.

Councilmember Kesarwani present at 6:12 p.m.

**Ceremonial Matters:**

1. Recognition of Dan Sawislak of Resources for Community Development
2. Recognition of College and Career Day
3. Recognition of Victoria Legg, Local Activist
4. Adjourned the meeting in memory of Tess Rothstein
5. Adjourned the meeting in memory of Victor McIlheny
6. Adjourned the meeting in memory of Zachary Cruz
7. Adjourned the meeting in memory of Norma B. Law
8. Adjourned the meeting in memory of Palestinians that have died in the Right to Return March
9. Adjourned the meeting in memory of Samya Stumo

**City Auditor Comments:**

The City Auditor noted Items 23, 24, 25 on the agenda the progress made on the implementation of audit recommendations. The Auditor also noted the efforts of Public Works Director Phil Harrington and Planning & Development Director Timothy Burroughs for the progress on the recommendations.



**City Manager Comments:**

1. Strawberry Creek Re-Opening Event on March 18 at 1:00 p.m.
2. Groundbreaking event for the Mental Health Building project on March 21 at 1:15 p.m.
3. Safety Cameras are operational in San Pablo Park

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 9 speakers.

**Action:** M/S/C (Wengraf/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

1. **Companion Report: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,640-N.S. amending BMC Chapter 13.27, which proposes: 1. adding a definition of "Department" in Section 13.27.020, 2. limiting new waivers of the LWO to one year in Section 13.27.040, 3. clarifying language related to wages and benefits in the Section 13.27.050 and adding Section 13.27.120 related to severability.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted second reading of Ordinance No. 7,640-N.S.
2. **Dorothy Day House License Agreements: Veterans Memorial Building and Old City Hall**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,641-N.S. (1931 Center St.) and Ordinance No. 7,642-N.S. (2134 Martin Luther King Jr. Way), authorizing the City Manager or her designee to execute license agreements and any amendments thereto with Dorothy Day House to provide services at the Veterans' Memorial Building at 1931 Center Street and the Old City Hall at 2134 Martin Luther King Jr. Way.  
**Frist Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted second reading of Ordinance No. 7,641-N.S. (1931 Center St.) and Ordinance No. 7,642-N.S. (2134 Martin Luther King Jr. Way).

## Consent Calendar

- 3. Contract: YMCA of the East Bay for Berkeley's 2020 Vision's Early Childhood Trauma and Resiliency Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with the YMCA of the East Bay (YMCA) through June 30, 2021, to operate the Berkeley's 2020 Vision Early Childhood Trauma and Resiliency Project, as described below, for a total contract amount not to exceed \$334,410.  
**Financial Implications:** Mental Health Services Act Innovations Fund - \$334,410  
Contact: Paul Buddenhagen, City Manager's Office, 981-7000  
**Action:** Adopted Resolution No. 68,777–N.S.
- 4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 12, 2019**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Approved recommendation.
- 5. Adoption of the 2018 Strategic Update to the EveryOne Home Plan to End Homelessness**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adopting the 2018 Strategic Update to the EveryOne Home Plan to End Homelessness, and use it as a guide for allocating resources for programs assisting persons experiencing homelessness.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,778–N.S.
- 6. Contract: Alameda County Housing and Community Development Department for California Homeless Emergency Aid Program (HEAP)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to receive funds and to negotiate and execute a contract with the Alameda County Housing and Community Development Department, in an amount not to exceed \$4,032,711, for Berkeley's share of the California Homeless Emergency Aid Program (HEAP).  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,779–N.S. amended to re-allocate \$50,000 from the encampment servicing/trash removal allocation to RV outreach.

## Consent Calendar

- 7. Contract No. 10904 Amendment: Agreement with Bay Area Community Services (BACS) to Operate the Pathways Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the existing Contract No. 10904 with Bay Area Community Services (BACS) for Pathways STAIR Center operations, adding \$105,603 for a revised total contract amount not to exceed \$2,545,603 and a contract end date of June 30, 2019.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,780–N.S.
- 8. Shelter Plus Care Program Renewal Grants**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to receive funds and execute any agreements and amendments resulting from the renewal of the following grants: 1. Four Shelter Plus Care grants from U.S. Department of Housing and Urban Development (HUD): a) \$3,594,226 for Tenant-Based Rental Assistance (TBRA) for the period June 1, 2019 through May 31, 2020; b) \$208,051 for sponsor-based rental assistance for the Supportive Housing Network for the period of June 1, 2019 through May 31, 2020, with Resources for Community Development as the project sponsor; c) \$202,376 for sponsor-based rental assistance for the Pathways Project for the period June 1, 2019 through May 31, 2020, with Bonita House, Inc. as the project sponsor; and d) \$2,332,198 in tenant-based rental assistance for the COACH Project grant for the period of January 1, 2020 through December 31, 2020. 2. One grant from the County of Alameda for \$684,177 to provide tenant-based rental assistance to individuals who have HIV/AIDS and other disabilities from March 1, 2019 through February 28, 2020.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,781–N.S.
- 9. Memorandum of Understanding: Planning Phase for the viability of a potential WETA Ferry Service and Public Recreation Pier at the Berkeley Marina**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Memorandum of Understanding (MOU) with the Water Emergency Transportation Authority (WETA) to accept up to \$250,000 in WETA funding for the Planning Phase (technical feasibility study and public engagement process) for the viability of a potential WETA ferry service and public recreation pier at the Berkeley Marina.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,782–N.S.

## Consent Calendar

- 10. Authorizing Rewards of up to \$50,000 for Information in Criminal Investigations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution increasing the maximum cash reward that the City Manager is authorized to approve from \$15,000 to \$50,000 for information leading to the arrest and conviction of the person or persons responsible for a specific crime or crime series, and rescinding Resolution No. 59,824-N.S.  
**Financial Implications:** See report  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted Resolution No. 68,783–N.S.
- 11. Authorizing the Addition of 2700 block of Belrose Avenue to the Street Sweeping Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adding the 2700 block of Belrose Avenue to the mechanical street sweeping program.  
**Financial Implications:** Minimal  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,784–N.S.
- 12. Measure O Oversight Committee and Measure P Homeless Services Panel of Experts**  
**From: Housing Advisory Commission**  
**Recommendation:** Designate or appoint the independent oversight committee and homeless services panel of experts contemplated under Measures O & P as soon as possible.  
**Financial Implications:** See report  
Contact: Amy Davidson, Commission Secretary, 981-5400  
**Action:** Approved recommendation.
- 13. Communicating and Meeting with Community Stakeholders on Housing Innovations**  
**From: Housing Advisory Commission**  
**Recommendation:** Authorize the Housing Advisory Commission to correspond in writing and to confer in public session directly with various affordable housing organizations for the limited purposes and time, and with the disclaimer described in the report.  
Direct the City Manager that the City Attorney shall craft an appropriate disclaimer, as described in the report. The Commission will include this disclaimer when corresponding or meeting with these agencies.  
**Financial Implications:** See report  
Contact: Amy Davidson, Commission Secretary, 981-5400  
**Action:** Approved recommendation.

## Council Consent Items

- 14. Persian New Year Festival: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Harrison, Davila, and Robinson**  
**Recommendation:**
1. Adopt a Resolution co-sponsoring the 20th annual Persian New Year Festival on March 19th, 2019
  2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$100 from Councilmember Harrison, to The Persian Center, the fiscal sponsor of the festival, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Harrison and any other Councilmembers who would like to contribute.
- Financial Implications:** Councilmember's Discretionary Funds - \$100  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Adopted Resolution No. 68,785–N.S. (Co-Sponsoring) and Resolution No. 68,786–N.S. (Expenditure) revised to include contributions from the following Councilmembers up to the amounts listed: Wengraf - \$100; Bartlett - \$100; Robinson - \$100; Hahn - \$100; Davila - \$100.
- 15. Letter Requesting Congresswoman Lee's Support of HR. 530 (Eshoo)**  
**From: Councilmembers Wengraf, Harrison, Davila, and Hahn**  
**Recommendation:** Send a letter urging U.S. Representative Barbara Lee to co-sponsor H.R. 530 - Accelerating Broadband Development by Empowering Local Communities Act of 2019 which would repeal FCC limits on local regulation of 5G infrastructure.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Approved recommendation.
- 16. Camp Kesem Berkeley's Annual Fundraising Gala: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Councilmembers Robinson and Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$150 per Councilmember including \$150 from Councilmember Robinson, to Camp Kesem Berkeley for their Annual Fundraising Gala to fund summer camp for children whose parents have cancer, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$150  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Adopted Resolution No. 68,787–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Wengraf - \$100; Bartlett - \$100; Hahn - \$100; Harrison - \$100; Davila - \$100.

## Action Calendar

### 17. Use of Gender Neutral Language in City Documents

**From: Councilmember Robinson**

**Recommendation:** Refer to the City Manager to: 1. Develop and return to Council with a procedural and financial plan to modify all appropriate City forms to include an optional field for personal gender pronouns (she/her, he/him, they/them, and space to specify other). 2. Develop and return to Council with a procedural and financial plan to revise the Berkeley Municipal Code to replace all instances of gendered pronouns with the singular “they,” and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.

**Financial Implications:** See report

Contact: Rigel Robinson, Councilmember, District 7, 981-7170

**Action:** Councilmembers Davila, Bartlett, and Droste added as co-sponsors. Approved recommendation.

### 18. Affirming the City of Berkeley’s Support for the People of Tibet

**From: Councilmembers Robinson and Davila**

**Recommendation:** Adopt a Resolution affirming support to the people of Tibet. Copies of the resolution are to be sent to the President of the United States, elected federal representatives, the Governor of California, and the United Nations High Commissioner for Human Rights in Geneva, Switzerland, and His Holiness the Dalai Lama, Dharamsala, India.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, 981-7170

**Action:** Councilmembers Bartlett and Harrison added as co-sponsors. Adopted Resolution No. 68,788–N.S.

## Action Calendar – Public Hearings

19. **Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)** *(Continued from February 19, 2019. Item contains revised material.)*

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion, adopt the first reading of Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.

**Financial Implications:** None

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

**Action:** M/S/C (Arreguin/Hahn) to accept revised materials from staff on Item 19.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Droste; Absent – Harrison.

Councilmember Harrison absent 7:27 p.m. – 7:32 p.m.

**Public Testimony:** The Mayor opened the public hearing. 1 speaker.

M/S/C (Wengraf/Hahn) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Davila) to adopt first reading of Ordinance No. 7,644–N.S. as written in the revised ordinance submitted at the meeting with section 23C.14.070 revised to read:

### **23C.14.070 Qualifying Units**

*Qualifying Units must meet the standards set forth in Berkeley Municipal Code Section 23C.12.040(B), 23C.12.040(C), and 23C.12.040(D).*

Second reading scheduled for March 26, 2019.

**Vote:** All Ayes.

Recess 7:48 p.m. – 8:02 p.m.

## Action Calendar – Public Hearings

### 20. ZAB Appeal of 2701 Shattuck Avenue, Use Permit #ZP2016-0244

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2016-0244 to construct a 5-story, 62-foot tall, mixed-use building with 57 dwelling units (including five Very Low Income units), a 600-square-foot ground-floor quick-service restaurant, and 21 parking spaces, and dismiss the appeal.

**Financial Implications:** None

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

**Public Testimony:** The Mayor opened the public hearing. 10 speakers.

M/S/C (Droste/Arreguin) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Arreguin) to remand the project the Zoning Adjustments Board to approve a compliant project with direction to consider the following:

- Ensure that the approved project complies with state density bonus laws and the Housing Accountability Act
- Relocate the north exterior stair away from the north side of the building to an enclosed location or otherwise integrate it into the building for better design and for visual privacy of neighbors
- Reduce or eliminate parking if possible to lower the height of the wall, increase setbacks, increase light to the neighbor, lower the overall height of the building, and improve the environmental impacts of the project
- Increase the setback of the east podium wall as much as possible
- Move rooftop elements such as the plantings, shades, and other deck features westward toward Shattuck Avenue as much as possible
- Add signage or design elements which clearly identify the Shattuck sidewalk landscaped areas for public use
- Create a maintenance agreement between the City and the property owner for the owner to take responsibility for maintenance of the landscaped areas on the Shattuck sidewalk
- Add a curb cutout on the Shattuck sidewalk frontage for passenger loading
- Analyze the elimination of the ground-floor commercial space and the addition of live-work or affordable units on the ground floor
- Encourage the applicant to include as many affordable units in the project as possible

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Arreguin; Noes – Kesarwani, Wengraf, Robinson, Droste.



## Action Calendar – Public Hearings

### 21. Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, provide direction regarding proposed ordinance language alternatives and adopt the first reading of five ordinances amending the Berkeley Municipal Code (BMC) which would:

1. Clarify cannabis business operational standards and development standards, such as quotas and buffers, for all cannabis business types;
2. Revise ordinance language to reflect State regulations;
3. Create a path to allow a new business type (Retail Nursery Microbusinesses);
4. Protect youth by restricting cannabis advertising within the city; and
5. Allow temporary cannabis events at Cesar Chavez Park.

The ordinances would adopt BMC Chapters 12.21 and 20.40, amend Chapters 12.22, and 23C.25, Sub-Titles 23E and 23F, and repeal Chapters 12.23, 12.25 and 12.27.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 18 speakers.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:15 p.m.

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Bartlett, Droste.

Councilmember Droste absent 10:07 p.m. – 11:15 p.m.

Councilmember Bartlett absent 10:44 p.m. – 11:15 p.m.

**Action:** M/S/C (Arreguin/Kesarwani) to hold over the item to April 2, 2019.

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Bartlett, Wengraf, Droste.

Councilmember Wengraf absent 10:44 p.m. – 11:15 p.m.

## Action Calendar – Old Business

- 22. Contract: Pride Industries for Citywide Janitorial Services at Various Locations**  
*(Continued from February 19, 2019)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year contract and any amendments with Pride Industries to provide Citywide Janitorial Services at twenty nine (29) various City locations and facilities for the period May 1, 2019 to April 30, 2022, in an amount not to exceed \$3,725,735, with an option for two (2) one-year extensions for a maximum five (5) year contract for an amount not to exceed \$6,414,881, subject to the City's annual budget appropriation process.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Moved to Consent Calendar. Adopted Resolution No. 68,789–N.S.

## Information Reports

- 23. Audit Update: Construction Permits: Monitor Performance and Fee Assessments to Ensure Excellent and Equitable Customer Service**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.
- 24. Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Received and filed.
- 25. Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Received and filed.
- 26. Code Enforcement Review Update**  
**From: Housing Advisory Commission**  
Contact: Amy Davidson, Commission Secretary, 981-5400  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

Adjourned at 11:15 p.m.

This is to certify that the foregoing is a true and correct record of the regular meeting of March 12, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### Item #20: ZAB Appeal: 2701 Shattuck Ave

1. Blackrock Multifamily, LLC, on behalf of 2701 Shattuck Berkeley, LLC

### I-80 Exit Ramp Conditions

2. John Caner, CEO of the Downtown Berkeley Association, Kristen MacDonald, CEO of the Berkeley Chamber of Commerce, Stuart Baker, Executive Director of the Telegraph Business Improvement District, Barbara Hillman, CEO of Visit Berkley, Dr. Rowena Tomaneng, President of the Berkeley City College, Heather Hensley, Executive Director of the North Shattuck Association, Julie McCray, Coordinator of the Gilman District & Melissa Hathaway, President of the Elmwood Business Association

### Healthy Berkeley Program

3. Holly Scheider, Poki Namkung, Pat Crawford & Xavier Morales

### Climate Change

4. Thomas Lord (4)
5. Tom Kelly, KyotoUSA
6. Donald Goldmacher

### Green New Deal

7. Donald Goldmacher (2)
8. Thomas Lord
9. Margy Wilkinson

### 5G

10. Regina DiMaggio
11. Vivian Warkentin
12. Phoebe Anne Sorgen
13. Kate Harrison
14. Cecile Pineda
15. Tina Chow

**UC Berkeley Food Pantry Gleaning Committee**

16. Saahil Shangle (2)

**Planetarium Perspectives**

17. Vivian Warkentin

**Give the City Manager the Tools Needed**

18. Janice Greenberg

**Guidelines for Council Agenda Items**

19. Barbara Gilbert

**Street Sweeping on Lincoln's Birthday**

20. David Lerman

**Berkeley Marina Exemption**

21. Dave

**Berkeley Ordinance – Acquisition and Use of Surveillance Technology**

22. James Massar, et al, on behalf of Oakland Privacy

**Support for Lemat Restaurant Application as a Full Service Restaurant**

23. Teresa Clarke

**Lot Lines**

24. Barbara Gilbert

**Use of Pepper Spray**

25. Kelly Hammargren

**Reconsider ZAB Approval for 2190 Shattuck**

26. Judith Brown

**Amazon Boycott**

27. Hut Landon

**Living in a Smart City**

28. Vivian Warkentin

**Hand Washing Stations**

29. Dorothea Dorenz

**Encampment Clean Ups**

30. Erica Etelson

**Cannabis at Cesar Chavez Park**

- 31. Carol Hirth
- 32. Virginia Browning

**Land Deal – Sister City Oaxaca, Mexico**

- 33. Avram Gury Arye

**UC Berkeley – Housing Insecurity Solutions as Admittance Grows**

- 34. Margot Smith (2)

**North Berkeley BART Station**

- 35. Rick Kleine
- 36. Kenmotsu Junko
- 37. Tobey Wiebe
- 38. Vivian Warketin

**Supplemental Communications and Reports 1**

**Item #12: Measure O Oversight Committee and Measure P Homeless Services Panel of Experts**

- 39. Linda Franklin

**Item #19: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

- 40. Revised material, submitted by Planning and Development

**Item #20: ZAB Appeal of 2701 Shattuck Avenue, Use Permit #ZP2016-0233**

- 41. Eugenie Candau
- 42. Louise Rosenkrantz
- 43. Gianna Ranuzzi, on behalf of the Le Conte Neighborhood Association
- 44. Todd and Linda Jensen Darling

**Item #21: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

- 45. Lisa Bullwinkel, Chair of the Civic Arts Commission
- 46. Beth Greene, on behalf of the Cannabis Commission
- 47. Geri McGilvray
- 48. Sally Nelson
- 49. Olivia Corson
- 50. Ilyana Landes
- 51. Wendell Wolff
- 52. Eva Shu
- 53. Frank Buffum
- 54. Gloria Burd
- 55. Mimi Moungovan
- 56. Carol Denney
- 57. Lynn Silver, Senior Advisor, Public Health Institute

## Supplemental Communications and Reports 2

### **Item #19: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

58. Donna Davis

### **Item #20: ZAB Appeal of 2701 Shattuck Avenue, Use Permit #ZP2016-0233**

59. Todd Darling & Linda Jensen Darling

60. Sally Bean

61. Barbara Stebbins

62. Betsy Thagard

63. Ariella Granett

64. Mathew Lewis

65. Theo Posselt

### **Item #21: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

66. May Simpson, Chair, Community Health Commission

67. Lisa Bullwinkel, Chair, Civic Arts Commission

68. Christopher Hudson

69. Martin Nicolaus

70. Sabrina Fendrick, on behalf of the Berkeley Patients Group

71. Ann Williams

72. Charley Paff

73. Friedner Wittman

74. Nara Dahlbacka

75. Norman Constantine, Clinical Professor, Community Health Sciences

76. Holly Scheider

### **Item #21: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

77. 115 Communications submitted via Berkeley Considers, includes summary information.

## Supplemental Communications and Reports 3

### **Item #12: Measure O Oversight Committee and Measure P Homeless Services Panel of Experts**

78. Sophia DeWitt, Program Director of East Bay Housing Organizations

### **Item #14: Persian New Year Festival: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

79. Persian Center Board of Directors

### **Item #19: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

80. Presentation, submitted by the Planning and Development Department

81. Revised material, submitted by the Planning and Development Department

**Item #20: ZAB Appeal of 2701 Shattuck Avenue, Use Permit #ZP2016-0233**

82. Presentation, submitted by the Planning and Development Department

83. Todd Darling

84. Shirley Dean

85. Eugene Turitz, on behalf of Friends of Adeline

**Item #21: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

86. Presentation, submitted by the Planning and Development Department (2)

87. Karen Gilligan

88. Janet Cobb

89. Juty Blue (2)

90. Brendan Hallinan, on behalf of Law Offices of Hallinan & Hallinan

91. Burke Hansen, on behalf of Coalition for Common Sense Regulations, Inc.

92. Berkeley Cannabis Commission

93. Paul and Helen Canin

94. Helen Christensen

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, March 19, 2019**

**6:00 P.M.**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:10 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** None

**Ceremonial Items**

1. Adjourned the meeting in memory of the victims of the mosque shootings in New Zealand
2. Adjourned the meeting in memory of Rob Browning

**Worksession**

**1. Projections of Future Liabilities**

**From: City Manager**

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

**Action:** 1 speaker. Presentation made and discussion held.

**2. FY 2019 Mid-Year Budget Update**

**From: City Manager**

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

**Action:** 1 speaker. Presentation made and discussion held.

Recess 8:19 p.m. – 8:43 p.m.



## Worksession

### 3. 2018 Annual Crime Report

**From: City Manager**

Contact: Andrew Greenwood, Police, 981-5900

**Action:** 2 speakers. Presentation made and discussion held.

## Action Calendar

### 4. Berkeley Qualified Opportunity Fund

**From: Councilmember Bartlett**

**Recommendation:** Short Term Referral to Planning Commission; City Manager; City Economic Development Officer; Housing Advisory Commission; Office of Economic Development. That the City Council create a municipal Qualified Opportunity Fund to invest in Qualified Opportunity Zones to stimulate economic growth and develop more affordable housing in Berkeley.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:15 p.m.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – Harrison, Wengraf.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:20 p.m.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Harrison, Robinson, Droste, Arreguin; Noes – Wengraf.

**Action:** 3 speakers. M/S/C (Droste/Wengraf) to refer the item to the Land Use, Housing, and Economic Development Committee with the additional request to consider the following items:

- Refer to the Budget Process to conduct an equity assessment and community process to discuss opportunity zones, particularly in South Berkeley.
- Engage the Office of Economic Development in the community process.
- Set up standards that reflect the City's goals for the opportunity zones.
- Set priorities for public projects that the City would like to have completed in the opportunity zones.

**Vote:** All Ayes.

## Adjournment

**Action:** M/S/C (Droste/Wengraf) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 11:16 p.m.

This is to certify that the foregoing is a true and correct record of the special meeting of March 19, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## **Communications**

- None

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

### **Item #4: Berkeley Qualified Opportunity Fund**

1. Rhiannon

## **Supplemental Communications and Reports 3**

### **Item #1: Projections of Future Liabilities**

2. Presentation, submitted by the Budget and Fiscal Department.
3. Gordon Wozniak

### **Item #3: 2018 Annual Crime Report**

4. Presentation, submitted by the Berkeley Police Department

### **Item #4: Berkeley Qualified Opportunity Fund**

5. Presentation, submitted by Councilmember Bartlett

**MINUTES  
BERKELEY CITY COUNCIL SPECIAL MEETING  
TUESDAY, MARCH 26, 2019  
4:00 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 4:03 p.m.

**Present:** Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** Bartlett, Davila

Councilmember Davila present at 4:10 p.m.

Councilmember Bartlett present at 4:22 p.m.

**Public Comment - Limited to items on this agenda only – 0 speakers.**

**CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):**

**Pending Litigation – two cases**

a. Rudie v. City of Berkeley, ACSC No. RG 17 870389

**Action:** M/S/C (Harrison/Hahn) to approve the settlement in the amount of \$150,000 in the case of Rudie v. City of Berkeley.

**Vote:** All Ayes.

b. Greenberg v. City of Berkeley, ACSC No. 17 858207

**Action:** M/S/C (Wengraf/Hahn) to approve the settlement in the amount of \$80,000 in the case of Greenberg v. City of Berkeley.

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

## OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1:

The City Council met in closed session and approved settlement of the two matters: Rudie v. City of Berkeley, ACSC No. RG 17 870389 for \$150,000 and Greenberg v. City of Berkeley, et. Al., ACSC Action No. RG 17 858207 for \$80,000.

## Adjournment

**Action:** M/S/C (Hahn/Robinson) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 4:35 p.m.

I hereby certify that the forgoing is a true and correct record of the special closed meeting of March 26, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

**MINUTES  
BERKELEY CITY COUNCIL MEETING  
Tuesday, March 26, 2019  
6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:00 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** None

**Ceremonial Matters:**

1. Recognition of Susan Muscarella, Local Musician
2. Recognition of the Suitcase Clinic
3. Recognition of March for Meals Month
4. Adjourned in memory of Rob Browning
5. Adjourned in memory of Victims of the Christchurch Mosque Shootings
6. Adjourned in memory of the recent Suicides of Mass Shooting Survivors and their Family Members
7. Adjourned in memory of Palestinians killed in the ongoing Friday marches

**City Manager Comments:** None

**City Auditor Comments:** None

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 4

## Consent Calendar

**Action:** M/S/C (Davila/Harrison) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to take up items on Action in the following order: 5, 10, 21, 19, 20, 22.

**Vote:** Ayes – Kesarwani, Harrison, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Bartlett, Robinson.

Recess 6:49 p.m. – 6:55 p.m.

- 1. Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**  
**From: City Manager**  
**Recommendation:** Adopt the second reading of Ordinance No. 7,644-N.S., the Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.  
**First Reading Vote:** All Ayes  
**Financial Implications:** None  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Adopted second reading of Ordinance No. 7,644-N.S.
- 2. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of February 5, 2019 (special), February 19, 2019 (regular), February 26, 2019 (regular), and February 28, 2019 (special).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Approved minutes as submitted.
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 26, 2019**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** \$325,000  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Approved recommendation.

## Consent Calendar

- 4. Contract No.10438B Amendment: Ashby Village for Age-Friendly Berkeley Plan Production**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10438B with Ashby Village to design and print a finalized City of Berkeley Age-Friendly Plan, in an amount not to exceed \$7,000 for a total contract amount not to exceed \$57,000. Contract term will remain unchanged, and will expire on August 31, 2019.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,790–N.S.
- 5. Grant Application: the Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to (1) Apply for a grant in the amount of \$130,000 from the California Division of Boating & Waterways (“DBW”) Surrendered and Abandoned Vessel Exchange (SAVE) grant program for the removal and disposal of approximately 26 abandoned vessels located at the Berkeley Marina; (2) Execute any amendments; and (3) Authorize a local match contribution of \$13,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Moved to Action Calendar. 17 speakers. M/S/C (Harrison/Bartlett) to adopt Resolution No. 68,791–N.S.  
**Vote:** All Ayes.
- 6. Contracts: Fehr & Peers and Parisi Associates for On-Call Traffic Engineering Services**  
**From: City Manager**  
**Recommendation:** Adopt Resolutions authorizing the City Manager to execute two contracts and any amendments with Fehr & Peers and Parisi Associates for on-call traffic engineering services in an amount not to exceed \$1,000,000 each for a combined total not to exceed amount of \$2,000,000 from April 11, 2019 to June 31, 2022 with two 1-year options to extend.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,792–N.S. (Fehr & Peers) and Resolution No. 68,793–N.S. (Parisi).

## Consent Calendar

7. **Adopt a Resolution of Intent to Consider a FlixBus Franchise Agreement for Long-Distance Bus Service**  
**From: City Manager**  
**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, adopt a Resolution declaring the Council's intention to consider at a public hearing, set for April 30, 2019, at 6:00 p.m., whether to grant a franchise to FlixBus, Inc. to provide long-distance bus service to the Berkeley public.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,794–N.S.
  
8. **Contract No. 8884C Amendment - St. Vincent de Paul for Mattress Recycling**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8884C with St. Vincent de Paul to accept mattresses collected from community members for refurbishing and recycling at the City's Solid Waste Management and Transfer Station. This amendment will increase the Contract \$50,000 for a new total contract amount not to exceed \$456,000 to fund services through contract expiration June 30, 2019.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,795–N.S.
  
9. **Re-appointment of Paul Kealoha-Blake to the Mental Health Commission**  
**From: Mental Health Commission**  
**Recommendation:** Adopt a resolution for the re-appointment of Paul Kealoha-Blake to the Mental Health Commission, as a representative of the General Public Interest category, to complete his third term ending March 21, 2021.  
**Financial Implications:** None  
Contact: Karen Klatt, Commission Secretary, 981-5400  
**Action:** Adopted Resolution No. 68,796–N.S.
  
10. **Transitioning cost of 4th of July Festival from the City's Marina Fund to the City's General Fund**  
**From: Parks and Waterfront Commission**  
**Recommendation:** Adopt a resolution referring to the City Manager to transition the cost of the annual 4th of July Festival from its current funding source, the City's Marina Enterprise Fund, to the City's General Fund.  
**Financial Implications:** See report  
Contact: Roger Miller, Commission Secretary, 981-6700  
**Action:** Moved to Action Calendar. 5 speakers. M/S/C (Arreguin/Droste) to adopt Resolution No. 68,797–N.S. amended to include the City Manager's recommendation to split the cost between the Marina Fund and the General Fund for 2019 and to consider seeking private funding and sponsorship revenues for future years.  
**Vote:** All Ayes.



## Consent Calendar

11. **Police Review Commission's co-sponsorship of a NACOLE Regional Training and Networking Event**  
**From: City Manager and Police Review Commission**  
**Recommendation:** Authorize the Police Review Commission to co-sponsor, with the National Association for Civilian Oversight of Law Enforcement (NACOLE) and the BART Office of the Independent Police Auditor, a regional training and networking event on May 3, 2019 in Oakland, California.  
**Financial Implications:** None  
Contact: Paul Buddenhagen, City Manager's Office, 981-7000, Katherine Lee, Commission Secretary, 981-4950  
**Action:** Approved recommendation.

## Council Consent Items

12. **Budget Referral: \$30,000 to UC Theater Concert Career Pathways Education Program**  
**From: Mayor Arreguin and Councilmember Davila**  
**Recommendation:** Refer to the FY2020-2021 budget process the allocation of \$30,000 from excess unallocated General Fund revenues to the UC Theater Concert Career Pathways Education Program.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Councilmembers Hahn and Harrison added as co-sponsors. Approved recommendation.
13. **Honoring Healthy Black Families, Inc.: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Davila, Harrison, Wengraf, and Bartlett**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila, to Healthy Black Families in honor of their 5th Anniversary, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120  
**Action:** Adopted Resolution No. 68,798-N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Kesarwani - \$100; Councilmember Robinson - \$100; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Bartlett - \$250; Mayor Arreguin - \$100.

## Council Consent Items

- 14. LifeLong Medical Care: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Davila, Wengraf, and Bartlett**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila to LifeLong Medical Care for their many contributions to Berkeley with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120  
**Action:** Adopted Resolution No. 68,799–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Robinson - \$100; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Bartlett - \$250.
- 15. Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance**  
**From: Councilmember Bartlett**  
**Recommendation:** That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Approved recommendation.

## Council Consent Items

- 16. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**  
**From: Councilmembers Wengraf, Bartlett, Hahn, and Mayor Arreguin**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember, including up to \$250 from Councilmember Wengraf, to support the City's Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf's discretionary Council Office Budget and any other Councilmembers who would like to contribute allows the City of Berkeley to invite and support the community to the City's 17th Annual Holocaust Remembrance Day program on Sunday, April 28th, 11:30 AM at the Magnes Collection of Jewish Art and Life.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Adopted Resolution No. 68,800–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Harrison - \$100; Councilmember Davila - \$100; Councilmember Robinson - \$100; Councilmember Wengraf - \$250; Councilmember Hahn - \$250; Councilmember Bartlett - \$200; Mayor Arreguin - \$250.
- 17. Support for SB-190 Fire Safety: Building Standards**  
**From: Councilmembers Wengraf, Hahn, Droste, and Kesarwani**  
**Recommendation:** Send a letter in support of SB-190 Fire Safety: Building Standards (Dodd) to Senator Dodd and copy Senator Skinner, Representative Wicks and Governor Newsom.  
The Legislation would require the Office of the State Fire Marshal to: (1) Develop a model defensible space program to be used by cities and counties to enforce defensible space provisions; (2) Develop Wildland-Urban Interface Fire Safety Building Standards Compliance Training Manual, and make available via website. To be used locally in training of building officials, builders and fire service personnel; (3) Develop guidance document for maintenance of defensible space around residential structures; (4) Develop and update regularly a Wildland-Urban handbook listing products and construction systems that comply with specified Wildland-Urban Interface Fire Safety building standards; (5) Use money from the Building Standards Administration Special Revolving Fund in the State Treasury to carry out the provisions.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Approved recommendation.

## Council Consent Items

18. **The Suitcase Clinic: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Councilmembers Robinson, Harrison, Hahn, and Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$250 from Councilmember Robinson, to The Suitcase Clinic to assist in the expansion of its free laundry program, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Adopted Resolution No. 68,801–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Harrison - \$100; Councilmember Davila - \$150; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Bartlett - \$200; Mayor Arreguin - \$100.

## Action Calendar – Public Hearing

19. **ZAB Appeal: 1722 Walnut St**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing, and upon conclusion adopt a Resolution to affirm the Zoning Adjustments Board decision to deny Use Permit/Variance #ZP2018-0021 to legalize an unpermitted detached dwelling unit in the rear yard area of a lot legally developed with an eight-unit apartment building, and dismiss the appeal.  
**Financial Implications:** None  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
  
**Public Testimony:** The Mayor opened the public hearing.  
M/S/C (Arreguin/Hahn) to continue the public hearing to April 23, 2019 at 6:00 p.m.  
**Vote:** All Ayes.

## Action Calendar

### 20a. Providing direction on closing the funding gap to complete Measure T1 Phase 1 projects

**From: City Manager**

**Recommendation:**

1. Council to provide direction on a preferred option to close the funding gap in the current Measure T1 Phase 1 program. Four possible options are summarized below and discussed in further detail starting on page 4 under Current Situations and its Effects – Funding Gap.

Option A: Reduce up to \$5 million between 13 projects by reducing project scopes from Planning and Design to Conceptual, Construction to Planning and Design, Construction to Conceptual, or removing or delaying the project.

Option B: Reduce up to \$4 million by reducing the Live Oak Community Center project scope from Construction to Planning and Design.

Option C: Authorize up to \$3 million in additional funding for T1 Phase 1 and reduce \$2 million between 7 projects by reducing project scopes from Planning and Design to Conceptual or Construction to Planning and Design.

Option D: Authorize up to \$7 million in additional funding to complete all T1 Phase 1 projects.

2. Council adopt a resolution authorizing the chosen option to complete Measure T1 Phase 1 projects.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700, Phillip Harrington, Public Works, 981-6300

**Action:** 4 speakers. M/S/C (Arreguin/Hahn) to adopt Resolution No. 68,802–N.S. to authorize funding in the amount of \$5.3 million from General Fund be used for Measure T1 Phase 1. The General Fund will be reimbursed once Measure T1 Phase 2 bond proceeds are received.

**Vote:** All Ayes.

## Action Calendar

### 20b. Authorizing up to \$7 million in additional funding to complete Measure T1 Phase 1 projects

#### From: Public Works Commission

**Recommendation:** The T1 team is requesting the PWC and the Parks and Waterfront Commission take action at their February meetings on their preferred course of action. The T1 team wants to make their recommendation to Council this spring.

The T1 sub-committees recommend that the PWC vote to endorse the following: - We prefer Option D to meet the funding shortfall. The T1 staff has stated that it is possible to transfer funds from other City sources and to repay it with Phase 2 bond proceeds. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City; - We are concerned that a disproportionate share of improvements has been allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented; - We support identifying a green infrastructure project in Phase 1; - We support implementing the 7 street improvement projects in Phase 1.

**Financial Implications:** See report

Contact: Nisha Patel, Commission Secretary, 981-6300

**Action:** See action on Item 20a.

### 20c. Authorizing up to \$7 million in additional funding to complete Measure T1 Phase 1 projects

#### From: Parks and Waterfront Commission

**Recommendation:** The T1 team is requesting the PWC and the Parks and Waterfront Commission take action at their February meetings on their preferred course of action. The T1 team wants to make their recommendation to Council this spring.

The T1 sub-committees recommend that the PWC vote to endorse the following: - We prefer Option D to meet the funding shortfall. The T1 staff has stated that it is possible to transfer funds from other City sources and to repay it with Phase 2 bond proceeds. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City; - We are concerned that a disproportionate share of improvements has been allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented; - We support identifying a green infrastructure project in Phase 1; - We support implementing the 7 street improvement projects in Phase 1.

**Financial Implications:** See report

Contact: Roger Miller, Commission Secretary, 981-6700

**Action:** See action on Item 20a.

## Action Calendar

### 20d. Recommendations for current T1 Phase 1 funding shortfalls

**From: Energy Commission**

**Recommendation:** The Berkeley Energy Commission recommends the City Council integrate greenhouse gas (GHG) reduction goals, as stated in the Climate Emergency Resolution adopted June 12, 2018, into the T1 funding priorities.

**Financial Implications:** See report

Contact: Billi Romain, Commission Secretary, 981-7400

**Action:** Moved to Consent Calendar. Approved recommendation.

### 20e. Contract: D.L. Falk Construction for North Berkeley Senior Center Seismic Upgrades and Renovations Project

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Approving plans and specifications for the North Berkeley Senior Center Seismic Upgrades and Renovations Project, Specification No.19-11268-C; 2. Accepting the bid of D.L. Falk Construction as the lowest responsive and responsible bidder; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$8,320,400, which includes a contingency of \$756,400.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** Moved to Consent Calendar. Adopted Resolution No. 68,803–N.S. to 1. Approving plans and specifications for the North Berkeley Senior Center Seismic Upgrades and Renovations Project, Specification No.19-11268-C; 2. Accepting the bid of D.L. Falk Construction as the lowest responsive and responsible bidder; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$8,320,400, which includes a contingency of \$756,400.

## Action Calendar

### 21. Referral Responses: Managing Recreational Vehicle (RV) Parking

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,643-N.S. (BMC Section 14.40.120) prohibiting parking campers and RVs during certain hours and creating additional resources for people living in RVs, and refer any additional costs to the FY20-21 Budget process.

**First Reading Vote:** Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison, Robinson

**Financial Implications:** See Report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:30 a.m.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Harrison.

Recess 9:10 p.m. – 9:34 p.m.

**Action:** M/S/C (Arreguin/Hahn) to accept supplemental material from Mayor Arreguin, Councilmember Hahn, and Councilmember Kesarwani for Item 21.

**Vote:** All Ayes.

Recess 11:07 p.m. – 11:09 p.m.

**Action:** M/S/C (Kesarwani/Arreguin) to call for the previous question.

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Harrison.

**Action:** M/S/Failed (Harrison/Davila) to continue Item 21 to April 2, 2019.

**Vote:** Ayes – Davila, Harrison; Noes – Kesarwani, Bartlett, Hahn, Wengraf, Droste, Arreguin; Abstain – Robinson.

**Action:** 120 speakers. M/S/Carried (Arreguin/Hahn) to adopt the second reading of Ordinance No. 7,643-N.S. and provide implementation guidelines as follows:

#### **RECOMMENDATION**

The City of Berkeley seeks to implement all laws and ordinances in a fair and humane manner.

To that end, we refer to the City Manager for consideration the following guidelines to help ensure enforcement of revised RV parking restrictions allowed under Ordinance No. 7,643-N.S. (BMC Section 14.40.120) is conducted with outreach, including information and resource guides and written notice.

Further, we refer to the City Manager to quickly establish a three-month permit program (with possibility for renewal), to be offered on a one-time basis to existing priority populations and we refer to the Health, Life Enrichment, Equity & Community Policy Committee to establish basic criteria for a standard two-week permitting process.



## Action Calendar

The City Council reiterates its February 28, 2019 referral to identify and develop a temporary RV site to serve highly vulnerable populations, as well as a regional non-profit RV site, and to develop a program to allow private entities to host RVs on their property.

***Enforcement of RV parking under Ordinance No. 7,643-N.S. (BMC Section 14.20.120) should be preceded by a period of initial outreach to RVs including:***

Offers of support and assistance to RV inhabitants with notification of applicable parking ordinances and a reasonable time-frame to comply, written housing, homelessness and other applicable resources and, during the initial period of outreach, RV inhabitants should also be provided with outreach by a homeless services provider including;

- Housing problem solving assistance
- Possible funding for RV repair and
- Referrals to additional housing and homeless resources, health, mental health or addiction services, or other appropriate services.

RVs and/or conditions adjacent to RVs creating health and safety concerns would be subject to immediate enforcement.

The ordinance will only be enforced after a permit process is established.

City Council took action at its March 12th meeting to allocate an initial amount of \$50,000 from one-time State Housing Emergency Aid Program funds to provide outreach to RVs. Additional resources may be added as part of the FY20-21 budget process.

***Refer to the City Manager expedited creation of a special three-month-permit program (with possibility of renewal), to be offered on a one-time basis to existing priority populations***

The three-month priority permit should be operative no more than six months from adoption of this ordinance and consider the following:

- Criteria for eligibility should be clearly articulated and fairly applied. The Alameda County homeless coordinated entry system has standards already in place with criteria such as health status, disability and self-care needs, age and household size (including the presence of children).
- Priority populations should include families with children, people that work in Berkeley, students enrolled in schools/higher education in Berkeley, and persons who have had a Berkeley address within the past 10 years.
- The permit should be available during an application window of 1-2 months and issued for up to three months, with an option to renew under limited/specified circumstances.
- Because the three-month permit process will be available for a limited time, the application and processing can be simplified.
- Staff should quickly identify, secure and prepare temporary locations for priority permit holders to stay; including on public or private property, and establish appropriate sanitary facilities and other necessary protocols and/or facilities to support RVs with priority permits.
- If necessary, a lottery or a standardized system to prioritize applications may be established to allocate limited spaces in an equitable manner.

## Action Calendar

- No fee shall be required as the three-month permit program will be offered on a one-time basis only, to offer more intensive housing navigation and services to priority populations currently in Berkeley.

**Refer to the Health, Life Enrichment, Equity & Community Policy Committee to establish basic criteria for a “permanent” standard two-week permitting process.**

The standard two-week permit should consider the following:

- A limited number of permits to be issued by the City per month (or other increment).
- Locations to be geographically dispersed among all Council districts.
- A reasonable fee to cover City costs associated with the permit.

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison, Robinson.

### 22. **Missing Middle Report** *(Continued from February 26, 2019. Contains revised materials)*

**From: Councilmembers Droste, Bartlett, Robinson, and Kesarwani**

**Recommendation:** Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to: - Identifying where missing middle housing is optimal; - Allowing the possibility of existing houses/footprints/zoning envelopes to be divided into up to 4 units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase on site, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit; - Excluding very high fire severity zones as defined by Cal Fire and/or City of Berkeley; - Considering form-based zoning, which addresses the appropriate form, scale and massing of buildings as they relate to one another, as a potential strategy; - Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units; - Creating incentives for building more than one unit on larger than average lots; - Considering provision of tenant and vulnerable low-income homeowner protections, demolition controls, and no net loss provisions; - Considering provisions that align with our land value recapture policy objectives to maximize affordability in Berkeley.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, 981-7180

**Action:** M/S/C (Droste/Harrison) to hold over Item 22, including revised materials, to April 23, 2019.

**Vote:** All Ayes.

## Action Calendar

23. **Referral to City Manager to Scope Process and Estimate Cost of New General Plan**  
**From: Mayor Arreguin, and Councilmembers Hahn and Wengraf**  
**Recommendation:** Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Councilmember Davila added as a co-sponsor. Moved to Consent Calendar. Approved recommendation.
24. **Referral Response: 1000 Person Plan to Address Homelessness** *(Continued from February 26, 2019)*  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Item 24 referred to the Agenda and Rules Committee for scheduling.

## Information Reports

25. **Homeless Commission Meeting Cancellations**  
**From: City Manager**  
Contact: Peter Radu, Commission Secretary, 981-5400  
**Action:** Received and filed.
26. **Berkeley Economic Dashboards**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, 981-7530  
**Action:** Item 26 referred to the Agenda and Rules Committee for scheduling.
27. **Zero Waste Division's Integration of the Non-Exclusive Waste Hauler Commercial Franchisees Commercial Customers Update**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

**Action:** M/S/C (Droste/Hahn) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 11:58 p.m.

This is to certify that the foregoing is a true and correct record of the regular meeting of March 26, 2019 as approved by the Berkeley City Council.

---

Mark Numainville, City Clerk

## Communications

### Item #19: ZAB Appeal: 1722 Walnut Street

1. John and Glen Stevick

### Item #21: Referral Responses: Managing Recreational Vehicle (RV) Parking

2. Barryett Enge
3. Margy Wilkinson

### Item #22: Missing Middle Report

4. Gloria Polanski
5. Walter Wood
6. Margo Hackett
7. Amber Turley
8. Savlan Hauser
9. Nancy Rodriguez-Bell
10. Susan Schwartz
11. Joe Berry
12. Ray Yep
13. Claire Broome
14. Miranda Worthen
15. Pepper Sbarbaro
16. Jane Kitchel
17. Vivian Warkentin
18. Alex Stillwell
19. Katherine Buss
20. Bob
21. Jeremy Thorner
22. Mike Berkowitz
23. Tom and Marilyn Poundstone
24. Theo Posselt
25. Peggy Nendelson
26. Adair Gerke
27. Sara Fain
28. Steve Douglas

### Apothecarium

29. Lyra Wilde
30. Beverly Morgan

**Infrastructure (General)**

- 31. Bob and Jeanie Minor
- 32. Avran Gur Arye (2)
- 33. Bryce Nesbitt

**Climate Change**

- 34. Donald Goldmacher (4)
- 35. Thomas Lord

**Encampments**

- 36. Richard James
- 37. Jessie McFarland

**Smoking**

- 38. Carol Denney

**North Berkeley BART**

- 39. Judy Massarano
- 40. Dmitriy Shirchenko
- 41. Mariko Nobori
- 42. Kathleen Tuttle
- 43. Laura Lipman and George Clark
- 44. Barbara Fisher
- 45. Andrew Livsey
- 46. Lois Cantor
- 47. Karen Sumner
- 48. Peter Ewell and Helga Recke
- 49. Shoana Humphries
- 50. Meredith and Ed Gold

**Plastic Food Container Ordinance**

- 51. Jocelyn Berkowitz

**Zero Waste Council Meetings**

- 52. Sophie Hahn
- 53. Cheryl Davila

**2-1-1 Monthly Report for January 2019**

- 54. Eden I&R

**East Bay Community Meetings**

- 55. East Bay Community Energy

**Neo-Nazi Plot**

- 56. Donald Goldmacher

**Trees on Public Property**

57. David Lerman

**West Campus Pool**

58. Kamala Asher

**Mr. Powell's Home**

59. Margy Wilkinson

60. Steve Martinot

**2190 Shattuck**

61. Sally Nelson

**Police Review Commission**

62. George Perezvelez, Chairperson, Police Review Commission

**Sanctuary Contracting Ordinance**

63. Arthur Stopes III

**Sonic Internet Permitting Process**

64. Bill Kristy

65. Tad Laird

66. Susan Strouse

**Adeline Corridor**

67. Larisa Cummings

**5G**

68. Connie Anderson

69. Carol Hermanson

**Fed Takeover of California Water Policy**

70. Charlene Woodcock

**End Daylight Savings Time**

71. Omowale Fowles

**Pacific Steel Casting Company**

72. Janice Schroeder

**DFSC Motion for Sirens**

73. Gradiva Couzin, Chair, Disaster and Fire Safety Commission

## Supplemental Communications and Reports 1

### Item #21: Referral Responses: Managing Recreational Vehicle (RV) Parking

74. Revised material, submitted by Councilmember Harrison
75. Supplemental material, submitted by Councilmember Davila
76. William Tomaszewski, General Counsel, Wine.com
77. Dona Bretherick (2)
78. Sally Sommer
79. Jane Welford
80. Mike Lee
81. Gene Bernardi
82. Tina Chinn

### Item #22: Missing Middle Report

83. Revised material, submitted by Councilmember Harrison
84. Chris Lee-Egan
85. Betsy Thagard
86. Elyce Klein
87. Rachel Gold
88. Mark Trainer
89. Tim Frank
90. Julia Zuckerman
91. Zelda Bronstein

### Item #24: Referral Response: 1000 Person Plan to Address Homelessness

92. Jacquelyn McCormick
93. Rashi Kesarwani
94. Katie Cherbini
95. Boon Cheema (2)
96. Spike Alper
97. Virginia Browning
98. Raul Delarosa
99. Phuong Pham, on behalf of Bonchon Restaurant
100. Christopher Kohler (2)
101. M. Zint
102. Paul Kealoha Blake

## Supplemental Communications and Reports 2

### Item #1: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)

103. Avram Gur Arye (4)

### Item #19: ZAB Appeal: 1722 Walnut Street

104. John Stevick
105. Glen Stevick
106. Elizabeth Stevick Scherer

**Item #21: Referral Responses: Managing Recreational Vehicle (RV) Parking**

107. Supplemental materials, submitted by Councilmember Kesarwani
108. Janice Greenberg
109. Eric Friedman
110. Geoffrey Lomax
111. Steve Kromer
112. Jake Teitelbaum
113. Hali Hammer
114. Giancarlo Tucci-Berube
115. Emma Carlblom
116. Melissa Davies
117. Carol Denney
118. Del and Kathy Totten
119. Rebekah Punak
120. Fani Garagouni
121. Roya Arasteh
122. Fran Haselsteiner
123. Eric Friedman
124. Amelia Ng
125. C. Dean
126. Linda Dow
127. Christopher Riess
128. Lynne Clenfield
129. Dan McDunn
130. Sally Sommer
131. Debbie Claussen
132. Autumn Moon
133. Bernice Gross
134. Andrea Segall
135. Janice Green
136. Susan Payne
137. R. Robson
138. Dr. Bruce Brody
139. Dr. Lin Druschel
140. Eric Rawlins
141. David Kilimnik
142. Janice Greenberg
143. Dana Hymel
144. Hillary Kilimnik
145. Juniperangelica Cordova
146. Johan van Walsem
147. Miranda Weintraub
148. Jeremy Weintraub
149. Christine Schwartz



**Item #22: Missing Middle Report**

150. Revised materials, submitted by Councilmember Droste
151. Ben Gould
152. Courtney Brosseau
153. Jeff Vincent
154. Joshua Davis
155. Bernard Marszalek
156. Elisa Batista
157. Charles Kahn
158. Ella Smith
159. Catherine Betts
160. Caroline Massa Francis
161. Sarah Abdeshahian
162. Shirley Dean
163. Nicole Blaquiere
164. Chudi Ndubaku
165. Nathan Francis
166. Michael O'Hare
167. Suzanne Schafer
168. 19 'in support of' form letters

**Item 22: Missing Middle Report**

169. 374 Communications submitted via Berkeley Considers, includes summary information.

**Supplemental Communications and Reports 3**

**Item #21: Referral Responses: Managing Recreational Vehicle (RV) Parking**

170. Mayor Arreguin, Councilmembers Hahn and Kesarwani
171. Dawn Williams, on behalf of Read Investments
172. Janice Greenbert
173. Kaushal Mehta
174. Diana Bohn
175. Fredrika Newton
176. Paul Gumpel
177. Autumn Moon
178. Danielle Hacker
179. Matteo Girard Maxon, on behalf of Ancient Organics
180. Harald Frey
181. Lauren Parsons
182. Sherrod Blankner, on behalf of 4<sup>th</sup> Street Fine Art
183. Jessica Behrman
184. Ellen Woods
185. C. Dean
186. Mimi Moungovan
187. Alice Slaughter
188. Nick Z.

189. Caitlin and John Jennings
190. Diana Gordon, on behalf of Kete'r Salon
191. Thomas Graly
192. Julia Cato
193. Carly Ebenstein
194. James Whiting, on behalf of The Potter's Studio
195. Cymbre Potter
196. William Rosen
197. Geoffrey Lomax
198. Amy Hill
199. Linda T.
200. S. Omowale Fowles
201. Bernice Gross
202. Mary Behm-Steinberg
203. Steven Donaldson
204. Becky O'Malley
205. Linda Franklin
206. Jessica Jennings
207. Nicholas Townsend
208. Parisa Jorjani
209. Koralie Hill
210. Charlene Woodcock
211. Tracy Fidelman
212. Janice Schroeder
213. Samuel Hatton
214. Caroline Winnett, on behalf of Berkeley SkyDeck
215. Marcia Dubois
216. Katherine Bierce
217. Moni Law
218. April Higashi
219. Echo Lee
220. Thomas Slocumb
221. Brian Wood
222. Stephen LaMond
223. Rob Reiter
224. Candice Hacker
225. 6 'form letter is support'

**Item #22: Missing Middle Report**

226. Nancy Lemon
227. Laurie Capitelli
228. Mary Louise Gifford
229. Layla Chamberlin
230. Raphael Villagrancia
231. Vivian Warkentin
232. Wanda Warkentin
233. Amir Wright

- 234. Sara Abdeshahian, on behalf of the Cal Berkeley Democrats (2)
- 235. Connor DeGraff
- 236. Aaron Stein-Chester
- 237. Tom Slocumb
- 238. 7 "form letters" in support

**Climate Change**

- 239. Natalie Nussbaum

**Berkeley Marina Parking Fees**

- 240. Dave Kent and Margaret Love
- 241. Jonathan Love

**Healthy Black Families**

- 242. Healthy Black Families, Inc.





Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Amelia Funghi, Animal Services Manager  
 Subject: Contract No. 10177B Amendment: Paw Fund for Spay and Neuter Services

#### RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10177B with Paw Fund (Contractor) to add \$23,812 in General Fund to provide no-cost spay and neuter surgeries to eligible pet owners, and extend the contract through June 30, 2020, for a total not to exceed amount of \$95,248.

#### FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley "Spay Neuter Your Pet" (SNYP) program provided General Fund in the amount of \$23,812 to Paw Fund for FY 2016 and \$23,812 for FY 2017 with a time extension for FY 2018. The SNYP program also provided \$23,812 to Paw Fund for FY 2019. If Council agrees with the recommendation, the SNYP program will provide an additional \$23,812 in General Fund for FY 2020 for a total contract amount of \$95,248. Funds for the FY 2020 SNYP amount of \$23,812 will be available in budget code 011-21-203-000-0000-000-424-612990. (New contract # 108-410-1).

#### CURRENT SITUATION AND ITS EFFECTS

The current contract between the City of Berkeley and Paw Fund will expire on June 30, 2019. Paw Fund has contracted with the City of Berkeley to provide no cost spay neuter surgeries to eligible pet owners since FY 2016. By providing no cost spay neuter surgeries, Paw Fund decreases the number of unwanted pet offspring and reduces the number of homeless animals entering the Dona Spring Animal Shelter.

Because the Dona Spring Animal Shelter houses animals from Berkeley, Albany, Emeryville and Piedmont, the Scope of Services defines low income residents from these four cities as eligible for no-cost services through the SNYP program.

#### BACKGROUND

Many low income pet owners would like to access spay or neuter services for their pets but are unable to afford the cost of surgery through local veterinary clinics. Paw Fund consistently works with low income pet owners and is able to outreach to eligible pet

owners who are in need of spay and neuter surgeries. The SNYP program provides for 198 free spay or neuter surgeries each year which decreases unwanted litters of pets and decreases the number of unwanted pets entering the Dona Spring Animal Shelter.

RATIONALE FOR RECOMMENDATION

Paw Fund is well equipped to and capable of providing the services under the SNYP program.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Amelia Funghi, Animal Services Manager, 981-6603

Attachments:

1. Resolution

RESOLUTION NO. XXXX-N.S.

CONTRACT NO. R10177 AMENDMENT: PAW FUND FOR SPAY/NEUTER SERVICES (New contract # 108-410-1)

WHEREAS, The City of Berkeley SNYP program provides City General Fund for no-cost spay and neuter surgeries to eligible low income pet owners, and

WHEREAS, The Paw Fund has contracted with the City for several years and is able to reach eligible low income pet owners, and to provide no-cost spay neuter services, and

WHEREAS, The Paw Fund continues to be well equipped to and capable of providing the services under the SNYP program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 10177B, (new contract No. 108-410-1) with Paw Fund for spay and neuter services FY2020 to increase the contract by \$23,812 for a total not-to-exceed amount of \$95,248. A record copy of said agreement and any amendments are on file with the City Clerk.







Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Economic Development Manager  
 Subject: Public Art Guidelines Revisions

RECOMMENDATION

Adopt a Resolution revising the City of Berkeley's Public Art Guidelines, modifying the Artwork Gifts and Loans Policy and adding an Artwork Deaccession Policy and a Memorial Artwork Policy.

FISCAL IMPACTS OF RECOMMENDATION

The recommended revisions to the Public Art Guidelines will save staff time by adding clarity for the Civic Arts Program and the Civic Arts Commission related to the evaluation of proposed artwork gifts, the management of artworks owned by the City, and the evaluation of proposed memorial artworks. Therefore the recommendation will free up a small amount of staff time for other Civic Arts projects.

CURRENT SITUATION AND ITS EFFECTS

There are several proposed artwork gifts, possible artwork deaccessions, and memorial artworks on hold pending updates to the Public Art Guidelines. While the Civic Art Program staff, working with the Civic Arts Commission, is planning additional revisions to the Public Art Guidelines later in 2019, staff has prioritized updating and creating these three Public Art Guidelines sections in order to provide a framework allowing a variety of proposals that have been received from the community and some artwork collection related concerns to be properly evaluated in a timely manner by the Civic Arts Commission.

Revising the City of Berkeley's Public Art Guidelines advances the City's strategic plan goal of providing an efficient and financially-healthy City government and supports City's strategic plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The City of Berkeley has a number of existing policies for the implementation of Public Art that were adopted in parts over time by City Council including: the 1985 Ordinance

on Visual Art in Public Places; the 1991 Ordinance establishing the Civic Arts Commission; and the 1999 Resolution establishing percent-for-art funding on municipal capital projects. Additionally, Civic Arts Program staff in cooperation with the Civic Arts Commission and the Public Art Committee created the Guidelines for Public Art for the City of Berkeley Public Art Program, which was revised and updated in 2001. These policies are all compiled into the Public Art Process Guide (Attachment 1). Because these policies were last updated in 2001, they no longer reflect current best practices in the field of public art. The proposed revisions to the Public Art Guidelines will help to ensure that the policies are current and the City of Berkeley is well-served by its public art process and associated outcomes.

The new Public Art Guidelines sections are more comprehensive than the existing policies. Their contents vary slightly from one policy to the other, but generally they all include a policy overview, definitions, evaluation criteria, detailed procedures, and references to related policies. Once the Public Art Guidelines revisions are approved by Council, staff will update the Public Art Process Guide document to reflect these changes. The updated guide will be posted to the City's website in the Civic Art Program information section, providing community members access to the fully documented process and criteria for anyone wishing to donate an artwork to the City or create a memorial artwork on City property. Having an accessible and fully documented policy will provide more transparency to the process for the community and ensure that there is an agreed upon framework informing the City's decisions on matters related to public art.

These policy revision were developed by staff in consultation with a legal consultant who specializes in art law. In the process of developing these guidelines, staff referenced the public art guidelines from a number of cities including San Jose, San Francisco, New York, Toronto, Baltimore, Chapel Hill, Palo Alto, and Portland. Staff also consulted with the Parks, Recreation & Waterfront Department on sections of the new guidelines that would interface with that department.

Berkeley Municipal Code Section 3.12.060(J) grants authority to the Civic Arts Commission to "develop guidelines and procedures to be submitted to the City Council for approval for a visual arts in public places program." Accordingly, the draft guidelines were reviewed and further revised by the Civic Arts Commission's Public Art Committee and Policy Committee before being presented to the Civic Arts Commission for approval. The proposed revisions to the Guidelines for Public Art for the City of Berkeley Public Art Program (Exhibit A) were approved by the Civic Arts Commission at its March 25, 2019 meeting. (Motion/Second: Covarrubias/Blecher; Ayes: Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Slattery, Tamano; Nays: None; Abstain: None; Absent: None).

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the content of this report.

RATIONALE FOR RECOMMENDATION

Revisions to the City of Berkeley's Public Art Guidelines will provide a framework for the review of a variety of proposed artwork gifts, possible artwork deaccessions, and memorial artworks which have been on-hold pending the development of these policies.

ALTERNATIVE ACTIONS CONSIDERED

There were no alternatives considered.

CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534  
Jennifer Lovvorn, Civic Arts Coordinator, (510) 981-7533

Attachments:

- 1: Resolution  
    Exhibit A: Public Art Guidelines
- 2: Public Art Process Guide

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

PUBLIC ART GUIDELINES REVISIONS

WHEREAS, the City of Berkeley has a number of existing policies for the implementation of Public Art that were adopted in parts over time and were last updated in 2001; and

WHEREAS, the Civic Art Program staff, working with the Civic Arts Commission, is planning to comprehensively update the Public Art Guidelines to reflect current best practices in the field of public art to ensure that the City of Berkeley is well-served by its public art process and associated outcomes; and

WHEREAS, there are several proposed artwork gifts, possible artwork deaccessions, and memorial artworks that are on hold pending updates to the Public Art Guidelines; and

WHEREAS, staff has prioritized updating and creating these three Public Art Guidelines sections in order to provide a framework allowing a variety of proposals that have been received from the community and some artwork collection related concerns to be properly evaluated by the Civic Arts Commission in a timely manner; and

WHEREAS, Berkeley Municipal Code Section 3.12.060(J) grants authority to the Civic Arts Commission to “develop guidelines and procedures to be submitted to the City Council for approval for a visual arts in public places program;” and

WHEREAS, the proposed revisions to the Guidelines for Public Art for the City of Berkeley Public Art Program (Exhibit A) were reviewed and approved by the Civic Arts Commission at its March 25, 2019 meeting; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Public Art Guidelines (Exhibit A) are revised to include a modified Artwork Gifts and Loans Policy, and new policies for Artwork Deaccession and Memorial Artwork.

Exhibits

A: Public Art Guidelines

# PUBLIC ART FOR THE CITY OF BERKELEY

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*The City and Its People*

Mural by Romare Bearden

## **A GUIDE TO The Public Art Process The Civic Arts Commission The Percent for Art Program Guidelines for Public Art**

## **THE CITY AND ITS PEOPLE**

### **COVER IMAGE**

*The City and Its People* was one of the first public art commissions of the renowned African-American artist, the late Romare Bearden. The Civic Arts Commission of the City of Berkeley commissioned this mural in 1973 to be created and placed in the City Council Chambers as an active and accessible part of the city's civic life. In addition to the placement of the mural in an open and well-used civic area, the logo of the City of Berkeley contains a multicultural design derived from a segment of this mural's imagery. The National Gallery of Art in Washington, D.C. has prepared a retrospective of Romare Bearden's life work. The exhibition has been on national tour following the opening in September of 2003 in Washington, D.C. The San Francisco Museum of Modern Art is featuring the retrospective in February of 2004. The exhibition will then move on to the Dallas Museum of Art in June of 2004, to the Whitney Museum of American Art in October of 2004, and will conclude at the High Museum of Art in Atlanta, in January 2005. *The City and Its People* is of great importance to this exhibition due to its size, the fact that the artist, himself, worked on all aspects of this artwork and because the City of Berkeley has incorporated this mural into the fabric of its civic life.

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**Please see additional publication:**  
*“City of Berkeley Public Art Registry”, 2002*

**Visit the City of Berkeley Public Art Website for the most  
up to date information about the City’s Public Art Program.**

**<http://www.ci.berkeley.ca.us/civicarts/publicart.htm>**

## WELCOME

Hello and Welcome to the Public Art Program for the City of Berkeley. As the Civic Arts Coordinator, I am very happy to be here in the midst of such exciting times for the arts in the City. In 1999 the Public Art Resolution was passed by City Council. This Resolution provides a funding source for the 1985 Visual Art Ordinance, which defines the process for the commissioning and selection of public artwork. The Measure S Bond Fund, which was specifically marked for use in the downtown area, enabled us to produce the Library Gates, two major sculptures on Shattuck Avenue, and both the sidewalk art inserts and the poetry panels on Addison Street. The Downtown Arts District is near completion and has been receiving extensive publicity on the local and national scale. As we begin our next round of Public Art projects, we are turning our focus to two different regions of Berkeley: South Berkeley and the West Berkeley/ Interstate-80 areas. All of us look forward to working with you to make Berkeley an even more beautiful and attractive place to live, work, shop and recreate. *January, 2004.*

The Civic Arts Office is located in the Office of Economic Development  
2118 Milvia Street, Berkeley, CA 94704

**Mary Ann Merker**, *Civic Arts Coordinator*  
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[cfredriksen@ci.berkeley.ca.us](mailto:cfredriksen@ci.berkeley.ca.us)

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[tamyers@ci.berkeley.ca.us](mailto:tamyers@ci.berkeley.ca.us)

**David Snippen**, *Chair*, The Berkeley Civic Arts Commission

**Jos Sances**, *Chair*, The Berkeley Public Art Committee



## **HISTORY OF THE PUBLIC ART PROGRAM**

In 1985 the City of Berkeley passed a Visual Art Ordinance that established a process for the selection of Public Art in the City. In 1999 the Public Art Resolution was passed to begin the 1.5% Funding for the Public Art Program.

In January of 1998, the vacant Civic Arts Coordinator position was filled with one of the primary objectives being to research, write and present to the Civic Arts Commission and the City Council a Resolution for Funding a Public Art Program for the City of Berkeley. In order to bring the best current practices in the field to Berkeley, the Civic Arts Coordinator attended four professional conferences and a half-day California Arts Council consultation\*. The Civic Arts Coordinator with the assistance of the then director of the UC Berkeley Art Museum formed the beginnings of the Berkeley Cultural Trust, one of its purposes being to serve as a community advisory group to the public art effort.

The Downtown Measure S projects were the first phase of the Public Art Program. These projects were funded by a voter bond issue passed for Downtown improvements. Through the Measure S Bond Fund, the Addison Streetscape improvements were initiated and completed. These projects included the sidewalk poetry and artworks on Addison Street, the hard-carved Library Gates in the Central Public Library, and the two large downtown sculptures located at the entrance of the Arts District.

The Public Art Program contains both functional and stand alone fine art, both of which are demonstrated by the Public Art projects completed through Measure S. Functional public art serves two purposes. It is specifically designed for the site and fulfills a utilitarian purpose. Excellent examples of functional public art are the hand-carved Library Gates in the Central Public Library and the sidewalk artworks that adorn both sides of Addison Street in the Downtown Arts District. Stand-alone fine art is independent and not usually incorporated into the structure or use of a project or building component, serving instead as a source of inspiration and beauty. The two downtown sculptures, *s'herbogenbosch* and *Earthsong for Berkeley* by artists John Toki and Wang PoShu, are both examples of stand-alone fine art. Whenever possible an artist or team of artists will work with the architects at the beginning of the design process so that the artwork can become an integral part of the built environment. All public artworks become part of the built environment and a "value added" benefit to capital improvement projects.

The process of Public Art is very challenging and the staff as well as the Civic Arts Commission have included the community in this ongoing dialogue. As part of this process, a Public Art Committee of the Civic Arts Commission was formed to assist with the selection of public art sites as well as development of the program as a whole. With assistance from the Public Art Committee, City staff develops and announces a Call for Entries for each project. The selection of each artwork is assigned

\* Individual Consultation on Public Art, California Arts Council, Sacramento, CA, March 1998.  
California Arts Council State/Local Retreat, Asilomar, February 1998.  
Public Art 101, City of Seattle, May 1998.  
California League of Cities, Art and Economic Development, Monterey, August 1998.  
Governor's Conference on the Arts, December 1998.

to a Selection Panel specific to each project. Selection Panels are chosen with input from the Civic Arts Commission, City staff, the community, and the project architect. All entries are judged for merit and appropriateness by the Selection Panel. The selected finalist is submitted to the Civic Arts Commission for final approval and the artwork is then commissioned.

Public workshops on how to apply and become a public artist are part of our program, as well as open meetings and community participation. An open, regional workshop is held for each round of public art projects.

Some competitions are international, some regional, and some open to entry by Berkeley artists only. Each Call for Entries clearly states the site, the eligibility of artists, the time line for the project, the process for evaluation, the funds involved, etc. and are widely distributed through appropriate mail, the world wide web, art journals and newspaper announcements. The goal is an open and balanced program that will enhance the City of Berkeley and strengthen Berkeley artists. By keeping part of our competitive Call for Entries open to other cities, we will encourage other cities to allow Berkeley artists to compete for commissions in their cities as well. The Public Art process follows the visual art ordinances in place and the Arts Commission will continue to operate in accordance with all open and public meeting laws.

The passage of the Percent for Art Fund (Resolution No. 60,048-N.S. )\*\* in May of 1999 enables the Public Art Program to live beyond the limited Measure S bond fund, which by law could only be used for Downtown improvements. Each year, 1.5% of the City of Berkeley eligible Capital Improvement funds are put into a Public Art Fund. The annual Public Art Plan will continue to enrich the architectural and cultural environment of the City.

We look forward to a positive, inclusive, and respectful process.

\*\*

A copy of this resolution is included in this booklet

## EXAMPLES OF PUBLIC ART



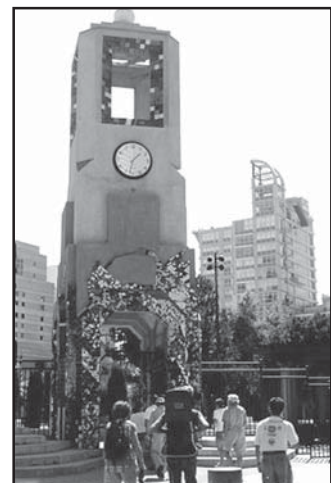
*Hammering Man*, Jonathan Borofsky, 1991.  
Public Art for the City of Seattle, WA.

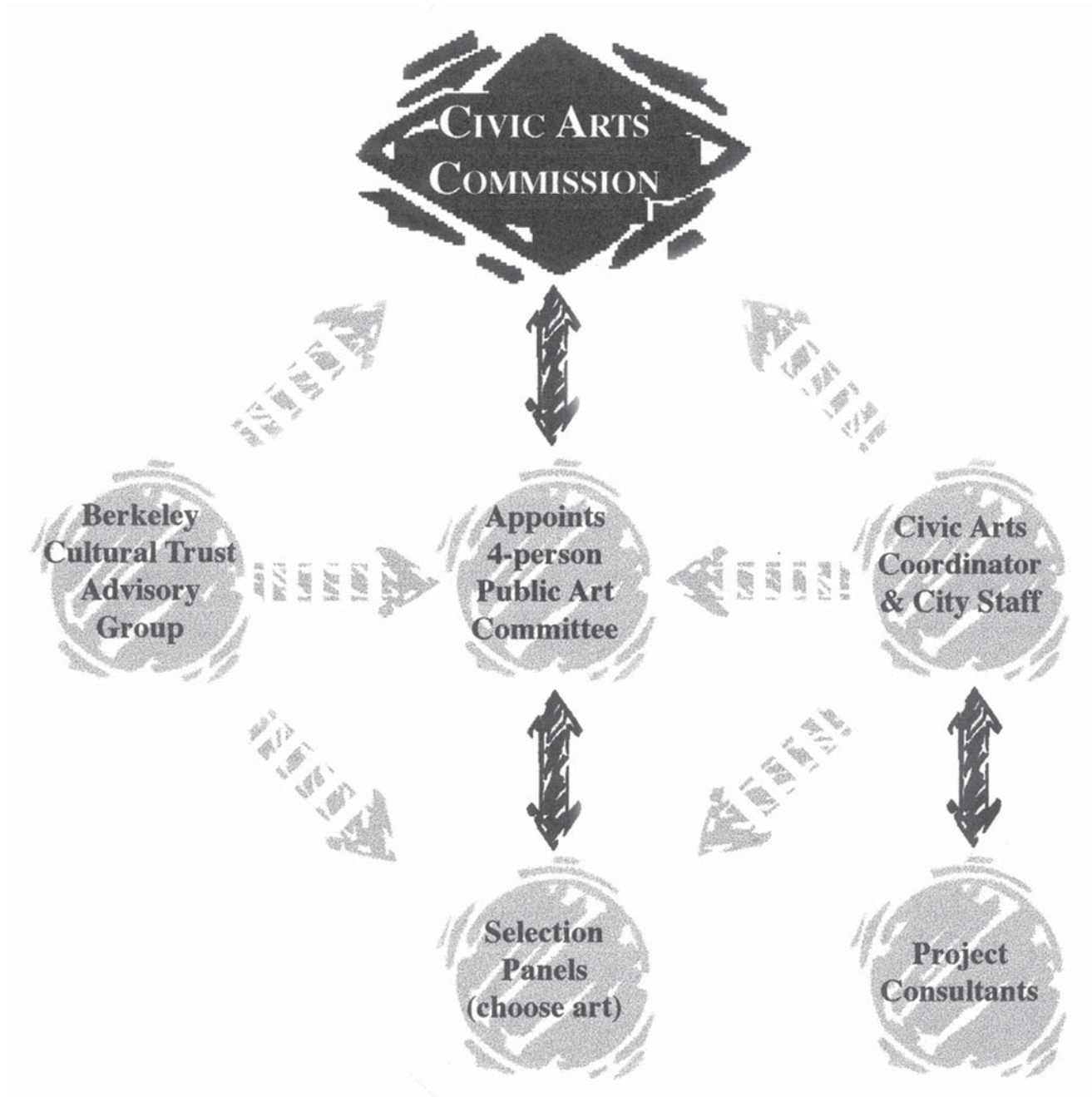
*Untitled (Three Dancing Figures)*, Keith Haring, 2001 (1989)  
Public Art for the City of San Francisco, CA.



*Library Gates*, Miles Karpilow, 2002, (2000)  
Public Art for the Central Public Library, Berkeley, CA.

*Clock Tower*, Lawrence Halprin, 1993.  
Public Art for the Grand Hope Park, Los Angeles, CA.





## THE PUBLIC ART SELECTION PROCESS

### *1985 City Ordinance on Visual Art*

#### **The Selection Process** (follows 1985 City Ordinance on Visual Art in Public Places)

1. The Civic Arts Commission has oversight responsibility for the Public Art Program in cooperation with the Civic Art Coordinator and City staff. The Civic Arts Commission appoints a four person Public Art Committee from its members that has direct oversight of the Public Art Program and which reports back to the full Commission.
2. This Public Art Committee, along with the Civic Arts Coordinator, City staff and an experienced project consultant, appoints the selection panels, based on consideration of each site and project and determined by the candidates' experience and training.
3. Selection Panels, consisting of three to seven members, will serve only for the period needed to choose the work or works of art for one identified area and then disband. Selection Panels may work with a number of art pieces identified for one project area such as Downtown or the Library. To insure a representative community body, the Selection Panels will be made up of:

Three consultants\* and when appropriate additional members consisting of:

- A representative of the neighborhood
- A representative of the Civic Arts Commission
- A representative of other City boards and Commissions
- A project architect

4. The recommendation of the selection panels will be passed on to the Public Art Committee of the Civic Arts Commission. The committee's recommendation is then passed on to the whole Civic Arts Commission, which in turn will inform the City Council of the work or works to be commissioned in accordance with the 1985 Ordinance. The decision of the Art Commission is final. An informal community advisory group consisting of Berkeley's nonprofit arts agencies call the Berkeley Cultural Trust, has agreed to act as a partner to the whole process for support and guidance.

#### **Public Art for the City of Berkeley**

All the above is based on existing ordinances and reflects a fair, open and respectful process used throughout the United States. All open call for entry will be widely distributed and a series of educational workshops will be held for artists wishing to participate in the process. Please call the Civic Arts Coordinator if you have any questions (510) 981-7533.

\* "Qualified consultant" means professional visual artists, educators, scholars, historians, collectors, and environmental designers and planners, whose authorities and skills are known and respected in the community and, whenever feasible, who have demonstrated an interest in, and have participated in, the arts of the city. (Ord. 5630-NS1 (part), 1985)

Chapter 6.14

**VISUAL ART IN PUBLIC PLACES**

Sections:

- 6.14.010 Definitions.
- 6.14.020 Visual arts Panel.
- 6.14.030 Standards for review.
- 6.14.040 General rules for art in public places.
- 6.14.050 Review of artistic materials.

**Section 6.14.010 Definitions.**

For purposes of this chapter the terms listed in this section shall be defined as follows:

- A. “Visual art in public places” means any visual work of art displayed for two weeks or more in an open City-owned area, on the exterior of any City-owned facility, in areas designated as public areas, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, whether wholly or in part, with city funds or grants procured by the City.
- B. “Work of art” includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, fountain, banner, mosaic, weaving, stained glass, multimedia, computer-generated art, and earth art.
- C. “Permanent installation” means a work of art in a public place intended to remain or remaining for one year or more.
- D. “Temporary installation” means a work of art in a public place intended to remain for less than one year.
- E. “Qualified consultant” means professional visual artists, educators, scholars, historians, collectors, and environmental designers and planners, whose authorities and skills are known and respected in the community and, whenever feasible, who have demonstrated an interest in, and have participated in, the arts of the City. (Ord. 6487-NS § 1, 1999; Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.020 Visual arts panel.**

A visual arts panel shall be convened by the Civic Arts Commission as a temporary subcommittee of the Civic Arts Commission for each art in public places project. A different visual arts panel shall serve for each art in public places project and shall dissolve after placement of the work of art. The visual arts panel shall include three qualified consultants appointed by the Civic Arts Commission and, when appropriate as determined by the Civic Arts Commission, a representative of affected neighborhoods, the Civic Arts Commission, other appropriate City boards and commissions, and project architects.

The duties of a visual arts panel with respect to specific art in public places projects shall be as follows:

- A. To devise methods of selecting and commissioning artists with respect to the design, execution, and placement of specific art in public places projects, and pursuant to such methods, to advise the Civic Arts Commission on the selection and commissioning of artists for such projects;
- B. To advise the Civic Arts Commission regarding the amounts to be spent on specific art in public places projects;
- C. To advise and assist the Civic Arts Commission in obtaining financial assistance for art in public places projects from private, corporate, and governmental sources. (Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.030 Standards for review.**

In performing its duties with respect to art in public places, a visual arts panel shall give special attention to the following matters:

- A. Appropriateness of the design to the functions of the site;
- B. Representation of a broad variety of tastes within the community and the provisions of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that also will be representative of the eclectic tastes of the community. (Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.040 General rules for art in public places.**

- A. Review of permanent and temporary installations: Permanent and temporary installations shall receive the prior review and advice of a visual arts panel. Extensions of time for temporary installations to remain for one year or more may be granted by a visual arts panel. Permanent installations shall not be removed, altered, or changed without the prior review and advice of a visual arts panel and the artist, whenever feasible.
- B. Private sites for art in public places: No work of art financed or installed whether wholly or in part with City funds or with grants procured by the City shall be permanently installed on privately owned property without a written agreement between the City and the owner specifying the proprietary interests in the work of art, binding the owner to the general rules for art in public places, specifying that the owner shall assure installation of the work of art in a manner which will protect the work of art and the public and that the work of art will be maintained in good condition, and providing for appropriate insurance and indemnification, as well as any other provisions deemed necessary or desirable by the City Attorney.
- C. Consultation with the artist: Installation, maintenance, alteration, refinishing, and moving of art in public places shall be done in consultation with the artist whenever feasible.

D. Inventory of art in public places: The Civic Arts Commission shall maintain a detailed record of all art in public places, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible. (Ord. 5630-NS § 1 (part), 1985).

**Section 6.14.050 Review of artistic matters.**

Recognizing that professional expertise is necessary and desirable in artistic matters, such as the selection of artists for a project, the selection of particular works of art, and the approval of designs and plans for works of art under the visual art in public places program, it is a policy that:

- A. Decisions on artistic matters will be made by a visual arts panel;
- B. The City Council will not exercise its independent judgment on artistic matters;
- C. The City Council will refer questions, suggestions, requests, complaints and similar items pertaining to visual art in public places to the Civic Arts Commission for review and response. (Ord. 5630-NS § 1 (part), 1985)

(Berkeley 6-30-85)



**THE CMC ARTS COMMISSION AS**  
**THE DELEGATED OVERSIGHT BODY**

*1991 City Ordinance on the  
Civic Arts Commission*

Chapter 3.12

**CIVIC ARTS COMMISSION**

Sections:

- 3.12.010      Established—Membership—Appointment.
- 3.12.020      Appointment automatically terminated when—Procedures.
- 3.12.030      Liaison representatives to other city entities.
- 3.12.040      Organization, meetings, rules and procedures.
- 3.12.050      Reserved.
- 3.12.060      Duties and functions.

**Section 3.12.010    Established—Membership—Appointment.**

A. Civic Arts Commission is established. The commission shall consist of nine members. Appointments to the commission shall be made by councilmembers, and vacancies on the commission shall be filled by councilmembers in accordance with the provisions of Section 2.04.030 through 2.04.130 of this code enacted as Ordinance No. 4780-NS by the voters of the City. (Ord. 6032-NS § 1, 1991; Ord. 5253-NS § 1 (part), 1980)

**Section 3.12.020    Appointment automatically terminated when—Procedures.**

A. The appointment of any member of the commission who has been absent from three consecutive regular meetings shall automatically terminate as hereinafter set forth.

B. The secretary of the commission shall report the attendance record of each member of the commission to the City Clerk at the end of each six-month period, the first report to be made in July, 1980.

C. The appointment of any member who was absent from three consecutive regular meetings, as shown on the report shall be terminated on the date the report is filed with the City Clerk.

D. The City Clerk shall notify any member whose appointment has automatically terminated and report to the appointing City Councilmember that a vacancy exists on the commission and that an appointment should be made for the unexpired term. (Ord. 5880-NS § 1, 1988; Ord. 5253-NS § 1 (part), 1980)

**Section 3.12.030 Liaison representatives to other City entities.**

Subject to the approval of the council in each case, the commission may designate one of its members to act as a liaison representative to any other board, commission or committee of the City. The functions of such liaison representatives are:

- A. To attend the meetings of such other board, commission or committee;
- B. Advise this commission on the background, attitudes, and reasons behind the actions of such other board, commission or committee; and
- C. On request of any member of such other board, commission, or committee, to advise such other board, commission or committee of policy, procedures and decisions of this commission that may bear upon matters under discussion by such other board, commission or committee. Such liaison representative shall have no power to vote. (Ord. 5253-NS § 1 (part), 1980)

**Section 3.12.040 Organization, meetings, rules and procedures.**

- A. The commission shall organize by electing from its members one president, one vice-president and such other officers as may be necessary, who shall hold office for one year and until their successors are elected unless their terms as members of the commission sooner expire. An officer or employee of the City designated by the City Manager shall serve as secretary of the commission.
- B. The commission shall establish a regular time and place of meeting and shall hold at least one regular meeting each month. Special meetings may be called by the president or by a majority of the members of the commission upon written notice being delivered personally or received by each member at least twenty-four hours prior to each meeting.
- C. The commission may make and alter rules governing its organization and procedures which are not inconsistent with this chapter or any other applicable ordinance of the City.
- D. A majority of the members appointed to the commission shall constitute a quorum for the transaction of business and the affirmative vote of a majority of the members is required to take any action. The City Manager shall appoint a staff liaison to the commission.
- E. The commission shall keep an accurate record of its proceedings and transactions and shall submit an annual report to the City Council with a copy to the City Manager. (Ord. 5880-NS § 1, 1988: Ord. 5366-NS § 1, 1981: Ord. 5253-NS § 1 (part), 1980)

**Section 3.12.050 Reserved.**

**Section 3.12.060 Duties and functions.**

- A. Encourage programs for the cultural enrichment of the City and help make City resources available to cultural groups.
- B. Provide assistance to groups and individuals wishing to sponsor neighborhood events, such as block parties, small business celebrations, and community holidays.

- C. Provide support for art groups in their search for funding from county, state, federal and private sources and pursue projects which would provide funding for the arts.
- D. Coordinate and strengthen existing organizations in the arts and develop cooperation with regional organizations.
- E. Develop ongoing data on the economic impact of the arts on the community.
- F. Review and make recommendations upon all works of art to be acquired by the City, either by purchase, gift, or otherwise, and exterior works of art installed in the civic center district which are visible to the public.
- G. Encourage the beautification of the City.
- H. Advise the council on all matters affecting the beauty and culture of the City.
- I. Render advice and assistance in the fields of art, esthetics and beautification to other City boards and commissions.
- J. Develop guidelines and procedures to be submitted to the City Council for approval for a visual arts in public places program.
- K. Appoint a temporary subcommittee known as the visual arts panel, consisting of four commission members to carry out the visual arts in public places programs.
- L. Report to the council the final action of each visual arts panel in selecting and installing each art in public places project.
- M. Provide recognition and increased opportunities for artists through art in public places project and maintain an inventory of meritorious works of art in the public view.
- N. Provide assistance to local artists and private property owners on matters relating to installation of works of art on private property in the public view.
- O. Advise the council on all matters pertaining to the quality, quantity, scope, and style of art in public places.
- P. Develop recommendations for distribution of City arts funding in accordance with established criteria. (Ord. 5880-NS §§ 1, 2, 1988: Ord. 5631-NS § 1, 1985: Ord. 5253-NS § 1 (part), 1980)

(Berkeley 6-30-91)

## **1999 PERCENT FOR ART RESOLUTION**

### **RESOLUTION NO. 60,048-N.S.**

ESTABLISHING A PROGRAM TO FUND THE DEVELOPMENT OF VISUAL ART IN PUBLIC PLACES, INCLUDING ART DEVELOPED IN CONJUNCTION WITH CITY CONSTRUCTION PROJECTS

WHEREAS, the cultivation and development of a livable community is enhanced by the presence of works of art and creative expression available for the enjoyment of all citizens; and

WHEREAS, in 1985, the City Council adopted Ordinance No. 5603-N.S., Berkeley Municipal Code Chapter 6.14, to promote the cultivation and creation of works of visual art in public places; and

WHEREAS, in 1980, the City Council adopted Ordinance No. 5253-N.S., Berkeley Municipal Code Chapter 3.12, establishing the Civic Arts Commission, and charged it with a variety of duties related to fostering programs for the cultural enrichment of the City; and

WHEREAS, the development of the physical infrastructure of the City provides numerous opportunities for creative expression by integrating artistic features into said infrastructure; and

WHEREAS, developing works of art in conjunction with City construction projects can contribute elements of beauty and creativity to all neighborhoods of the City; and

WHEREAS, a successful City-wide program to foster the development of works of art requires the collaboration of various City departments which are commonly involved in the construction of public improvements, the City Manager, the Civic Arts Commission and members of the community; and

WHEREAS, in those circumstances in which it is not feasible to incorporate artistic features into a particular public improvement, the public interest will be served by allocating sufficient funding to develop works of art separate from the public improvement; and

WHEREAS, the terms of this Resolution should be applied in a manner consistent with the requirements of Chapters 3.12 and 6.14 of the Berkeley Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

#### **Section 1. DEFINITIONS**

“Administrative Costs” shall mean the expenditures necessary for implementation of the requirements of this Resolution, including, but not limited to, project management, soliciting proposals, public education, promotion, maintenance and risk management.

“Annual City Public Art Plan” shall mean the annual planning document which sets forth goals and objectives for development of works of art, including, art developed in conjunction with City construction projects during that Fiscal Year and any expenditures from the City’s Public Art Fund.

“Artist” shall mean a person who has completed works of art which meet contemporary artistic standards prevailing in major metropolitan areas.

“City Manager” shall mean the City Manager or his, or her, designee.

“Eligible Capital Project” shall mean any improvement to public property which the City Manager has approved for application of the requirements of this Resolution. This term shall not be interpreted to include any improvement for which the source of funding, or any applicable law or regulation, prohibits or restricts the use of funds for the purposes of this Resolution.

“Public Art Element” shall mean that component, feature, characteristic, or portion of a public improvement incorporated for artistic purposes.

“Public Art Fund” shall mean the budget account established by the City for receipt of funds derived from Eligible Capital Projects which may be expended for the purpose of incorporating artistic elements into public improvements or acquiring, creating, installing, presenting or displaying Off-Site Works of Art.

“Project Budget” shall mean the costs attributable to constructing a public improvement subject to the terms of this Resolution, including, construction, hazardous materials abatement, and procurement of goods intended for incorporation into the improvement. Project Budget shall not be interpreted to include costs associated with land use planning consultants, feasibility studies, environmental review, land acquisition costs, legal fees, architecture/engineering costs, construction management, geotechnical surveys, and historical surveys.

“Off-Site Work of Art” shall mean Works of Art as defined in Chapter 6.14 of the Berkeley Municipal Code which are acquired, created, installed, presented or displayed at a location other than the site of the Eligible Capital Project from which funds were derived under Section III of this Resolution.

## **Section 2. ANNUAL PLANNING**

A. As part of the City’s budget process, the City Manager shall submit to the Civic Arts Commission a report identifying all public improvements which satisfy both of the following criteria:

1. expenditures will be made from the Project Budget during the following budget cycle, and
2. designation as an Eligible Capital Project would not result in detriment to the project.

B. Pursuant to Chapter 6.14 of the Berkeley Municipal Code, the Civic Arts Commission shall thereafter assign a different rank to each public improvement identified pursuant to Section A above based on the potential benefits to the community of designating the improvement as an Eligible Capital Project.

C. Pursuant to Chapter 6.14 of the Berkeley Municipal Code, the Civic Art Commission shall issue to the City Manager an Annual City Public Art Plan presenting its recommendations: 1) for public improvement projects which should be designated as Eligible Capital Projects, and 2) any expenditures from the Public Art Fund for the acquisition, creation, installation, presentation or display of Off-Site Works of Art during that Fiscal Year. The Annual City Public Art Plan shall include an explanation of the benefits and detriments, if any, associated with each proposal.

**Section 3. FUNDING**

- A. A sum equal to one percent (1%) of the Project Budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to, color, shape, design, texture, general appearance, or decoration which is designed and constructed integrally with the public improvement itself.
- B. In addition to the amount specified in Section III(A), above, a sum equal to one half percent (0.5%) of the Project Budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for Administrative Costs.
- C. Funds designated for the Public Art Fund shall be transferred not later than the date on which funds for the Project Budget have been encumbered.
- D. In the event that the final cost of designing and constructing the Public Art Element is less than one and one half percent (1.5%) of the Project Budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of Off-Site Works of Art.
- E. In the event that the Eligible Capital Project will result in a public improvement which is inaccessible to the public, such as an underground structure, or for which it is not feasible to incorporate the Public Art Element, the funds designated for the Public Art Element shall be transferred to the Public Art Fund and may be used for the creation of Off-Site Works of Art.

**Section 4. MANAGEMENT OF PUBLIC ART ELEMENT**

The City Manager is authorized to manage the development and implementation of the Public Art Element in accordance with Chapter 6.14 of the Berkeley Municipal Code governing Visual Art in Public Places. The City Manager may use any reasonably efficient means and methods to design a Public Art Element, including, but not limited to, the following:

- A. Retain an artist to design the Public Art Element independently of the architects/engineers who are responsible for designing the public improvement.
- B. Require as part of the selection process that the architects/engineers who are responsible for designing the public improvement retain an artist as a functioning member of the design team to design the Public Art Element concurrently with the design of the public improvement.
- C. Require as part of the competitive solicitation process that the contractor responsible for building the public improvement retain an artist to design the Public Art Element.

**Section 5. PUBLIC ART FUND**

- A. The City Manager shall establish budget accounts to receive funds transferred pursuant to Sections III (A) and (B), above. Monies in the Public Art Fund, if not expended in any particular Fiscal Year, shall be carried over to the next Fiscal Year, unless the source of the funds, or applicable laws or regulations, prohibit such action. Generally accepted accounting principles will be utilized to ensure that the funds are utilized in a manner consistent with this Resolution.
- B. Nothing herein shall be interpreted to prohibit the City from soliciting and receiving grants, donations, bequests, or gifts from any source, public or private, for deposit in the Public Art Fund to be expended in a manner consistent with this Resolution.

C. Monies in the Public Art Fund shall not be expended for the purposes of awarding grants to artists or arts organizations under City Council Resolution No. 55,832-N.S.

**Section 6. OFF-SITE WORKS OF ART**

A. Pursuant to Section 3.12.060(F) of the Berkeley Municipal Code, the Civic Arts Commission shall review and make recommendations for expenditures from the Public Art Fund for the acquisition, creation, installation, presentation or display of Off-Site Works of Art.

B. The City Manager shall manage the acquisition, creation, installation, presentation and display of Off-Site Works of Art.

**Section 7. GRANTS**

All City departments shall include in any application for grant funds for an Eligible Capital Project an amount sufficient for the Public Art Element, unless said inclusion would be detrimental to the City.

**Section 8. RULES AND REGULATIONS**

It is the intent of the City Council to allow the City Manager flexibility in attaining the goals of this Resolution; therefore, the City Manager is authorized to establish rules and regulations consistent with the intent of this Resolution and the Berkeley Municipal Code for the purposes of implementing this Resolution.

**Section 9. EFFECTIVE DATE**

This resolution shall become effective June 1, 1999.

The foregoing Resolution was adopted by the Berkeley City Council on May 25, 1999 by the following vote:

Ayes: Councilmembers Armstrong, Breland, Maio, Olds, Shirek, Spring, Woolley, Worthington and Mayor Dean.

Noes: None.

Absent: None.

Attest: Shirley Dean, Mayor , Sherry M. Kelly, City Clerk.

**GUIDELINES FOR PUBLIC ART**  
**CITY OF BERKELEY PUBLIC ART PROGRAM**  
*Revised and Updated November 1, 2001*

*INTRODUCTION*

Welcome to the *Guidelines for Public Art* for the City of Berkeley Public Art Program, developed by Civic Arts Staff in cooperation with the Civic Arts Commission and the Public Art Committee. The following guidelines are meant to support, not override, legislation and staff responsibilities.

**A. MISSION STATEMENT**

The City of Berkeley Public Art Program will enliven and beautify the City's environment. The program will encourage and promote awareness of the City's rich ethnic, social, and cultural diversity as expressed through visual and design arts. The Public Art Program will enhance the visual environment for the citizens of Berkeley, integrate the design work of artists into the development of City public works projects, and promote tourism and economic vitality of the City through the enhancement of public spaces.

**B. PERCENT FOR ART PROGRAM FUNDING**

Funding for public art shall be generated primarily from capital projects as outlined in the Percent for Art Resolution No. 60,048-N.S. adopted by City Council on June 1, 1999, which reads as follows.

SECTION III FUNDING

- A. A sum equal to one percent (1%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to, color, shape, design, texture, general appearance, or decoration which is designed and constructed integrally with the public improvement itself.
- B. In addition to the amount specified in Section III. (A), above, a sum equal to one half percent (0.5%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for administrative costs.
- C. Funds designated for the Public Art Fund shall be transferred no later than the date on which funds for the Project Budget have been encumbered.



- D. In the event that the final cost of designing and constructing the Public Art Element is less than one and one half percent (1.5%) of the project budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of other works of art.
- E. In the event that the eligible capital project should result in a public improvement which is inaccessible to the public, such as an underground structure, or for which it is not feasible to incorporate the public art element, the funds designated for the public art element shall be transferred to the Public Art Fund and may be used for the creation of off-site works of art.

### **1. Funding Aggregations**

Use of public art money depends on the funding source and the site. Certain capital improvement funding may require that public art money be restricted for use at a specific project site, or the Public Art Annual Plan may designate such a restriction. Other funds may be “pooled” and allocated for a work of art “off-site”. “Pooling” allows for small amounts to be aggregated toward one viable project.

Funds deemed not necessary or appropriate for public art at a project site by the Berkeley Civic Arts Commission and the Capital Improvement Project Manager(s), may be pooled and expended on other projects approved under the Public Art Annual Plan when such funds are eligible to be so used.

### **2. Method Of Calculation**

The minimum amount to be appropriated to the Public Art Fund shall be the total capital project appropriation, including all construction costs, architectural and engineering fees, and site work expenses, excluding amounts budgeted for real property acquisition, demolition, equipment, facility maintenance and operations, multiplied by 0.015.

### **3. Ineligible Uses**

Monies appropriated according to Resolution No. 60,048-N.S. may not be used for the following:

- a. Art objects that are mass produced and of standard design, such as playground equipment or fountains.
- b. Reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- c. Those items that contribute to the asset base and normal operating expenses of a resident agency, such as a city museum or gallery, or a private cultural institution.
- d. Artwork acquired through third-party owners, such as private collectors or auction houses.

- e. Architects' fees, except in such cases where the public art component significantly changes a project architect's scope of services.
- f. Operating expenses related to the work, including water, electricity or mechanical devices.

**C. ANNUAL PUBLIC ART PLAN**

In order to successfully implement a city-wide Public Art Program, a collaborative effort must be made by various City departments.

Each fiscal year the Civic Arts Coordinator and representatives from the Civic Arts Commission, the City Manager's Office, Planning and Development, the Office of Economic Development, Parks and Marina and Public Works shall meet to identify appropriate capital projects. The Civic Arts Coordinator and the Public Art Committee of the Civic Arts Commission shall use this information to write an Annual Public Art Plan. The Annual Plan shall identify eligible capital improvement budgets and projects, determine funding and select sites. "Pooling" of small, non-site-specific funding sources shall be a part of this process. Site-specific and city-wide projects shall be determined. A consultant with expertise in master plan development and public art may facilitate this process. The Annual Public Art Plan shall be presented by staff to the Civic Arts Commission for approval and then forwarded to the City Council for their information.

**D. ADMINISTRATION**

**1. Berkeley City Council**

The Berkeley City Council shall:

Approve acceptance of gifts of artwork to the City valued at \$1,000 or more, and approve loans of City-owned artwork to other organizations or institutions.

**2. Berkeley Redevelopment Agency**

The Berkeley Redevelopment Agency shall:

- a. Review and approve Public Art Program Policies and Procedures as they may relate to Agency Policies.
- b. Assist in the coordination of public art projects on Agency properties.

**3. Civic Arts Commission**

The Civic Arts Commission and the Civic Arts Coordinator shall administer the Public Art Program and shall be responsible for reporting Public Art Program activities to the Berkeley City Council and Redevelopment Agency. The Commission shall:

- a. Recommend Public Art Program policies and procedures to the City Council.

- b. Make all aesthetic decisions as outlined in the 1985 Visual Art/Public Art Ordinance, including final selection of public art sites and artwork.
- c. Approve the Annual Public Art Plan and submit it to the City Council and/or Agency for information.
- d. Approve loans of artwork to the City.
- e. Review and recommend to the City Council the acceptance or rejection of all proposed gifts of artwork to the City valued at \$1,000 or more, approve gifts of artwork valued under \$1,000, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- f. Revise Public Art Program policies and procedures as necessary.
- g. Review and recommend extensions of time for temporary projects.

#### **4. Public Art Committee of the Berkeley Civic Arts Commission**

The Public Art Committee (PAC) shall be comprised of four members of the Civic Arts Commission as stated in the 1985 Ordinance. The commission shall strive for ethnic, social, and professional diversity in the PAC's membership. Members of the PAC will be selected for their expertise in public art, urban design and community participation.

The Public Art Committee shall:

- a. Recommend program policies and procedures to the Civic Arts Commission.
- b. Recommend public art projects and budgets, in the form of an Annual Public Art Plan, to the Civic Arts Commission.
- c. Review for acceptance or rejection, proposals for public art acquisitions, as recommended by selection panels, and forward a recommendation for acceptance or rejection to the Civic Arts Commission.
- d. Review and recommend to the Civic Arts Commission the acceptance or rejection of all proposed gifts or loans of artwork to the City, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- e. Serve as community liaisons and provide advocacy for the Public Art Program and its activities.
- f. Select its Chairperson for the same term as the Chair of the Commission.

## 5. The Public Art Advisory Committee

For certain projects, staff and/or the Public Art Committee may elect to establish a project “advisory” committee. An advisory committee is an ad hoc group which provides the Arts Commission, staff and artists with information regarding policy issues in public art, the physical parameters of the site, the site’s users or audience, the social, historical, or cultural history of the neighborhood where the artwork will occur, and other types of information that may assist the Arts Commission in public art decisions.

A Public Art Advisory Committee (PAAC) shall augment the four-person Public Art Committee by providing professional advice. This will allow a greater area of expertise to assist the Arts Commission in its selections and policy decisions. The PAAC can choose to sit with and advise the Public Art Committee. The PAAC can also choose to meet quarterly and serve to help settle issues in the public art process. Staff and/or the Public Art Committee shall recommend putting such a panel in place according to the complexity of the projects and sites, with people whose expertise is relevant to the specific project. The Public Art Advisory Committee will not have a vote but its recommendations shall be taken into consideration by the Public Art Committee.

The Advisory Committee is not limited to, but may consist of one or more of the following persons:

- i. The design architect. When the project calls for an artist or artists to participate on a design team, the project architect may be asked to serve as a voting member of the selection panel as well.
- ii. The project manager or designee from the City department collaborating on the project.

## 6. Public Art Program Staff

The Civic Arts Coordinator shall be responsible for the overall management and administration of the public art program and public art projects from inception to completion. The Civic Arts Coordinator’s responsibilities shall include, but are not limited to, the following:

- a. Review, evaluate and allocate the City/Agency Annual Capital Improvement Projects list and identify potential art projects to be implemented in conjunction with projects described therein.
- b. Review other planned or existing City/Agency projects to determine other appropriate public art project opportunities.
- c. Prepare the Annual Public Art Plan with the Public Art Committee.
- d. With assistance from the PAC, develop project parameters, budgets, and schedules for each adopted project.
- e. Develop and implement an artist recruitment plan, including writing and disseminating Requests For Proposals/Qualifications or Calls for Artists, and identify appropriate methods for the artist selection process.

- f. For selection processes involving a selection panel, identify and recommend to the PAC qualified panelists.
- g. Assemble Public Art Advisory Committee members as appropriate.
- h. Review artists' application materials and pre-screen the applicant pool to select a slate of qualified candidates for review by the selection panel.
- i. Prepare artists' materials for presentation to the panel.
- j. Schedule, facilitate, and oversee the artist selection process.
- k. Submit panel's recommendations to the PAC and Civic Arts Commission.
- l. Solicit review, comments, and/or approvals for works of art from appropriate City departments, relative to safety and maintenance, and if required, for resolution.
- m. Convene and facilitate any public meetings related to the project.
- n. Negotiate and administer contracts; review and approve general contractor bid documents as they pertain to the implementation of the public art project.
- o. Collaborate with other city departments to coordinate the roles and responsibilities of the artist, architect, engineer, general contractor, and other professionals involved in the project.
- p. Prepare and distribute press and publicity materials related to the Public Art Program.
- q. Prepare and maintain project files.
- r. Prepare grant requests from outside funding sources, as appropriate.
- s. Review the Public Art collection to evaluate and make recommendations for maintenance or conservation needs.
- t. Solicit funds from foundations, corporations, public agencies, and other appropriate sources.

**7. City Departments/Client Agencies**

All City agencies and departments collaborating on public art projects with the Civic Arts Commission and the Civic Arts Coordinator shall:

- a. Deposit public art allocations in the City's Public Art Fund.

- b. Provide information to the Civic Arts Coordinator, which identifies existing or planned sites under the Department's jurisdiction which May 28, 2003 be appropriate for public art projects.
- c. Include the cost of architectural services related to the coordination and implementation of the Public Art Program in the total construction budget. Incorporate into bid packages and contracts, language describing the architect's scope of services relative to the public art project.
- d. Direct the project architect to work within the intent of the program as described in the Percent for Art Resolution and in these guidelines.
- e. Assist staff in the development and implementation of public art projects.
- f. Inform staff of the relationship of any advisory groups, neighborhood groups, or other groups which may be impacted by or be interested in the development of a public art project.
- g. Inform staff of any proposed or planned project involving construction, renovation, or further development of a site or facility soon enough to allow for adequate review of the project's potential for incorporation of artwork, and for planning of an appropriate artwork project or design team effort.
- h. Advise staff of any municipal, division, or departmental ordinances, resolutions, or regulations, which may affect or be affected by proposed public art projects.
- i. Inform staff of planning projects for neighborhood improvement, redevelopment area projects, private or public planning studies and/or long-range policy recommendations, which have the potential to incorporate public art.

## **8. Consultants**

Consultants may be needed to advise and/or assist the Commission with specific projects. Consultant/Project Manager fees may be taken out of the .5% described in Section B, and as a general rule the fee shall range from 10-15% of the cost of the artwork. The consultant shall report to the Civic Arts Coordinator who shall keep the Arts Commission apprised of the work involved.

## **9. Selection Panel**

Selection panels are ad-hoc, assembled for specific projects, to assist the Public Art Program in identifying qualified artists for a project. The number of panelists and the composition of the panel appointed for projects depend upon the size, location, and complexity of each project. Selection panels should be assembled with racial, cultural and gender diversity as a guide. The panel composition shall comply with the 1985 City Ordinance on Visual Art/Public Art and may include:

a. Three consultants. A qualified consultant means a professional visual artist, educator, scholar, historian, collector, environmental designer, or planner, whose authorities and skills are known and respected in the community and, whenever feasible, who has demonstrated an interest in, and has participated in, the arts of the city. {Ord. 5630-NS1 {part}. 1985}

And when appropriate:

- b. A representative of the neighborhood
- c. A representative of the Civic Arts Commission
- d. A representative of other City boards and Commissions
- e. A project architect
- f. Nonvoting Advisory Members

**E. ACQUISITION OF PUBLIC ARTWORK**

**1. Criteria For The Acquisition Of Artwork**

Criteria to be used in the acquisition of public artwork or design elements shall include, but not be limited to, the following:

- a. Artistic Quality: Excellence of the artworks' craftsmanship, originality and appropriateness of concept, and integrity of materials used.
- b. Media: All forms of media shall be considered. Works may be portable, permanently affixed, or incorporated in the design and/or function of a public space. Temporary exhibits and installations may also be considered for commissions except when excluded by funding source with specific restrictions.
- c. Permanence: For permanent works of art or design elements, due consideration shall be given to the work's structural soundness, surface integrity, and to inherent resistance to theft, vandalism, weathering, public safety, and maintenance or repair costs, sufficient to endure 30 years.
- d. Public Safety: All works of art, design elements, or temporary installations shall be evaluated to ensure their compliance with public safety requirements.
- e. Diversity: The Public Art Program recognizes the cultural, ethnic, and social diversity of the Berkeley population, as well as that of the greater Bay Area, and shall incorporate diversity in every aspect of the program. Means by which the Program may realize the goal of cultural and aesthetic diversity shall include, but is not limited to:
  - (i) Artist ethnicity,
  - (ii) Geographic distribution throughout Berkeley,

- (iii) Style, scale and media,
- (iv) Community participation in the public art process, and
- (v) Experimental and traditional forms of art.

## 2. Compatibility

Before a proposal for a public art project is given final approval, it shall be evaluated for its compatibility relative to:

- a. Visibility and public access.
- b. Public safety.
- c. Traffic patterns.
- d. The relationship of the proposed public art project to the site's existing or future architectural features, its natural features, its historical, geographic and social/cultural context.
- e. The function and uses of the facility or site.
- f. The nature of the site's surrounding neighborhood and potential impact of the public art project on residents, businesses, existing works of art or design elements within the site's vicinity.
- g. Future development plans for the area which may affect the public art project.
- h. The feasibility of the budget and material list relative to the available funding.

## F. SELECTION OF ARTISTS

Selecting the artist, whether to create a discrete artwork or to participate in a design or community collaboration, is the single most important decision in the public art process. Special care must be taken in all aspects of selecting the artist in order to ensure the best possible public art project, taking into account the goals of the project, the community served, the nature of the site, and the other members of the design team.

### 1. Methods Of Selection

Artists (or artwork) may be selected for public art projects by one of the following methods:

- a. Direct selection: artist(s) or completed artwork(s) chosen directly by the Public Art Committee or by a Selection Panel.



- b. Invitational selection: a limited number of artists are invited to submit proposals, a completed art work, or otherwise participate in a public art project selection process.

The Public Art Program may utilize direct recruitment methods to solicit qualified artists for a project by means of direct mailings of the RFQ/RFP, or through phone contact with artists, arts organizations, galleries or other sources.

- c. Open competition: any professional artist is eligible to participate, subject to limitations established by the Public Art Committee in a Call for Artists.

For competitive projects described in b and c above, staff shall develop a Request for Qualifications (“RFQ”), a Request for Proposals (“RFP), or a Call for Artists.

- (i) A description of the project, including its goals; work scope, including the site’s physical description; potential approaches to the project; and any physical or legal restrictions which may apply to the project.
- (ii) Application procedures, including materials requested, eligibility and timelines.
- (iii) Selection procedures (if appropriate).
- (iv) Criteria for the selection of artist(s) and artwork(s).
- (v) Project budget.

## 2. Artist Selection Procedures

- a. Screening

Public Art staff may screen applications, and evaluate them relative to the minimum candidate criteria and qualifications outlined in the RFQ/ RFP/ Call for Artists. Staff shall then present the slate of qualified candidates to the selection panel. Along with the candidates recommended for review, the panel will receive a list of all project applicants.

- b. Selection Panel

Staff shall develop a list of qualified panelists. The panelist’s list shall be reviewed and approved by the PAC.

Public Art Program staff shall recommend panelists for each project and shall submit these recommendations to the PAC for approval. Selection of panelists by the PAC shall be made based on the following: experience in implementing or administering public art projects; knowledge of current trends, interest in working with Berkeley’s multi-cultural community; ability to assess the creativity, design skills, and problem-solving abilities of artists under review; knowledge of materials and methods of fabric-

ation used in public art projects and an ability to assess their appropriateness to a particular site; ability to represent a particular neighborhood or area of Berkeley in which the artwork will be sited; and ability to work cooperatively and effectively in a panel process.

The Selection Panel reviews proposals submitted by artists and makes recommendations to the Public Art Committee.

c. **Public Art Advisory Committees**

Advisory Committee members shall be identified through existing community organizations and by referrals from other agencies, public or private. Members should have public art expertise and be familiar with the neighborhood in which the art project will occur. The Advisory Committee shall provide the Arts Commission with useful information in the development of Public Art projects. Decisions or questions by the Public Art Committee can be brought to the Public Art Advisory Committee for clarification and decision making advice. One or more Advisory Committee members may serve on the selection panel if requested by the PAC to do so.

**3. Artist Eligibility Criteria**

Specific eligibility requirements will be established at the initiation of each project and will be described on the RFQ/RFP. In general:

- a. Artists shall be considered for commission on the basis of their qualifications, as demonstrated by past work, relevant experience, the appropriateness of a specific proposal to the project goals, and the likelihood that the artist can successfully complete the project.
- b. Excluded from consideration are works of art or proposals submitted by the project architect and/or members of the design team, and artists who are members of or immediate family of the Public Art Program staff, the PAC, Commission, or the City Council.

**4. Artist Selection Criteria**

The Panelists shall select artists based on the appropriateness of their proposal to the particular project and the probability of its successful completion, as indicated by the artist's past work or by his/her ability to work within the funding framework to ensure successful completion of the project. In evaluating proposals for public art projects, panelists shall consider criteria in Section E.1 above and:

- a. An evaluation of the artist's proposed budget and the artist's ability to successfully complete the project within the proposed budget.
- b. An analysis of the artist's proposed method of installation of the artwork and an evaluation of safety and structural factors involved in the installation.

**5. Selection Process**

- a. All meetings of selection panels shall be open to the public and will be publicly noticed.
- b. Staff shall issue written instructions to panelists detailing the duties and responsibilities related to the project before the first panel meeting.
- c. The Panel shall review credentials, proposals, and/or materials submitted by artists.
- d. The Panel shall recommend to the Public Art Committee an artist or artists to be commissioned for the project; to develop design proposals for the project, or whose existing work is to be selected for the project. In the case when an artist or artists have been asked to prepare a specific design proposal, the Panel shall reconvene to review the proposal.
- e. A vote shall be taken, with the majority carrying the decision. Panelists shall each have one vote.
- f. The Panel shall have the option of making no selection. In that event, the PAC shall determine whether to initiate a new selection process, revise the project, or abandon the project.
- g. The Panel's decision shall be recorded by Public Art staff in the form of a written record to the Public Art Committee.
- h. The PAC shall forward a recommendation to the Civic Arts Commission. The Commission shall review and approve or reject the PAC's recommendation.
- i. If the Commission approves the PAC's recommendation and the dollar amount exceeds staff's approval of authority, the Commission shall forward the proposed contract recommendation to the City Council for acceptance. Otherwise, the Civic Arts Commission's selection is final.
- j. If the Commission rejects the PAC's recommendation, it shall provide a report to the PAC with the reasons for the rejection. The PAC shall then determine whether to 1) revise or modify the project; 2) initiate a new review and selection process; or 3) abandon the project.

**6. Conflict of Interest**

- a. Any artist selected to serve on the Selection Panel is precluded from having his/her work considered for inclusion in any Percent for Art Project during the term of service.
- b. Persons who would directly benefit from the selection of a particular artist or artworks are ineligible as panelists (gallery owners, brokers, artists' representatives, etc.).

- c. A member of the Arts Commission is not eligible for city public art commissions. Members of the project architect's firm are not eligible for consideration as artists.
- d. An artist who is currently under consideration for selection for another Civic Arts Commission public art project (i.e. is an applicant or finalist), may not serve as a panelist.

## **G. PUBLIC PARTICIPATION**

Public participation is a crucial element of any public art program. As a city whose residents pride themselves on their commitment to local affairs, Berkeley makes public participation an important and creative part of its public art program. Public participation can be achieved in a variety of ways—from lectures and workshops that encourage public awareness of the public art program to the involvement of interested residents in the actual planning, design, installation and maintenance of public art projects. Public Art program staff and the PAC shall outline approaches for public participation for each project. Public participation in the public art program shall include, but not be limited to, the strategies listed below.

### **1. Education and Outreach**

In order to stimulate and encourage public awareness of the arts, the Civic Arts Commission will initiate events and activities designed to provide a greater understanding of public art. These may include:

- a. Conferences, symposia, workshops, artist's lectures, presentations, community meetings, and public art tours.
- b. Development of cooperative programs with educational and arts institutions and community organizations.
- c. Regular distribution of promotional and publicity packets, including press releases and public service announcements.

### **2. Community Representation**

Community representatives may be appointed to serve on selection panels for public art projects, and on Public Art Advisory Committees, when such committees are warranted.

### **3. Creative Interactions Between Artists and Community**

Involvement of community representatives may include participation in the planning, design and installation of public art projects. Staff shall facilitate creative collaborations between project artists and organizations that represent community stakeholders and have expressed interest in public art collaboration. These organizations might include, but not be limited to, community organizations, educational institutions, arts organizations, and nonprofit agencies.

## H. PROJECT MANAGEMENT

### 1. Inter-Agency Procedures

- a. The Civic Arts Coordinator shall negotiate the contract with the artist and with other consultants as necessary for the purchase or design, fabrication, installation of and payment for the artwork.
- b. Installation of artwork shall be coordinated between Public Art Program staff and the appropriate City official (s) within the Department having jurisdiction over the site or construction.
- c. Unless otherwise agreed, routine maintenance of the artwork shall be the responsibility of the Department of Public Works. Routine maintenance shall include such tasks as dusting, sweeping, and other such activities. Extraordinary maintenance and/or conservation of the artwork shall be the responsibility of the Civic Arts Coordinator and Commission. No other City Agency or Department shall be responsible for the conservation of artwork, and no conservation or repair work shall be performed without the prior written approval of the Civic Arts Commission.
- e. Public Art program staff, in consultation with other City agencies, shall develop an annual maintenance schedule for the public art collection and, shall determine appropriate budgets and procedures for the care and maintenance of the collection.

### 2. Project Files And Records

Public Art Program staff shall maintain a registry of all City public art that is owned borrowed and loaned, including title, artist, value, location, date of purchase, installation, loan, receipt, deinstallation, and other relevant information. Staff shall also maintain records of each project, which shall include, but not be limited to, the following:

- a. Contract(s) with the artist(s) and consultants participating in the project.
- b. Records of City Council, Commission, PAC and Public Art Advisory Committee actions bearing on the project.
- c. Interdepartmental agreements relating to the siting or implementation of the project.
- d. Correspondence, announcements, memoranda, press clippings and publicity information relating to the project.
- e. Records of all billings made in connection with the project.
- f. All proposals submitted and other visual or written materials relating to the artist's design or method of execution as they are submitted or become available.

- g. Photo documentation in the form of black and white photographs, color slides, videos and/or transparencies of the completed project.

### **3. Artist Fee Policy**

The following guidelines for fee structures are based on professional standards established by the public art field, and on the fees paid to other design professionals in the related fields of architecture and landscape architecture. The following should be seen as guidelines only.

In general, the Commission shall consider the following factors in determining the artist fees awarded for each project.

- a. The scope of work and degree of artist involvement.
- b. The project budget.
- c. The artist's experience and professional standing.
- d. The fee scale for similar scopes of work on comparable projects.

## **I. GIFTS AND LOANS**

The Gifts and Loans Policy provides a process for the review of proposed gifts and loans of artwork or other artistic objects to the City of Berkeley, and for the placement, care, and preservation of artwork acquired through this process.

### **1. Conditions Governing the Donation of Artwork to the City of Berkeley**

Potential donors of artwork shall submit information to the Public Art program staff. Staff shall review the materials and if the information is complete, will forward it to the Public Art Committee for review. The PAC shall determine the feasibility of the proposed donation and shall forward a recommendation to the Civic Arts Commission for review. If the Commission recommends acceptance of the proposed artwork, a recommendation shall be made to the City Council or Redevelopment Agency for final approval and acceptance of artwork valued at \$1,000 or more. If valued under \$1,000, the Commission's determination is final.

### **2. Materials to be Submitted by Donor**

Materials may include but are not limited to:

- a. Photographs and/or slides of the work of art that depict it from all sides.
- b. A written description of the artwork, including dimensions (height, width, depth and weight), materials used, and any frames, backings, mounts or anchoring systems to be used in the installation of the artwork.
- c. A site plan that identifies and describes the proposed site for the artwork and that accurately depicts the artwork in relationship to the surrounding environment.

- d. A written description and/or drawing of the proposed method of installation and a schedule for the transportation and installation of the artwork.
- e. Estimated costs for transporting and installing the artwork (to be done at donor's expense, unless otherwise agreed to by the City).
- f. Written authorization from the City agency with jurisdiction over the site, approving the installation of the artwork.

### **3. Conditions of Acceptance**

The Public Art Committee and the Civic Arts Commission encourage unrestricted gifts to the City of Berkeley. Any conditions or restrictions attached to a gift or loan must be presented to the Public Art Committee, the Civic Arts Commission, and City Council if valued at \$1,000 or more, for approval.

### **4. Conditions Governing the Exhibition of Loaned Artwork on City Property**

Persons or organizations requesting to temporarily exhibit a work of art in or on City-owned property must submit the following:

- a. Photographs and/or slides of the work(s) of art to be exhibited.
- b. A description of the location where the artwork will be exhibited and a written authorization from the City agency with jurisdiction over the site that approves the proposed loan of the artwork in the location and a time period for the artwork.
- c. A written description and/or drawing of the proposed method of installation and a schedule for the transportation, installation, and removal of the artwork.

### **5. Lender's Agreements**

When exhibiting a work of art on City property, the lender must agree in writing to the following:

- a. Unless otherwise agreed to in writing by the City, the lender shall be responsible for all costs associated with the transportation, installation, deinstallation, and insuring of the artwork.
- b. Upon removal of the artwork, the lender must return the site to its original condition and remove any debris caused by or resulting from the exhibition the artwork.

- c. Unless otherwise agreed to in writing by the City, the lender must agree to exhibit the artwork at his/her own risk and to bear the expenses of any losses or damages to the artwork. The lender must agree in writing to hold the City harmless from any and all liabilities and for any damages or losses to the artwork.
- d. The lender shall produce and display a descriptive label for display next to or near the loaned artwork.
- e. If the artwork becomes damaged, destroyed, or becomes a danger to the public, the lender shall remove the artwork within three days notice from the City.

**6. Acceptance of Monetary Gifts for the Acquisition of Artwork**

Proposed monetary gifts to the City for the purpose of acquiring artwork shall be referred to the Arts Commission for review and approval. All recommendations on the acceptance or rejection of proposed gifts of money of \$1,000 or more shall be referred to the City Council for final approval and acceptance.



# CITY OF BERKELEY

## MAYOR AND COUNCIL

|                   |                   |
|-------------------|-------------------|
| <i>Mayor</i>      | <i>Tom Bates</i>  |
| <b>District 1</b> | Linda Maio        |
| <b>District 2</b> | Margaret Breland  |
| <b>District 3</b> | Maudelle Shirek   |
| <b>District 4</b> | Dona Spring       |
| <b>District 5</b> | Miriam Hawley     |
| <b>District 6</b> | Betty Olds        |
| <b>District 7</b> | Kriss Worthington |
| <b>District 8</b> | Gordon Wozniak    |

## CIVIC ARTS COMMISSION

The following is a list of Commission members and their respective districts and represented councilmember. To obtain additional contact information, please call the Civic Arts Program Office at (510) 981-7533.

|                    |            |                       |
|--------------------|------------|-----------------------|
| <b>Mayor Bates</b> |            | Karen McKie           |
| <b>Maio</b>        | District 1 | Jos Sances            |
| <b>Breland</b>     | District 2 | Adam David Miller     |
| <b>Shirek</b>      | District 3 | Barbara Coleman       |
| <b>Spring</b>      | District 4 | Amanda Bornstein      |
| <b>Hawley</b>      | District 5 | David Snippen (Chair) |
| <b>Olds</b>        | District 6 | Sherry Smith          |
| <b>Worthington</b> | District 7 | Bonnie Hughes         |
| <b>Wozniak</b>     | District 8 | Suzy Thompson         |

## VOLUNTEER MEMBERS OF BERKELEY CULTURAL TRUST ADVISORY GROUP FOR PUBLIC ART

|                                                    |                                        |
|----------------------------------------------------|----------------------------------------|
| ACCI Gallery (Arts and Crafts Cooperative)         | Central Works Theater Ensemble         |
| Alameda County Art Commission                      | Community Rhythms                      |
| Aurora Theatre Company                             | Freight and Salvage Coffee House       |
| Berkeley Architectural Heritage Association        | Habitot Children's Museum              |
| UC Berkeley Art Museum and Pacific Film<br>Archive | Jewish Music Festival                  |
| Berkeley Arts Center                               | John Northmore Roberts and Associates  |
| Berkeley Arts Festival                             | Judah L. Magnes Museum                 |
| Berkeley Broadway Singers                          | Julia Morgan Center for the Arts       |
| Berkeley City Ballet                               | Kala Art Institute                     |
| Berkeley Community Theater /BUSD                   | La Pena Cultural Center                |
| Berkeley Convention & Visitors Bureau              | Luna Kids Dance                        |
| Berkeley Opera                                     | Economic Development, City of Berkeley |
| Berkeley Public Library                            | Resources for Community Development    |
| Berkeley Repertory Theatre                         | Shotgun Players                        |
| Berkeley Symphony Orchestra                        | Solano Avenue Association              |
| CAL Performances                                   | Speakeasy Theatre                      |
| Cal Shakes                                         | Transparent Theater                    |
| California Shakespeare Festival                    | Woman's Will                           |
| Center Stage                                       | Young Artists Workspace                |

The Berkeley Cultural Trust is a volunteer affiliation of the directors of Berkeley nonprofit arts organizations. The BCT meets regularly throughout the year in different cultural sites and provides a forum for discussion and advocacy. The Berkeley Civic Arts Commission and City Staff are invited to participate. For more information about the BCT please contact the Civic Arts Coordinator.

GUIDELINES FOR PUBLIC ART  
CITY OF BERKELEY PUBLIC ART PROGRAM  
Revised and Updated March 19, 2019

INTRODUCTION

Welcome to the Guidelines for Public Art for the City of Berkeley Public Art Program. Please read our companion publication, Public Art for the City of Berkeley for city legislation governing the selection process, the role of the Civic Arts Commission and the funding mechanism (1985 City Ordinance No. 5603 N.S. on Visual Art in Public Places, 1991 City Ordinance No. 5253 on the Civic Arts Commission, 1999 Resolution No. 60,048-N.S. on 1.5% funding).

The following guidelines are meant to support, not override, legislation and staff responsibilities.

A. MISSION STATEMENT

The City of Berkeley Public Art Program will enliven and beautify the City's environment. The program will encourage and promote awareness of the City's rich ethnic, social, and cultural diversity as expressed through visual and design arts. The Public Art Program will enhance the visual environment for the citizens of Berkeley, integrate the design work of artists into the development of City public works projects, and promote tourism and economic vitality of the City through the enhancement of public spaces.

B. PERCENT FOR ART PROGRAM FUNDING

Funding for public art shall be generated primarily from capital projects as outlined in the Percent for Art Resolution No. 60,048-N.S. adopted by City Council on June 1, 1999, which reads as follows:

SECTION III FUNDING

A. A sum equal to one percent (1%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art

integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to, color, shape, design, texture, general appearance, or decoration which is designed and constructed integrally with the public improvement itself.

B. In addition to the amount specified in Section III. (A), above, a sum equal to one half percent (0.5%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for administrative costs.

C. Funds designated for the Public Art Fund shall be transferred no later than the date on which funds for the Project Budget have been encumbered.

D. In the event that the final cost of designing and constructing the Public Art Element is less than one and one half percent (1.5%) of the project budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of other works of art.

E. In the event that the eligible capital project should result in a public improvement which is inaccessible to the public, such as an underground structure, or for which it is not feasible to incorporate the public art element, the funds designated for the public art element shall be transferred to the Public Art Fund and may be used for the creation of off-site works of art.

#### 1. Funding Aggregations

Use of public art money depends on the funding source and the site. Certain capital improvement funding may require that public art money be restricted for use at a specific project site, or the Public Art Annual Plan may designate such a restriction. Other funds may be “pooled” and allocated for a work of art “off-site”. “Pooling” allows for small amounts to be aggregated toward one viable project.

Funds deemed not necessary or appropriate for public art at a project site by the Berkeley Civic Arts Commission and the Capital Improvement Project Manager(s), may be pooled and expended on other projects approved under the Public Art Annual Plan when such funds are eligible to be so used.

2. Method Of Calculation

The minimum amount to be appropriated to the Public Art Fund shall be the total capital project appropriation, including all construction costs, architectural and engineering fees, and site work expenses, excluding amounts budgeted for real property acquisition, demolition, equipment, facility maintenance and operations, multiplied by 0.015.

3. Ineligible Uses

Monies appropriated according to Resolution No. 60,048-N.S. may not be used for the following:

- a. Art objects that are mass produced and of standard design, such as playground equipment or fountains.
- b. Reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- c. Those items that contribute to the asset base and normal operating expenses of a resident agency, such as a city museum or gallery, or a private cultural institution.
- d. Artwork acquired through third-party owners, such as private collectors or auction houses.
- e. Architects' fees, except in such cases where the public art component significantly changes a project architect's scope of services.
- f. Operating expenses related to the work, including water, electricity or mechanical devices.

C. ANNUAL PUBLIC ART PLAN

In order to successfully implement a citywide Public Art Program, a collaborative effort must be made by various City departments.

Each fiscal year the Civic Arts Coordinator and representatives from the Civic Arts Commission, the City Manager's Office, Planning and Development, the Office of Economic Development, Parks and Marina and Public Works shall meet to identify appropriate capital projects. The Civic Arts Coordinator and the Public Art Committee of the Civic Arts Commission shall use this information to write an Annual Public Art Plan. The Annual Plan shall identify eligible capital improvement budgets and projects, determine funding and select sites. "Pooling" of small, non-site-specific funding sources shall be a part of this process. Site-specific and citywide projects shall be determined. A consultant with expertise in master plan development and public art may facilitate this process. The Annual Public Art Plan shall be presented by staff to the Civic Arts Commission for approval and then forwarded to the City Council for their information.

D. ADMINISTRATION

1. Berkeley City Council

The Berkeley City Council shall approve acceptance of gifts of artwork to the City valued at \$1,000 or more, and approve loans of City-owned artwork to other organizations or institutions.

2. Berkeley Redevelopment Agency

The Berkeley Redevelopment Agency shall:

- a. Review and approve Public Art Program Policies and Procedures as they may relate to Agency Policies.
- b. Assist in the coordination of public art projects on Agency properties.

3. Civic Arts Commission

The Civic Arts Commission and the Civic Arts Coordinator shall administer the Public Art Program and shall be responsible for reporting Public Art Program activities to the Berkeley City Council and Redevelopment Agency. The Commission shall:

- a. Recommend Public Art Program policies and procedures to the City Council.
- b. Make all aesthetic decisions as outlined in the 1985 Visual Art/Public Art Ordinance, including final selection of public art sites and artwork.
- c. Approve the Annual Public Art Plan and submit it to the City Council and/or Agency for information.
- d. Approve loans of artwork to the City.
- e. Review and recommend to the City Council the acceptance or rejection of all proposed gifts of artwork to the City valued at \$1,000 or more, approve gifts of artwork valued under \$1,000, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- f. Revise Public Art Program policies and procedures as necessary.
- g. Review and recommend extensions of time for temporary projects.

4. Public Art Committee of the Berkeley Civic Arts Commission

The Public Art Committee (PAC) shall be comprised of four members of the Civic Arts Commission as stated in the 1985 Ordinance. The commission shall strive for ethnic, social, and professional diversity in the PAC's membership. Members of the PAC will be selected for their expertise in public art, urban design and community participation.

The Public Art Committee shall:

- a. Recommend program policies and procedures to the Civic Arts Commission.
- b. Recommend public art projects and budgets, in the form of an Annual Public Art Plan, to the Civic Arts Commission.
- c. Review for acceptance or rejection, proposals for public art acquisitions, as recommended by selection panels, and forward a recommendation for acceptance or rejection to the Civic Arts Commission.

- d. Review and recommend to the Civic Arts Commission the acceptance or rejection of all proposed gifts or loans of artwork to the City, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- e. Serve as community liaisons and provide advocacy for the Public Art Program and its activities.
- f. Select its Chairperson for the same term as the Chair of the Commission.

5. The Public Art Advisory Committee

For certain projects, staff and/or the Public Art Committee may elect to establish a project “advisory” committee. An advisory committee is an ad hoc group which provides the Arts Commission, staff and artists with information regarding policy issues in public art, the physical parameters of the site, the site’s users or audience, the social, historical, or cultural history of the neighborhood where the artwork will occur, and other types of information that may assist the Arts Commission in public art decisions.

A Public Art Advisory Committee (PAAC) shall augment the four-person Public Art Committee by providing professional advice. This will allow a greater area of expertise to assist the Arts Commission in its selections and policy decisions. The PAAC can choose to sit with and advise the Public Art Committee. The PAAC can also choose to meet quarterly and serve to help settle issues in the public art process. Staff and/or the Public Art Committee shall recommend putting such a panel in place according to the complexity of the projects and sites, with people whose expertise is relevant to the specific project. The Public Art Advisory Committee will not have a vote but its recommendations shall be taken into consideration by the Public Art Committee.

The Advisory Committee is not limited to, but may consist of one or more of the following persons.

- i. The design architect. When the project calls for an artist or artists to participate on a design team, the project architect may be asked to serve as a voting member of the selection panel as well.



- ii. The project manager or designee from the City department collaborating on the project.

6. Public Art Program Staff

The Civic Arts Coordinator shall be responsible for the overall management and administration of the public art program and public art projects from inception to completion. The Civic Arts Coordinator's responsibilities shall include, but are not limited to, the following.

- a. Review, evaluate and allocate the City/Agency Annual Capital Improvement Projects list and identify potential art projects to be implemented in conjunction with projects described therein.
- b. Review other planned or existing City/Agency projects to determine other appropriate public art project opportunities.
- c. Prepare the Annual Public Art Plan with the Public Art Committee.
- d. With assistance from the PAC, develop project parameters, budgets, and schedules for each adopted project.
- e. Develop and implement an artist recruitment plan, including writing and disseminating Requests For Proposals/Qualifications or Calls for Artists, and identify appropriate methods for the artist selection process.
- f. For selection processes involving a selection panel, identify and recommend to the PAC qualified panelists.
- g. Assemble Public Art Advisory Committee members as appropriate.
- h. Review artists' application materials and pre-screen the applicant pool to select a slate of qualified candidates for review by the selection panel.
- i. Prepare artists' materials for presentation to the panel.
- j. Schedule, facilitate, and oversee the artist selection process.

- k. Submit panel's recommendations to the PAC and Civic Arts Commission.
- l. Solicit review, comments, and/or approvals for works of art from appropriate City departments, relative to safety and maintenance, and if required, for resolution.
- m. Convene and facilitate any public meetings related to the project.
- n. Negotiate and administer contracts; review and approve general contractor bid documents as they pertain to the implementation of the public art project.
- o. Collaborate with other city departments to coordinate the roles and responsibilities of the artist, architect, engineer, general contractor, and other professionals involved in the project.
- p. Prepare and distribute press and publicity materials related to the Public Art Program.
- q. Prepare and maintain project files.
- r. Prepare grant requests from outside funding sources, as appropriate.
- s. Review the Public Art collection to evaluate and make recommendations for maintenance or conservation needs.
- t. Solicit funds from foundations, corporations, public agencies, and other appropriate sources.

7. City Departments/Client Agencies

All City agencies and departments collaborating on public art projects with the Civic Arts Commission and the Civic Arts Coordinator shall:

- a. Deposit public art allocations in the City's Public Art Fund.

- b. Provide information to the Civic Arts Coordinator, which identifies existing or planned sites under the Department's jurisdiction which may be appropriate for public art projects.
- c. Include the cost of architectural services related to the coordination and implementation of the Public Art Program in the total construction budget. Incorporate into bid packages and contracts, language describing the architect's scope of services relative to the public art project.
- d. Direct the project architect to work within the intent of the program as described in the Percent for Art Resolution and in these guidelines.
- e. Assist staff in the development and implementation of public art projects.
- f. Inform staff of the relationship of any advisory groups, neighborhood groups, or other groups which may be impacted by or be interested in the development of a public art project.
- g. Inform staff of any proposed or planned project involving construction, renovation, or further development of a site or facility soon enough to allow for adequate review of the project's potential for incorporation of artwork, and for planning of an appropriate artwork project or design team effort.
- h. Advise staff of any municipal, division, or departmental ordinances, resolutions, or regulations, which may affect or be affected by proposed public art projects.
- i. Inform staff of planning projects for neighborhood improvement, redevelopment area projects, private or public planning studies and/or long-range policy recommendations, which have the potential to incorporate public art.

8. Consultants

Consultants may be needed to advise and/or assist the Commission with specific projects.

Consultant/Project Manager fees may be taken out of the .5% described in Section B, and as a

general rule the fee shall range from 10-15% of the cost of the artwork. The consultant shall report to the Civic Arts Coordinator who shall keep the Arts Commission apprised of the work involved.

9. Selection Panel

Selection panels are ad-hoc, assembled for specific projects, to assist the Public Art Program in identifying qualified artists for a project. The number of panelists and the composition of the panel appointed for projects depend upon the size, location, and complexity of each project. Selection panels should be assembled with racial, cultural and gender diversity as a guide. The panel composition shall comply with the 1985 City Ordinance on Visual Art/Public Art and may include:

- a. Three consultants. A qualified consultant means a professional visual artist, educator, scholar, historian, collector, environmental designer, or planner, whose authorities and skills are known and respected in the community and, whenever feasible, who has demonstrated an interest in, and has participated in, the arts of the city. {Ord. 5630-NS1 {part}. 1985}

And when appropriate:

- b. A representative of the neighborhood
- c. A representative of the Civic Arts Commission
- d. A representative of other City boards and Commissions
- e. A project architect
- f. Non-voting Advisory Members

E. ACQUISITION OF PUBLIC ARTWORK

1. Criteria For The Acquisition Of Artwork

Criteria to be used in the acquisition of public artwork or design elements shall include, but not be limited to, the following:

- a. Artistic Quality: Excellence of the artworks' craftsmanship, originality and appropriateness of concept, and integrity of materials used.
- b. Media: All forms of media shall be considered. Works may be portable, permanently affixed, or incorporated in the design and/or function of a public space. Temporary exhibits and installations may also be considered for commissions except when excluded by funding sources with specific restrictions.
- c. Permanence: For permanent works of art or design elements, due consideration shall be given to the work's structural soundness, surface integrity, and to inherent resistance to theft, vandalism, weathering, public safety, and maintenance or repair costs, sufficient to endure 30 years.
- d. Public Safety: All works of art, design elements, or temporary installations shall be evaluated to ensure their compliance with public safety requirements.
- e. Diversity: The Public Art Program recognizes the cultural, ethnic, and social diversity of the Berkeley population, as well as that of the greater Bay Area, and shall incorporate diversity in every aspect of the program. Means by which the Program may realize the goal of cultural and aesthetic diversity shall include, but is not limited to:
  - (i) Artist ethnicity,
  - (ii) Geographic distribution throughout Berkeley,
  - (iii) Style, scale and media,
  - (iv) Community participation in the public art process, and
  - (v) Experimental and traditional forms of art.

2. Compatibility

Before a proposal for a public art project is given final approval, it shall be evaluated for its compatibility relative to:

- a. Visibility and public access.
- b. Public safety.
- c. Traffic patterns.
- d. The relationship of the proposed public art project to the site's existing or future architectural features, its natural features, its historical, geographic and social/cultural context.
- e. The function and uses of the facility or site.
- f. The nature of the site's surrounding neighborhood and potential impact of the public art project on residents, businesses, existing works of art or design elements within the site's vicinity.
- g. Future development plans for the area which may affect the public art project.
- h. The feasibility of the budget and material list relative to the available funding.

F. SELECTION OF ARTISTS

Selecting the artist, whether to create a discrete artwork or to participate in a design or community collaboration, is the single most important decision in the public art process. Special care must be taken in all aspects of selecting the artist in order to ensure the best possible public art project, taking into account the goals of the project, the community served, the nature of the site, and the other members of the design team.

1. Methods Of Selection

Artists (or artwork) may be selected for public art projects by one of the following methods:

- a. Direct selection: artist(s) or completed artwork(s) chosen directly by the Public Art Committee or by a Selection Panel.
- b. Invitational selection: a limited number of artists are invited to submit proposals, a completed art work, or otherwise participate in a public art project selection process. The Public Art Program may utilize direct recruitment methods to solicit qualified artists for a project by means of direct mailings of the RFQ/RFP, or through phone contact with artists, arts organizations, galleries or other sources.
- c. Open competition: any professional artist is eligible to participate, subject to limitations established by the Public Art Committee in a Call for Artists.

For competitive projects described in b and c above, staff shall develop a Request for Qualifications (“RFQ”), a Request for Proposals (“RFP), or a Call for Artists.

- (i) A description of the project, including its goals; work scope, including the site’s physical description; potential approaches to the project; and any physical or legal restrictions which may apply to the project.
- (ii) Application procedures, including materials requested, eligibility and timelines.
- (iii) Selection procedures (if appropriate).
- (iv) Criteria for the selection of artist(s) and artwork(s).
- (v) Project budget.

## 2. Artist Selection Procedures

### a. Screening

Public Art staff may screen applications, and evaluate them relative to the minimum candidate criteria and qualifications outlined in the RFQ/ RRP/Call for Artists. Staff shall then present the slate of qualified candidates to the selection panel. Along with the

candidates recommended for review, the panel will receive a list of all project applicants.

b. Selection Panel

Staff shall develop a list of qualified panelists. The panelist's list shall be reviewed and approved by the PAC.

Public Art Program staff shall recommend panelists for each project and shall submit these recommendations to the PAC for approval. Selection of panelists by the PAC shall be made based on the following: experience in implementing or administering public art projects; knowledge of current trends, interest in working with Berkeley's multi-cultural community; ability to assess the creativity, design skills, and problem-solving abilities of artists under review; knowledge of materials and methods of fabrication used in public art projects and an ability to assess their appropriateness to a particular site; ability to represent a particular neighborhood or area of Berkeley in which the artwork will be sited; and ability to work cooperatively and effectively in a panel process.

The Selection Panel reviews proposals submitted by artists and makes recommendations to the Public Art Committee.

c. Public Art Advisory Committees

Advisory Committee members shall be identified through existing community organizations and by referrals from other agencies, public or private. Members should have public art expertise and be familiar with the neighborhood in which the art project will occur. The Advisory Committee shall provide the Arts Commission with useful information in the development of Public Art projects. Decisions or questions by the Public Art Committee can be brought to the Public Art Advisory Committee for clarification and decision making advice. One or more Advisory Committee members may serve on the selection panel if requested by the PAC to do so.

3. Artist Eligibility Criteria



Specific eligibility requirements will be established at the initiation of each project and will be described on the RFQ/RFP. In general:

- a. Artists shall be considered for commission on the basis of their qualifications, as demonstrated by past work, relevant experience, the appropriateness of a specific proposal to the project goals, and the likelihood that the artist can successfully complete the project.
- b. Excluded from consideration are works of art or proposals submitted by the project architect and/or members of the design team, and artists who are members of or immediate family of the Public Art Program staff, the PAC, Commission, or the City Council.

#### 4. Artist Selection Criteria

The Panelists shall select artists based on the appropriateness of their proposal to the particular project and the probability of its successful completion, as indicated by the artist's past work or by his/her ability to work within the funding framework to ensure successful completion of the project. In evaluating proposals for public art projects, panelists shall consider criteria in Section E.1 above and:

- a. An evaluation of the artist's proposed budget and the artist's ability to successfully complete the project within the proposed budget.
- b. An analysis of the artist's proposed method of installation of the artwork and an evaluation of safety and structural factors involved in the installation.

#### 5. Selection Process

- a. All meetings of selection panels shall be open to the public and will be publicly noticed.

- b. Staff shall issue written instructions to panelists detailing the duties and responsibilities related to the project before the first panel meeting.
- c. The Panel shall review credentials, proposals, and/or materials submitted by artists.
- d. The Panel shall recommend to the Public Art Committee an artist or artists to be commissioned for the project; to develop design proposals for the project, or whose existing work is to be selected for the project. In the case when an artist or artists have been asked to prepare a specific design proposal, the Panel shall reconvene to review the proposal.
- e. A vote shall be taken, with the majority carrying the decision. Panelists shall each have one vote.
- f. The Panel shall have the option of making no selection. In that event, the PAC shall determine whether to initiate a new selection process, revise the project, or abandon the project.
- g. The Panel's decision shall be recorded by Public Art staff in the form of a written record to the Public Art Committee.
- h. The PAC shall forward a recommendation to the Civic Arts Commission. The Commission shall review and approve or reject the PAC's recommendation.
- i. If the Commission approves the PAC's recommendation and the dollar amount exceeds staff's approval of authority, the Commission shall forward the proposed contract recommendation to the City Council for acceptance. Otherwise, the Civic Arts Commission's selection is final.
- j. If the Commission rejects the PAC's recommendation, it shall provide a report to the PAC with the reasons for the rejection. The PAC shall then determine whether to 1) revise or modify the project; 2) initiate a new review and selection process; or 3) abandon the project.

6. Conflict of Interest

- a. Any artist selected to serve on the Selection Panel is precluded from having his/her work considered for inclusion in any Percent for Art Project during the term of service.
- b. Persons who would directly benefit from the selection of a particular artist or artworks are ineligible as panelists (gallery owners, brokers, artists' representatives, etc.).
- c. A member of the Arts Commission is not eligible for city public art commissions. Members of the project architect's firm are not eligible for consideration as artists.
- d. An artist who is currently under consideration for selection for another Civic Arts Commission public art project (i.e. is an applicant or finalist), may not serve as a panelist.

G. PUBLIC PARTICIPATION

Public participation is a crucial element of any public art program. As a city whose residents pride themselves on their commitment to local affairs, Berkeley makes public participation an important and creative part of its public art program. Public participation can be achieved in a variety of ways--from lectures and workshops that encourage public awareness of the public art program to the involvement of interested residents in the actual planning, design, installation and maintenance of public art projects. Public Art program staff and the PAC shall outline approaches for public participation for each project.

Public participation in the public art program shall include, but not be limited to, the strategies listed below.

1. Education and Outreach

In order to stimulate and encourage public awareness of the arts, the Civic Arts Commission will initiate events and activities designed to provide a greater understanding of public art. These may include:

- a. Conferences, symposia, workshops, artist's lectures, presentations, community meetings, and public art tours.
- b. Development of cooperative programs with educational and arts institutions and community organizations.
- c. Regular distribution of promotional and publicity packets, including press releases and public service announcements.

## 2. Community Representation

Community representatives may be appointed to serve on selection panels for public art projects, and on Public Art Advisory Committees, when such committees are warranted.

## 3. Creative Interactions Between Artists and Community

Involvement of community representatives may include participation in the planning, design and installation of public art projects. Staff shall facilitate creative collaborations between project artists and organizations that represent community stakeholders and have expressed interest in public art collaboration. These organizations might include, but not be limited to, community organizations, educational institutions, arts organizations, and non-profit agencies.

## H. PROJECT MANAGEMENT

### 1. Inter-Agency Procedures

- a. The Civic Arts Coordinator shall negotiate the contract with the artist and with other consultants as necessary for the purchase or design, fabrication, installation of and payment for the artwork.

b. Installation of artwork shall be coordinated between Public Art Program staff and the appropriate City official (s) within the Department having jurisdiction over the site or construction.

c. Unless otherwise agreed, routine maintenance of the artwork shall be the responsibility of the Department of Public Works. Routine maintenance shall include such tasks as dusting, sweeping, and other such activities. Extraordinary maintenance and/or conservation of the artwork shall be the responsibility of the Civic Arts Coordinator and Commission. No other City Agency or Department shall be responsible for the conservation of artwork, and no conservation or repair work shall be performed without the prior written approval of the Civic Arts Commission.

d. Public Art program staff, in consultation with other City agencies, shall develop an annual maintenance schedule for the public art collection and, shall determine appropriate budgets and procedures for the care and maintenance of the collection.

## 2. Project Files And Records

Public Art Program staff shall maintain a registry of all City public art that is owned, borrowed and loaned, including title, artist, value, location, date of purchase, installation, loan, receipt, deinstallation, and other relevant information. Staff shall also maintain records of each project, which shall include, but not be limited to, the following:

- a. Contract(s) with the artist(s) and consultants participating in the project.
- b. Records of City Council, Commission, PAC and Public Art Advisory Committee actions bearing on the project.
- c. Interdepartmental agreements relating to the siting or implementation of the project.
- d. Correspondence, announcements, memoranda, press clippings and publicity information relating to the project.
- e. Records of all billings made in connection with the project.

- f. All proposals submitted and other visual or written materials relating to the artist's design or method of execution as they are submitted or become available.
- g. Photo documentation in the form of black and white photographs, color slides, videos and/or transparencies of the completed project.

3. Artist Fee Policy

The following guidelines for fee structures are based on professional standards established by the public art field, and on the fees paid to other design professionals in the related fields of architecture and landscape architecture. The following should be seen as guidelines only.

In general, the Commission shall consider the following factors in determining the artist fees awarded for each project.

- a. The scope of work and degree of artist involvement.
- b. The project budget.
- c. The artist's experience and professional standing.
- d. The fee scale for similar scopes of work on comparable projects.

I. ~~GIFTS AND~~ LOANS

The ~~Gifts and~~ Loans Policy provides a process for the review of proposed ~~gifts and~~ loans of artwork or other artistic objects to the City of Berkeley, and for the placement, ~~care, and preservation~~ of artwork acquired through this process.

~~1. ——— Conditions Governing the Donation of Artwork to the City of Berkeley~~

~~Potential donors of artwork shall submit information to the Public Art program staff. Staff shall review the materials and if the information is complete, will forward it to the Public Art Committee for review. The PAC shall determine the feasibility of the proposed donation and shall forward a recommendation to the Civic Arts Commission for review. If the Commission~~

recommends acceptance of the proposed artwork, a recommendation shall be made to the City Council or Redevelopment Agency for final approval and acceptance of artwork valued at \$1,000 or more. If valued under \$1,000, the Commission's determination is final.

~~2. Materials to be Submitted by Donor~~

~~Materials may include but are not limited to:~~

- ~~a. Photographs and/or slides of the work of art that depict it from all sides.~~
- ~~b. A written description of the artwork, including dimensions (height, width, depth and weight), materials used, and any frames, backings, mounts or anchoring systems to be used in the installation of the artwork.~~
- ~~c. A site plan that identifies and describes the proposed site for the artwork and that accurately depicts the artwork in relationship to the surrounding environment.~~
- ~~d. A written description and/or drawing of the proposed method of installation and a schedule for the transportation and installation of the artwork.~~
- ~~e. Estimated costs for transporting and installing the artwork (to be done at donor's expense, unless otherwise agreed to by the City).~~
- ~~f. Written authorization from the City agency with jurisdiction over the site, approving the installation of the artwork.~~

~~3. Conditions of Acceptance~~

~~The Public Art Committee and the Civic Arts Commission encourage unrestricted gifts to the City of Berkeley. Any conditions or restrictions attached to a gift or loan must be presented to the Public Art Committee, the Civic Arts Commission, and City Council if valued at \$1,000 or more, for approval.~~

41. Conditions Governing the Exhibition of Loaned Artwork on City Property

Persons or organizations requesting to temporarily exhibit a work of art in or on City-owned property must submit the following:

- a. Photographs and/or slides of the work(s) of art to be exhibited.
- b. A description of the location where the artwork will be exhibited and a written authorization from the City agency with jurisdiction over the site that approves the proposed loan of the artwork in the location and a time period for the artwork.
- c. A written description and/or drawing of the proposed method of installation and a schedule for the transportation, installation, and removal of the artwork.

52. Lender's Agreements

When exhibiting a work of art on City property, the lender must agree in writing to the following:

- a. Unless otherwise agreed to in writing by the City, the lender shall be responsible for all costs associated with the transportation, installation, deinstallation, and insuring of the artwork.
- b. Upon removal of the artwork, the lender must return the site to its original condition and remove any debris caused by or resulting from the exhibition the artwork.
- c. Unless otherwise agreed to in writing by the City, the lender must agree to exhibit the artwork at his/her own risk and to bear the expenses of any losses or damages to the artwork. The lender must agree in writing to hold the City harmless from any and all liabilities and for any damages or losses to the artwork.
- d. The lender shall produce and display a descriptive label for display next to or near the loaned artwork.



- e. If the artwork becomes damaged, destroyed, or becomes a danger to the public, the lender shall remove the artwork within three days notice from the City.

~~6. Acceptance of Monetary Gifts for the Acquisition of Artwork~~

~~Proposed monetary gifts to the City for the purpose of acquiring artwork shall be referred to the Arts Commission for review and approval. All recommendations on the acceptance or rejection of proposed gifts of money of \$1,000 or more shall be referred to the City Council for final approval and acceptance.~~

J. ARTWORK GIFTS POLICY

1. INTRODUCTION

The Artwork Gifts Policy provides the process for reviewing proposed gifts of artwork, or donated funds for the specific purpose of purchasing or commissioning artwork for the City of Berkeley; guidelines for prospective donors regarding their responsibilities; and procedures for the placement, care, and disposition of artwork acquired through this process. This policy aims to ensure that all donated artworks that are accepted into the City's Civic Art Collection and installed in Berkeley's public realm demonstrate outstanding aesthetic values, meet technical criteria that ensure safety and sustainability, convey clear relationships to the City of Berkeley or to the region, and are appropriate to the surroundings in which the work will be located. While the City appreciates all offers of donations of artwork, it is not able to accept every proposed gift due to the economic and administrative obligations inherent in responsible art collection management and ownership.

The City's acceptance of gifts of Artwork is a four step process that requires review and approval by: 1. The Civic Arts Commission's Public Art Committee; 2. The Civic Arts Commission; 3. For permanently installed artworks, approval of artwork installation location by the City department or Commission with jurisdiction over the installation site; and 4. For gifts valued at more than \$1,000, approval by City Council. The process to obtain these approvals is detailed within this Artwork Gifts Policy.

## 2. DEFINITIONS

For the purposes of this policy, the following definitions apply:

- Artist: as defined in the Berkeley Municipal Code, Section 23C.23.040 “means an individual independent professional practitioner of the visual, performing, or literary arts, as judged by educational qualifications, a history of creating a body of public or publicly-displayed artwork, critical recognition in publications or online, a record of exhibitions and/or artwork sales.”
- Artwork: Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- Civic Art Collection: The Civic Art Collection is comprised of artworks that have been approved and accessioned by the Civic Arts Commission and for artworks valued at more than \$1,000, approved by City Council, or are otherwise under the jurisdiction of the City.
- Civic Art Collection Maintenance Endowment: An endowment fund to ensure the continued care of the City’s artworks.
- Civic Arts Commission: Per the Berkeley Municipal Code Chapter 3.12, the Civic Arts Commission consists of nine members appointed to by council members and charged with a variety of duties related to fostering programs for the cultural enrichment of the City and advising the City Council on all matters affecting the beauty and culture of the City of Berkeley, including recommendations regarding the approval of artwork gifts valued at more than \$1,000. Artwork gifts valued at less than \$1,000 are approved by the Civic Arts Commission. The Civic Arts Commission appoints the four person Public Art Committee from its members which reports back to the full Commission.
- Civic Arts Program: The Civic Arts Program consists of City staff who administer and develop projects which accomplish the mission of the Civic Arts Commission.

- Memorial Artwork: Three-dimensional artwork, two-dimensional artwork or other artwork created by a professional practicing Artist to commemorate a person, event, or topic.
- Public Art Committee: The Public Art Committee (PAC) is comprised of four members of the Civic Arts Commission selected by the Civic Arts Commission for their expertise. The Public Art Committee is responsible for reviewing and recommending to the Civic Arts Commission the acceptance or rejection of all proposed gifts of artwork to the City.

### **3. CRITERIA**

The criteria for the City's final acceptance of gifts of Artwork are as follows:

- Project Costs: Acceptance of a gift is contingent upon receipt of payment from the donor for all costs associated with the gift.
- Quality: The overall aesthetic quality and craftsmanship of a proposed gift will be an important consideration for acceptance.
- Compatibility with Site Context: Proposed gifts must be compatible in scale, material, form, and content with their surroundings. Attention shall be given to the social context of the work and the manner in which it may interact or contribute to the use of the site.
- Media: All forms of visual art executed in permanent materials may be considered. Works may be either portable or installed in the built environment.
- Durability: Due consideration shall be given to the structural and surface soundness, and to inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.
- Compatibility with Collection: Proposed gifts shall be evaluated within the context of the existing Civic Art Collection.
- Public Safety: Each work shall be examined for unsafe conditions or factors that could impact potential for liability arising from danger or injury to members of the public.
- Duplication: Artworks should be unique, one-of-a-kind works of art with the noted exception of prints, photographs or a desirable high quality limited edition work of art by a renowned artist.

#### 4. GIFT PROPOSAL REVIEW PROCESS

Proposed gifts of Artwork will be considered for acceptance into the Civic Art Collection through the following process.

4.1 Proposal: The prospective donor must submit a written proposal to the Civic Arts Program which includes:

- Information about the Artist including biographical information, history of exhibitions and/or gallery representation, other public art projects or commissions, and any other pertinent facts which highlight why this Artist should be included in the City's Civic Art Collection.
- Description of the Artwork (size, materials, etc.) and photograph or drawing of the proposed gift.
- Proposed site, if any.
- Condition assessment and information regarding maintenance requirements.

Note: Proposals for gifts of large scale artworks or public monuments require careful consideration and may require additional documentation, multiple meetings, and significant public comment before a final decision can be made.

4.2 Preliminary City Department Approval: For Artworks proposed for installation on sites under the jurisdiction of other City departments, a letter of preliminary approval from the head of the department must accompany the proposal. Donors must comply with any guidelines the department has in regard to the acceptance of Artwork. Final approval for the installation of the Artwork may be subject to additional approvals by City Departments or Commissions.

4.3 Evidence of Community Support: For Artwork proposed for installation in the public realm, the donor must provide evidence of input from stakeholders which must be submitted with the proposal. The amount and quality of the evidence of support will depend on the project nature, scope and size and may include letters of support from key stakeholders or petitions with names, addresses and signatures from neighboring residents, businesses and organizations. Other forms of documented community support will also be considered.

4.4 Consultation with Civic Arts Program: Civic Arts Program staff meets with the prospective donor to review the proposed gift prior to the proposal being submitted to the Civic

Arts Commission’s Public Art Committee for action. After review of the proposed gift, staff will prepare a written report to the Public Art Committee with a recommendation to either accept or decline the gift.

4.5 Public Art Committee Approval: The gift proposal will be reviewed by the Public Art Committee. The Committee may recommend to accept or decline the proposed gift based upon the criteria. Committee recommendations are forwarded to the full Civic Arts Commission for approval.

4.6 Civic Arts Commission Approval: Upon recommendation of the Public Art Committee, the gift proposal will be reviewed by the Civic Arts Commission for approval.

4.7 Other City Department Approval: Once approved by the Civic Arts Commission, Civic Arts Staff will prepare a report for consideration by the department who has jurisdiction over the proposed site. Said department will review the proposed installation site for approval and will facilitate any additional site approvals necessary from any other entities having jurisdiction over the site such as City Commissions or other regulatory bodies.

4.8 City Council Approval: For proposed gifts valued at more than \$1,000, Civic Arts Program staff will seek approval by City Council as required per Berkeley Municipal Code Section 2.06.150.

4.9 Notwithstanding the foregoing, the City may, in its sole discretion, reject a gift proposal and/or determine the appropriate site for any and all Artwork accepted into its collection.

## **5. RELATED POLICIES FOR COMMEMORATIVE ELEMENTS**

Proposed gifts of Memorial Artwork are subject to the Memorial Artwork Policy.

## **6. DONOR’S FINANCIAL RESPONSIBILITIES**

All costs associated with the gift must be borne by the donor. The Civic Arts Commission has the discretion to waive or adjust the donor’s contribution if the Civic Arts Commission identifies funding to cover those costs. Costs may include, but are not limited to:

- The costs associated with design, engineering, building permits, fabrication, and insurance.
- The cost of design and fabrication of a pedestal, base, or structural support, and identification plaque.
- The cost of artwork installation by the City, including (but not limited to) any alterations to the landscape or installation site that are needed to allow the artwork to appear aesthetically appropriate in its chosen location and any architectural or engineering services required for safe installation.
- The donor must provide a contribution to the Civic Art Collection Maintenance Endowment Fund equal to 10% of the value of the Artwork as determined by a qualified appraiser approved by the City or an amount as mutually agreed by the City and donor.
- For gifts of large scale Artwork, the City also requires an administrative fee to cover costs associated with staff coordination and oversight of the project.
- The City may consider on a case by case basis accepting an agreement from a donor to maintain an Artwork in perpetuity and in accordance with City standards rather than a cash contribution to the Civic Art Collection Fund; however, this will require the City to incur additional effort and cost. In any maintenance agreement, the City will require an up-front deposit to cover at least one year's maintenance of the Artwork to protect the City against future default.

#### 7. ACCEPTANCE OF MONETARY GIFTS FOR THE ACQUISITION OF ARTWORK

The commissioning of Artwork paid for by donated private funds will be implemented according to the Public Art Guidelines. The following funding requirements apply to proposed monetary gifts to the City for the purpose of acquiring artwork:

- The amount donated must cover all project costs including site preparation and installation and an amount equal to 10% of the value of the donation to go into the Civic Art Collection Maintenance Endowment and an amount equal to 20% of the value of the donation to cover the staff cost of administering the artwork commission.
- Proposed monetary gifts shall be referred to the Public Art Committee and the Arts Commission for review and approval.

- Proposed monetary gifts of \$1,000 or more shall be referred to the City Council for final approval and acceptance.

## K. ARTWORK DEACCESSION POLICY

### 1. INTRODUCTION

The term “deaccession” applies to the specific process by which a decision is made to remove an artwork from the City of Berkeley’s civic art collection. The City of Berkeley, through its Civic Arts Commission, reserves the right to deaccession works of art in its civic art collection in the best interest of the public and as a means of improving the overall quality of the City’s civic art collection. Removing artwork from the City’s civic art collection by deaccession should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence and the premature removal of a work from the collection. Except in the case of an immediate threat to public safety, no artwork in the collection will be deaccessioned until the policies set forth below have been observed.

### 2. DEFINITIONS

For the purposes of this Policy, the following definitions apply:

- Artwork: Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- Deaccession: The procedure for the removal of an artwork owned by the City and the determination of its future disposition.
- Deaccession Notification: A written letter to the artist or donor referencing the applicable conditions of the artwork and describing reasons why the deaccession review is being undertaken.

### 3. CONDITIONS FOR DEACCESSION

A work of art may be considered for deaccession if one or more of the following conditions apply:

- The work presents a threat to public safety.
- Condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work.
- The work requires excessive or unreasonable maintenance, or has faults in design or workmanship.
- The condition of the work requires restoration in gross excess of its market value, or is in such a deteriorated state that restoration is infeasible, impractical, or would be so extensive as to fundamentally transform the work from the artist's original intent.
- Significant changes in the use, character or actual design of the site require reevaluation of the artwork's relationship to the site.
- If the artwork cannot remain at its original installation site and if no suitable alternate site for the work is available.
- The work interferes with the operations of the City.
- Significant adverse public reaction over an extended period of time (5 years or more).
- The work is judged to have little or no aesthetic and/or historical or cultural value, or is judged to have negative historical or cultural value.
- The Civic Arts Commission wishes to replace a work with a more appropriate work by the same artist.
- The work can be sold to finance or be traded for a work that refines and improves the quality and appropriateness of the City's collection and better serves the Civic Arts Commission's mission.
- Written request from the artist has been received to remove the work from public display.
- The work is duplicative in a large holding of work of that type or of that artist.
- The work is fraudulent or not authentic.
- The work is rarely or never displayed.

#### 4. PROCEDURES



The following steps shall be followed for works being considered for deaccession:

4.1 Absence of Restrictions: Before disposing of any artworks from the collections, reasonable efforts shall be made to ascertain that the City is legally free to do so.

4.2 Deaccession Notification: City staff shall comply with any applicable state or federal notice requirements and shall make every reasonable effort to contact the artist whose artwork is being considered for deaccession, and any other known parties with a vested interest in the artwork. Staff shall make reasonable effort to notify the artist of the Public Art Committee and Civic Arts Commission meetings where the issue will be discussed.

4.3 Civic Arts Program Staff Report: The Civic Arts Program staff shall prepare a report which includes a staff evaluation and recommendation along with the following information:

- Artist's name and biographical information, samples of past work and resume.
- Written description and images of artwork.
- Information about and images of the artwork's site.
- City Attorney's Opinion: The City Attorney shall be consulted regarding any restrictions that may apply to a specific work.
- Rationale: An analysis of the reasons for deaccessioning and its impact on the Collection and the artist, and an evaluation of the artwork.
- Community Opinion: If pertinent, public feedback on the dispensation of the artwork in question.
- Independent Appraisal or other documentation of the value of the artwork: Prior to deaccessioning of any artwork having a value of \$10,000 or more, Civic Arts Program staff should obtain an independent professional appraisal, or an estimate of the value of the work based on recent documentation of gallery, comparable public commissions and/or auction sales.
- Related Professional Opinions: In cases of where deaccessioning or removal is recommended due to deterioration, threat to public safety, ongoing controversy, or lack of artistic quality, it is recommended that the Commission seek the opinions of independent professionals qualified to comment on the concern prompting review (conservators, engineers, architects, critics, safety experts etc.).

- History: Provide written correspondence, press and other evidence of public debate; Original Acquisition method and purchase price; Options for Disposition; and Replacement Costs.

4.4 Considerations for Disposition of a Work of Art: Civic Art Program Staff shall research and present to the Civic Arts Commission all feasible alternatives for the disposition of the proposed artwork for deaccession. Recommendations shall adhere to the following principles:

- The manner of disposition is in the best interest of the Civic Arts Commission and the public it serves.
- Preference should be given to retaining works that are a part of the historical, cultural, or artistic heritage of Berkeley and the Bay Area.
- Consideration should be given to placing the artwork, through gift, exchange, or sale, in another tax-exempt public institution where it may be accessible to the public and thereby continue to serve the purpose for which it was acquired initially by the Civic Arts Commission.
- Artworks may not be given or sold privately to City employees, officers, members of the governing authority, or to their representatives.

## 5. DEACCESSION CRITERIA

The following criteria will be used by the Civic Arts Commission to evaluate whether to deaccession an artwork:

- Inherent Artistic Quality: The assessed aesthetic merit of the piece as a work of art, independent of other considerations.
- Cultural or Historical Impact: Whether the artwork has negative cultural or historical impact.
- Context of Artwork within the Civic Art Collection: Proposed artwork should be evaluated within the context of the larger collection, and whether it is judged to strengthen the collection.
- Context of Artwork with Site: Accessibility, public safety, and social, cultural, historical, ecological, physical, and functional context of the artwork in relation to the site, both existing and planned.

- Availability of City Support: The availability of necessary funding for conservation, maintenance, repair, storage or required staff support.
- Legal Considerations: Issues related to liability, insurance, copyright, moral rights, warranties, ownership, theft, vandalism, loss, indemnification, and public safety. The City Attorney shall review the recommendation of the Civic Art Program staff to determine whether there are any known legal restrictions that would prevent deaccession of the artwork. The City Attorney's approval must be obtained prior to deaccessioning an artwork.
- Timing: Timing for the deaccession of an artwork may be affected by issues such as a hazardous condition related to the artwork that would pose an immediate threat to public safety, relevant construction schedules, or the allowance of sufficient time for a normal review process.
- Acquisition process: Method by which the artwork was originally acquired and accessioned in the City's collection (i.e. by donation, loan, or commission).
- Community feedback: Community feedback about the artwork, its site, and its condition solicited via a publicly-noticed meeting or placed on the agenda of the Public Art Committee.
- Restrictions: Any recognized restrictions associated with the artwork.

## **6. PUBLIC HEARINGS**

The proposed deaccession of an artwork will be heard at two meetings which are open to the public.

6.1 Public Art Committee: The recommendation to deaccession an artwork will be considered by the Public Art Committee as part of the Committee's regular meeting. The Committee shall make its recommendation to the full Civic Arts Commission.

6.2 Civic Arts Commission: The Commission must approve the Public Art Committee's recommendation that an artwork owned by the City should be deaccessioned.

## **7. DISPOSITION OF ARTWORK**

7.1 Right of First Refusal: In all cases, the Artist or Artist's legally recognized representative or heir shall be given, when possible and within a reasonable time frame, the opportunity to purchase the artwork for the fair market value (as determined by a qualified appraiser), or if the artwork is determined to be of negligible value, the artist shall be given the opportunity to claim the artwork at the artist's own cost for removal and transportation.

7.2 When the artist does not purchase or claim the deaccessioned artwork, the Civic Arts Commission at its discretion, may use any of the following methods to remove the Artwork:

- Sale: Proceeds from the sale shall be deposited into the City's public art fund.
  - Sale through a dealer.
  - Sale through a public auction.
- Trade or exchange of a deaccessioned artwork for another by the same artist.
- Donation of deaccessioned artwork to a public institution or nonprofit organization.
- Destruction: for the following instances:
  - The entire artwork or the majority of the artwork has been damaged or has deteriorated and repair or remedy is impractical or infeasible, and artist is not willing to claim the remaining artwork at artist's own cost.
  - Public safety considerations support destroying the artwork.
  - Every reasonable effort to locate the artist, the artist's heirs or next of kin, or donor has failed.
  - The Civic Arts Commission determined that no other methods of disposition are feasible.

7.3 Civic Arts Program staff duties for all deaccessioned artworks:

- Update Civic Art Collection database: The artwork will stay in the database, but be noted as deaccessioned and include the years during which it was displayed.
- Coordinate the removal of identification plaques from artwork site and coordinate the artwork's physical removal from the City's collection.
- Report on the sale or exchange at the next regularly scheduled Public Art Committee and Civic Arts Commission meetings.
- Transmit a report informing City Council of the removal of the artwork from the City's collection.

- Maintain a deaccession file that includes documentation on the artwork and all associated deaccession documents.
- If the art work is in good enough condition to yield quality photographic documentation, that documentation will be kept in the deaccession file and offered to the artist.

## L. MEMORIAL ARTWORKS POLICY

### 1. INTRODUCTION

The purpose of this policy is to establish criteria and guidelines for the consideration of memorial artworks to be permanently installed on City property. Permanent placement of a memorial artwork conveys the City’s recognition of the cultural or historic significance of the person, event, or topic being commemorated. It is therefore important that the placement of commemorative artworks be limited to circumstances of the highest community-wide importance, both to maintain the significance of such commemorative artworks and to minimize conflicts with the active and variable use of public spaces.

### 2. DEFINITIONS

For the purposes of this policy, the following definitions apply:

- Artist: as defined in the Berkeley Municipal Code, Section 23C.23.040 “means an individual independent professional practitioner of the visual, performing, or literary arts, as judged by educational qualifications, a history of creating a body of public or publicly-displayed artwork, critical recognition in publications or online, a record of exhibitions and/or artwork sales.”
- Artwork: Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- Memorial Artwork: Three-dimensional artwork, two-dimensional artwork or other

artwork created by a professional practicing Artist to commemorate a person, event, or topic.

Commemorative elements which are not “Artwork” are not subject to this policy.

### **3. CRITERIA**

3.1 Content Criteria. Memorial Artworks will be evaluated according to the following content criteria:

- The person, group of people, event, or topic being commemorated must have made a substantial impact upon the City of Berkeley; or must have a significant connection to Berkeley; or bear a relation to Berkeley and have made an important historic or cultural contribution beyond or outside the City of Berkeley.
- Whether the person, group of people, event, or topic being memorialized is deemed by the City to have made a significant enough contribution or impact to merit the scale, cost and visibility of the proposed Memorial Artwork.
- The proposed Memorial Artwork does not duplicate existing memorials.
- Evidence of community support gathered by the proposing group or persons through a community outreach process and evidence that the proposed Memorial Artwork is not objectionable to persons or community that it is intended to honor.

3.2 Presentation Criteria: Memorial Artworks will be evaluated according to the following criteria:

- The Memorial Artwork represents broad community values and has timeless qualities that will be meaningful to future generations.
- Memorial Artworks shall reflect the highest aesthetic standards and craftsmanship.
- The Memorial Artwork has been designed by a qualified Artist in consultation with a qualified design professional. Qualified artists must demonstrate professional recognition in the form of past public commissions or significant public installations. Qualified design professionals include registered architects, engineers, and landscape architects.

3.3 Site: The location under consideration is an appropriate setting for the Memorial Artwork and shall be evaluated according to the following criteria:

- Geographic justification for the Memorial Artwork to be located in a specific site.
- The scale and character of the Memorial Artwork are at a level commensurate with the proposed setting.
- Public accessibility and visibility.
- Prominence of installation location within architectural hierarchy of building or site.
- Compatibility with use of the site for programs and special events and proximity to existing artwork.
- Ability to ensure the safety and protection of the Memorial Artwork.
- Compatibility with historical context of site.

#### **4. ADDITIONAL AND RELATED CONDITIONS & POLICIES**

In addition to satisfying the criteria set forth in Section 3 above, any Memorial Artwork proposed for installation on City property must additionally comply with the City's Artwork Gift Policy; the requirement that any gift of funds, goods or services valued at more than \$1,000 must be approved by City Council; any Public Art Guidelines; and any other pertinent administrative guidelines or procedures. Under no circumstances is the City under any obligation to accept proposed donations of Memorial Artworks even if all required criteria are met. The City reserves the right to relocate, remove or destroy any Memorial Artworks acquired pursuant to this Policy and any applicable requirements set forth in the Deaccession Policy or required by State or Federal law.







Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Interim Director, HHCS  
 Subject: Contract No. 010568 Amendment: Berkeley Food and Housing Project

RECOMMENDATION

Authorize the City Manager to amend Contract No. 010568 with Berkeley Food and Housing Project by increasing the Not to Exceed (NTE) amount by \$114,000 for a total not to exceed limit of \$7,117,863 for the period July 1, 2017 through June 30, 2019.

FISCAL IMPACTS OF RECOMMENDATION

The existing contract amount with Berkeley Food and Housing Project is \$7,003,863. Total estimated cost of the proposed contract is \$7,117,863 for the period July 1, 2017 through June 30, 2019. The additional funds will be drawn from budget code 315-51-503-526-2017-000-451-636110.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley's Mental Health Division (BMH) currently provides \$43,045 in Mental Health Services Act funding to support a licensed Board and Care operated at Berkeley Food and Housing Project at 1741 Russell Street. Licensed Board and Cares are a vital part of the housing support system for individuals with serious mental illness. Berkeley Food and Housing identified a funding gap of \$114,000 in their operations of the Russell Street Board and Care, and requested this amount of additional funding to support operations of this site.

This funding is required to support the continued operation of this important housing resource, where 17 individuals with mental health needs are currently receiving support and housing. This aligns with the City of Berkeley strategic goal to "create affordable housing and housing support service for our most vulnerable community members."

BACKGROUND

Health, Housing and Community Services currently has in place a contract (CMS No. SGYNB) for \$7,003,863 with Berkeley Food and Housing Project, which expires on June 30, 2019. This contract covers a variety of services, primarily focused on serving homeless individuals in Berkeley.

In Resolution No. 67,639-N.S, City Council approved the MHSA Fiscal Year 2018-2019 Annual Update, which included allocating \$114,000 in additional funding to support the Russell Street Board and Care, and the proposed contract amendment is the mechanism to allow for this additional funding support.

ENVIRONMENTAL SUSTAINABILITY

No environmental sustainability impact.

RATIONALE FOR RECOMMENDATION

Russell Street Board and Care is an important housing option for individuals with mental health issues, and provides a high level of support to those individuals. Increasing funding for the mental health division will retain this housing option.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to increase funding levels for this Board and Care, resulting in up to 17 individuals with mental health issues losing their current housing and reducing the number of board and care beds available in Berkeley.

CONTACT PERSON

Steven Grolnic-McClurg, Division Manager, Mental Health, 510-981-5249

Attachments:

1: Resolution:

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

CONTRACT NO. 010568 AMENDMENT: BERKELEY FOOD AND HOUSING  
PROJECT

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on October 20, 2018 by Resolution No. 67,639-N.S., the City Council authorized the City Manager to approve the Mental Health Services Act (MHSA) Fiscal Year 2018-2019 Annual Update; and

WHEREAS, within the City Council approved MHSA Fiscal Year 2018-2019 Annual Update was increased funding support of up to \$114,000 for Berkeley Food and Housing Project's Russell Street Board and Care; and

WHEREAS, on July 25, 2017 by Resolution No. 68,100-N.S. City Council approved entering into a contract (CMS No. SGYNB) with Berkeley Food and Housing Project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to amend Contract No. 010568 with Berkeley Food and Housing Project (CMS No. SGYNB) and add up to \$114,000 for a total do not exceed limit of \$7,117,863.

A signed copy of said documents, agreements and any amendments will be kept on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Savita Chaudhary, Director, Information Technology  
Subject: Contract No. 9655B Amendment: Socrata, Inc., Open Data Portal (ODP) Hosting and Assignment to Tyler Technologies, Inc.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment and assignment to Contract No. 9655B with Socrata, Inc., now Tyler Technologies, Inc., for the purposes of hosting the City’s Open Data Portal, increasing the amount by \$87,289 for a total contract amount not to exceed \$254,970 and extending the term through June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

This amendment will extend the hosting and operations support of the Open Data Portal through June 30, 2021. Appropriation of funding is subject to the council approval of the proposed city-wide Fiscal Year 2020 and Fiscal Year 2021 Budget and Annual Appropriation Ordinance.

Funding for additional hosting and professional services in the amount of \$87,289 is available in the Department of Information Technology’s FY 2020 and FY 2021 IT Cost Allocation Fund as follows:

|                 |                                                                                                                                                          |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| \$42,580        | FY 2020: Software Maintenance<br>Budget Code: 680-35-362-376-0000-000-472-613130-<br>(IT Cost Allocation, Enterprise Applications, Software Maintenance) |
| \$44,709        | FY 2021: Software Maintenance<br>Budget Code: 680-35-362-376-0000-000-472-613130-<br>(IT Cost Allocation, Enterprise Applications, Software Maintenance) |
| <u>\$87,289</u> | <u>Total FY 2020 and 2021 Software Maintenance</u>                                                                                                       |

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley’s Open Data Portal (<http://cityofberkeley.info/opendata/>) is a web based presence established to serve as a single point of access for Open Data. Open

Data is non-confidential, public data provided in searchable formats for unrestricted use to increase transparency and civic engagement. The portal is loaded with datasets directly from city systems, ready for download in numerous formats. The portal also provides a set of basic tools to create charts, graphs, maps and other visualizations so visitors who do not want to download the data can explore it in place.

The Department of Information Technology (IT) manages the City of Berkeley's Open Data Portal. Staff throughout the City, in coordination with IT and the City Manager's Office, upload city business data to the portal for public consumption. City information is now easily accessible without requiring a Public Information Act request. Information that was regularly requested is now online on the City of Berkeley Open Data Portal, freeing staff to do other tasks.

The City of Berkeley Open Data Portal hosts 43 datasets and 20 map layers, listed below, on various City functions and operations, including crime incidents, 311 service requests, salaries, parcels and energy use.

|                                |                                      |
|--------------------------------|--------------------------------------|
| 311 Cases                      | Municipal Energy & Water Maps        |
| Bicycle Boulevards             | Municipal Energy & Water Consumption |
| Business Licenses              | Operating Budget 2014                |
| Car Share Totals               | Parcels                              |
| Census Blocks 2010             | Parks                                |
| Census Block Groups 2010       | PG&E Metered Energy                  |
| Census Tracts 2010             | PG&E Energy - CO2 Coefficients       |
| Census Data 2000 and 2010      | Restaurant Inspections               |
| Census, Housing, 2012          | Police Beats                         |
| City Trees                     | Police Stop Data                     |
| Community Energy               | Police Arrest Log                    |
| Council Districts              | Police Jail Booking Log              |
| Crime Incidents                | Roof prints                          |
| Employee Salaries 2011-2013    | Sanitary Sewer Mains & Manholes      |
| Green Businesses in Berkeley   | Storm Drains                         |
| Land Boundary                  | Streets Network                      |
| Monthly Residential Energy Use | Tree Gain – Annual Totals            |
| Water Consumption, Residential | Zoning Districts                     |
| Zip codes                      |                                      |

## BACKGROUND

In August 2013, staff began researching and testing open data platforms to determine which would most efficiently support a pilot program for the City of Berkeley in Fiscal Year 2015, given existing citywide fiscal and staff constraints. This included Open Data Portal research, design, and documentation by interns of the Presidio Graduate School (<http://www.presidio.edu/>).

In November 2013, Council issued a referral requesting the creation of an Open Data Policy, citing the Federal Memorandum for Transparency and Open Government.

In June 2014, the Department of Information Technology executed a contract with Socrata, Inc. (<http://www.socrata.com/>) to provide an Open Data platform and cloud hosting. At the time, Socrata, Inc. was the only company whose primary focus was providing open source data services to the public sector in the United States. Also in June 2014, the Department of Information Technology partnered with UC Berkeley's School of Information (<http://www.ischool.berkeley.edu/>) to identify and onboard a volunteer intern Team Lead.

In November 2014, Staff provided an update to Council in City Council Information Report #45 ([https://www.cityofberkeley.info/Clerk/City\\_Council/2014/11\\_Nov/Documents/2014-11-18\\_Item\\_45\\_Open\\_Data\\_Portal.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2014/11_Nov/Documents/2014-11-18_Item_45_Open_Data_Portal.aspx)). In December 2014, the Open Data Portal pilot project went live after more than 1,500 hours of combined staff, intern, and student volunteer work. The core objective of the pilot program was to collect metrics around ODP performance, community use, and feedback from both community members and staff. During this pilot program, the City prioritized publishing datasets that community members frequently requested via Public Records Act requests, resulting in 24/7 access to this data, improved service to our community, and improved government transparency.

#### ENVIRONMENTAL SUSTAINABILITY

By publishing the most frequently requested dataset requests, community members can now access this information at home and electronically, thereby decreasing contributions to global warming emissions and waste, respectively. This supports the Digital Strategic Plan goal of providing more online services and the goal of reducing greenhouse gas emissions of the City's Climate Action Plan.

#### RATIONALE FOR RECOMMENDATION

Socrata, Inc. offers user friendly and cost-effective solution for sharing the city's business data across departments and with the public. This amendment will enable the Department of Information Technology to continue to offer this valuable tool for an additional two years. The increase in yearly fee is necessary to acquire an education bundle and additional dataset storage.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered not renewing Socrata's licenses, but doing so would yield operation inefficiencies that would affect the quality of service delivered to City staff and the community.

#### CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510-981-6525

Attachments:

1: Resolution



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

CONTRACT NO. 9655B AMENDMENT: SOCRATA, INC. OPEN DATA PORTAL (ODP)  
WEBSITE HOSTING AND ASSIGNMENT TO TYLER TECHNOLOGIES, INC.

WHEREAS, the City of Berkeley's Open Data Portal provides community members with access to data that is non-confidential and public provided in searchable formats for unrestricted use; and

WHEREAS, in August 2013, staff researched and tested multiple open data platforms and in November 2013, Council issued a referral requesting the creation of an Open Data Portal; and

WHEREAS, in June 2014, the Department of Information Technology executed a contract with Socrata, Inc. to provide professional and hosting services for an Open Data Portal; and in November 2014, Staff provided an update to Council with Information Report #45; and in December 2014, the Open Data Portal went live; and

WHEREAS, more City information is now easily accessible without requiring a Public Information Act request; and government transparency is improved because the portal provides members of the public with the same access to raw data that governments have; and

WHEREAS, funding for additional hosting and professional services in the amount of \$87,289 is available in the Department of Information Technology's FY 2020 and FY 2021 IT Cost Allocation Fund, and appropriation of funding for future years is subject to the council approval of the proposed city-wide Fiscal Year 2020 and Fiscal Year 2021 Budget and Annual Appropriation Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment and assignment to Contract No. 9655B with Socrata, Inc., now Tyler Technologies, Inc., for the purposes of hosting the City's Open Data Portal, increasing the amount by \$87,289 for a total contract amount not to exceed \$254,970 and extending the term through June 30, 2021.





Office of the City Manager

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Information Technology

Subject: Contract No. 7167I Amendment: Superior, LLC for AS400 Software Maintenance and Support

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 7167I with Superior, LLC for software maintenance and support of the City's FUNDS system on the AS400 platform, increasing the contract amount by \$271,864 for a total not-to-exceed amount of \$2,154,050 from July 1, 2006 through June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

Funds for additional software maintenance and support will be available in the Department of Information Technology's Fiscal Year (FY) 2020 and 2021 IT Cost Allocation fund as itemized below, and is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

|           |                                                                                                                                                          |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| \$129,177 | FY 2020: Software Maintenance<br>Budget Code: 680-35-362-376-0000-000-472-613130-<br>(IT Cost Allocation, Enterprise Applications, Software Maintenance) |
| \$137,687 | FY 2021: Software Maintenance<br>Budget Code: 680-35-362-376-0000-000-472-613130-<br>(IT Cost Allocation, Enterprise Applications, Software Maintenance) |
| \$5,000   | FY 2020 and 2021: Training<br>Budget Code: Citywide, as needed                                                                                           |
| \$271,864 | Total FY 2019 Software Maintenance and Training                                                                                                          |

CURRENT SITUATION AND ITS EFFECTS

Currently, the City uses Superior's Public Sector software (FUNDS) to support operations for all City departments. Software licensing and maintenance is required for all FUNDS modules and includes 24x7 support, documentation, and periodic patches to incorporate enhancements and repairs.

As incremental replacement of the FUND\$ system continue with the implementation of Tyler-Munis' ERP system (erma), the City's maintenance contract with Superior will continue to decrease in scope and cost since support will be required for fewer modules each year until all remaining FUND\$ modules are replaced and retired. Superior will continue to provide report training for extracting legacy information.

### BACKGROUND

FUND\$ has supported City operations in all departments for over two decades. Its initial implementation in 1989 focused on automating core financial functions including the Payroll, General Ledger, Accounts Payable, and Purchasing modules. After the initial implementation, the City implemented extensive customizations of the FUND\$ software to expand its use throughout all departments.

On June 1, 2010, Council received a FUND\$ Status Report outlining usability challenges, an incremental replacement plan, and estimated costs and replacement timelines ([www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_City\\_Council/2010/06Jun/2010-06-01\\_Item\\_54\\_FUND\\_Status\\_Report.pdf](http://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_City_Council/2010/06Jun/2010-06-01_Item_54_FUND_Status_Report.pdf)).

On March 25, 2014, Council received an updated FUND\$ Status Report, which discussed FUND\$ replacement successes and challenges, as well as a strategy for expediting replacement ([www.cityofberkeley.info/Clerk/City\\_Council/2014/03\\_Mar/Documents/2014-0325\\_Item\\_34\\_FUND\\$\\_Status\\_Report.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2014/03_Mar/Documents/2014-0325_Item_34_FUND$_Status_Report.aspx)).

On January 26, 2016, Council authorized staff to release a Request for Proposal (RFP) to solicit proposals to replace FUND\$. Through RFP No. 2016-11012-C, Staff identified a qualified company to provide a comprehensive public sector ERP system that met the City's functional scope. On March 28, 2017, Council authorized the City Manager to execute a contract with Tyler Technologies for the purchase of Tyler-Munis' ERP software and implementation services ([https://www.cityofberkeley.info/Clerk/City\\_Council/2017/03\\_Mar/Documents/2017-03-28\\_Item\\_14\\_Contract\\_Tyler\\_Technologies.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/Documents/2017-03-28_Item_14_Contract_Tyler_Technologies.aspx)).

In September 2018, Superior, LLC merged with TriTech Software, and Zuercher Technologies, and Aptean to form CentralSquare Technologies. As a merged company, CentralSquare Technologies will be able to provide better customer service through a larger support organization.

### ENVIRONMENTAL SUSTAINABILITY

The incremental replacement of FUND\$ modules with more modern, best-of-breed software includes opportunities for providing online services. For example, it will be possible to apply and pay online for an array of licensing, permitting, and zoning certifications, eliminating the need for the public to visit City offices for routine

applications. This helps with the Digital Strategic Plan goals of providing more online services. In addition, this helps reduce vehicle emissions, in keeping with the City's Climate Action Plan.

RATIONALE FOR RECOMMENDATION

SunGard retains exclusive rights to provide maintenance for its software; no other vendor provides authorized maintenance. Staff considered terminating this agreement and providing maintenance without vendor assistance, but given the critical operations supported by FUND\$, the risk of limited support would be inappropriate, especially since staff resources are focused on configuring, testing, and implementing FUND\$ module replacements, rather than supporting the aged FUND\$ system.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered terminating this agreement and providing maintenance without vendor assistance, but given the critical operations supported by FUND\$, the associated costs for staffing and training would be more than the maintenance agreement.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510-981-6525

Attachments:

1: Resolution

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

CONTRACT NO. 71671 AMENDMENT: SUPERION, LLC FOR AS400 SOFTWARE  
MAINTENANCE AND SUPPORT

WHEREAS, Superion LLC's AS400 software, known to the City as FUND\$, has supported the City of Berkeley's critical business operations in all departments for over two decades, including the Payroll, General Ledger, Accounts Payable, and Purchasing modules; and

WHEREAS, Superion, LLC is the only vendor authorized to provide software licenses and support for the AS400 software; and

WHEREAS, in January 2016, Council authorized staff to release a Request for Proposal (RFP) to solicit proposals to replace FUND\$. Through RFP No. 2016-11012-C, Staff identified a qualified company to provide a comprehensive public sector ERP system that met the City's functional scope; and

WHEREAS, as incremental replacement of the FUND\$ system continue with the implementation of Tyler-Munis' ERP system (erma), the City's maintenance contract with Superion will continue to decrease in scope and cost since support will be required for fewer modules each year until all remaining FUND\$ modules are replaced and retired; and

WHEREAS, funding for additional software maintenance and support will be available in the Department of Information Technology's Fiscal Year (FY) 2020 and 2021 IT Cost Allocation fund as itemized below, and is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and subsequent amendments to Contract No. 71671 with Superion, LLC for the software maintenance and support of the City's FUND\$ system on the AS400 platform, increasing the contract amount by \$271,864 for a total not-to-exceed amount of \$2,154,050 from July 1, 2006 through June 30, 2021.



Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Savita Chaudhary, Director, Department of Information Technology  
Subject: Contract No. 7393D Amendment: Interactive Voice Response (IVR) and Interaction Web Response (IWR) System with Paymentus, Corp.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 7393D and all associated amendments with the Paymentus Corporation for maintenance and support of the Interactive Voice Response (IVR) and Interaction Web Response (IWR) System, increasing the contract amount by \$52,500, for a contract amount not-to-exceed \$324,475.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the additional \$52,500 of software maintenance and support are available in the Department of Information Technology’s Fiscal Year (FY) 2019, 2020, and 2021 Permit Service Center Fund as outlined below. Spending for this amendment in future fiscal years is subject to Council approval of the proposed city-wide budget and annual appropriation ordinances.

|          |                                                                                                                            |
|----------|----------------------------------------------------------------------------------------------------------------------------|
|          | FY 2019 Software Maintenance                                                                                               |
| \$17,500 | Budget Code: 621-35-362-377-0000-000-472-613130-<br>(Permit Service Center, Enterprise Applications, Software Maintenance) |
|          | FY 2020: Software Maintenance                                                                                              |
| \$17,500 | Budget Code: 621-35-362-377-0000-000-472-613130-<br>(Permit Service Center, Enterprise Applications, Software Maintenance) |
|          | FY 2021: Software Maintenance                                                                                              |
| \$17,500 | Budget Code: 621-35-362-377-0000-000-472-613130-<br>(Permit Service Center, Enterprise Applications, Software Maintenance) |
| \$52,500 | <u>Total FY 2019-2021 Software Maintenance</u>                                                                             |

CURRENT SITUATION AND ITS EFFECTS

The City uses Interactive Voice Response (IVR) and Interactive Web Response (IWR) for automated scheduling of building, electrical, mechanical, plumbing, and public works

inspections. This system allows the community to schedule inspections using a telephone touch pad and/or the Planning Department's website and receive immediate confirmation of inspection, date, time, type, and location.

Contractors schedule an average of 2,650 inspections per month utilizing this technology, which is a 20% increase over the term of the previous maintenance agreement. Staff are currently working with Paymentus on a system upgrade and configuration. Once completed, this maintenance agreement will provide ongoing support and services to the platform.

### BACKGROUND

In July 2006, the City issued a Request for Proposals (Specification No. 06-10144-C) for an Interactive Voice Response (IVR) and Interactive Web Response (IWR) system. In June 2007, City Council authorized a contract with Tele-works, Inc. for software licensing, integration services, and software maintenance for an Interactive Voice Response (IVR) and Interactive Web Response (IWR) system.

In November 2008, City Council authorized a contract amendment with Tele-works, Inc. for integration services, customization, and software maintenance. Customizations included changes to the call flow and web page flow, allowing inspection scheduling up to ten business days in advance, and collecting a contractor phone number as part of the scheduling process.

In April 2014, Paymentus acquired Tele-works, Inc.

### ENVIRONMENTAL SUSTAINABILITY

This system provides Permit Service Center customers the option to schedule inspections via telephone or the web, eliminating travel to City offices to schedule inspections. In addition, Building Inspectors use this software to help map inspection routes that minimize greenhouse gas emissions. This supports the Berkeley's Climate Action Plan and Digital Strategic Plan goals.

### RATIONALE FOR RECOMMENDATION

Automated phone and online scheduling is convenient for Permit Service Center customers, as well as an efficient tool for City staff to manage inspection workloads.

### ALTERNATIVE ACTIONS CONSIDERED

Staff considered terminating this agreement and providing maintenance without vendor assistance, but given the critical operations supported by the IVT and IWR system, the associated costs for staffing and training would be more than the maintenance agreement.

### CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 981-6525



Attachments:  
1: Resolution

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

CONTRACT NO. 7393D AMENDMENT: INTERACTIVE VOICE RESPONSE (IVR) AND INTERACTIVE WEB RESPONSE (IWR) SYSTEM WITH PAYMENTUS CORP

WHEREAS, the City of Berkeley is committed to providing convenient customer and efficient customer service options for the community and multi-channel services available via walk-in, telephone, and internet, are all important components of a comprehensive customer service improvement initiative; and

WHEREAS, in June 2007, after a formal Request for Proposals process under Specification No. 06-10144-C, the City selected Tele-works, Inc. for software licensing, integration services, and software maintenance for an Interactive Voice Response (IVR) and Interactive Web Response (IWR) system; and

WHEREAS, in 2008, City Council authorized a contract amendment with Tele-works, Inc. for integration services, customization, and software maintenance. Customizations included changes to the call flow and web page flow, allowing inspection scheduling up to ten business days in advance, and collecting a contractor phone number as part of the scheduling process; and

WHEREAS, in 2014 Tele-Works, Inc. was acquired by Paymentus, Corporation; and

WHEREAS, in 2015, City Council authorized a contract amendment with Paymentus, Corp. for a multi-year contract for software maintenance and support of the Paymentus platform; and

WHEREAS, funds for additional software maintenance and support are available in the Department of Information Technology's Fiscal Year (FY) 2019, 2020, and 2021 Permit Service Center Fund, and spending for this amendment in future fiscal years is subject to Council approval of the proposed city-wide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 7393D and all associated amendments with the Paymentus Corporation for maintenance and support of the Interactive Voice Response (IVR) and Interaction Web Response (IWR) System, increasing the contract amount by \$52,500, for a contract amount not-to-exceed \$324,475.



Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Savita Chaudhary, Director, Department of Information Technology  
 Subject: Contract: Kronos, Inc. for Fire Station Staffing Software

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Kronos, Inc. for the upgrade and software maintenance of the TeleStaff Fire Station Staffing Software, for an amount of \$64,680 from May 15, 2019 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract in the amount of \$64,680 will be available in the Fire department’s General Fund as follows, and is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances:

|          |                                                                                                                   |
|----------|-------------------------------------------------------------------------------------------------------------------|
| \$7,080  | FY 2019: Professional Services<br>Budget Code: 011-72-742-835-0000-000-422-612990-<br>(TBD, Software Maintenance) |
| \$19,200 | FY 2020 Software Maintenance<br>Budget Code: 011-72-742-835-0000-000-422-613130-<br>(TBD, Software Maintenance)   |
| \$19,200 | FY 2021: Software Maintenance<br>Budget Code: 011-72-742-835-0000-000-422-613130-<br>(TBD, Software Maintenance)  |
| \$19,200 | FY 2021: Software Maintenance<br>Budget Code: 011-72-742-835-0000-000-422-613130-<br>(TBD, Software Maintenance)  |
| \$64,680 | Total FY 2019-2021 Professional Services and Software Maintenance                                                 |

### CURRENT SITUATION AND ITS EFFECTS

The Berkeley Fire Department uses TeleStaff software to help ensure that all seven of the City's Fire Stations are appropriately staffed at all times. This centralized system assists command staff with complex shift management and scheduling for three shifts of 127 sworn firefighters and 13 non-sworn staff members. The Fire Department uses TeleStaff to track and maintain hiring lists, volunteer lists, hiring priority, overtime, and emergency call backs. In emergency situations, TeleStaff provides automated callout and callback tracking to mobilize additional Fire personnel for immediate response. TeleStaff is also used for metrics reporting and payroll reconciliation.

TeleStaff enables staff to submit leave requests, confirm coverage, and distribute approved scheduling assignments for all seven Fire Stations using a centralized, online tool (instead of using paper-based processes). The current version of TeleStaff software used by the Fire Department has been recently upgraded to the latest version and Fire department plans to continue its use of the scheduling and timekeeping functions of the Telestaff software.

### BACKGROUND

In May 2001, City Council authorized a contract with Principal Decision Software International, Inc. ("PDSI") to purchase software, hardware, and implementation services for the TeleStaff Fire Department staffing system for an amount not to exceed \$60,000 (Resolution No.61,062–N.S.).

In April 2008, City Council authorized a new contract with PDSI to purchase upgraded software, hardware, and implementation services for an amount not to exceed \$70,000 (Resolution No. 64,049-N.S.).

In 2011, PDSI, Inc. was acquired by Kronos, Inc. In April 2014, City Council authorized an amendment to contract No. 7658 for an upgrade to the software and continued maintenance through 2016 for an amount not to exceed \$109,000. Since 2016 maintenance has been managed through the purchase order process.

### ENVIRONMENTAL SUSTAINABILITY

TeleStaff enables staff to submit leave requests, confirm coverage, and distribute approved scheduling assignments for all seven Fire Stations using a centralized, online tool (instead of using paper-based processes). Prior to implementing TeleStaff, employees were required to track schedule requests and changes on paper at multiple stations and distribute multiple updated paper copies at each station, each time a scheduling change occurred. Automating this business process has helped the Fire Department significantly reduce the amount of paper, time, and gas once used to coordinate operations across all seven Fire Stations. This helps with reducing the greenhouse gas emissions and supports the City's Climate Action Plan.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered allowing software support and maintenance to expire, but recommends against this because it would result in the loss of technical expertise from the vendor and preclude the City from receiving critical software patches and updates.

CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 981-6525.

Attachments:

1: Resolution

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

CONTRACT: KRONOS, INC. FOR TELESTAFF FIRE STAFFING SOFTWARE

WHEREAS, the City has been utilizing the TeleStaff application for automated scheduling and staffing since 2001; and

WHEREAS, the version of TeleStaff currently used by the Berkeley Fire Department needs ongoing maintenance (support); and

WHEREAS, an automated staffing solution simplifies the complex staffing process and has become necessary for efficient and accurate personnel management in the Fire Department; and

WHEREAS, in May 2001, City Council authorized a contract with Principal Decision Software International, Inc. ("PDSI") to purchase software, hardware, and implementation services for the TeleStaff Fire Department staffing system for an amount not to exceed \$60,000 (Resolution No.61,062–N.S); and

WHEREAS, in 2011, PDSI, Inc. was acquired by Kronos, Inc, and in April 2014, City Council authorized an amendment to contract No. 7658 for an upgrade to the software and continued maintenance through 2016 for an amount not to exceed \$109,000. Since 2016 maintenance has been managed through the purchase order process; and

WHEREAS, funding for this maintenance and upgrade in the amount of \$64,680 will be available in the Fire Department's General Fund, and is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and all subsequent amendments with Kronos, Inc. for the upgrade and software maintenance of the TeleStaff Fire Station Staffing Software, for an amount of \$64,680 from May 15, 2019 through June 30, 2022.



Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Contract: Berkeley Marina Area Specific Plan (BMASP) – Hargreaves Associates

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Hargreaves Associates to produce the Berkeley Marina Area Specific Plan (BMASP) in an amount not to exceed \$1,101,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this work is available in the Capital Improvement Fund (Fund 501) and will be included in the second Annual Appropriations Ordinance of FY19.

CURRENT SITUATION AND ITS EFFECTS

The City's "Marina Enterprise Fund" – the mechanism for managing all Waterfront revenues and expenditures – has annual revenues of approximately \$6.2 million and annual expenditures of approximately \$7.2 million, with an annual structural deficit in excess of \$1 million. The Fund is projected to exhaust all reserves within the next two years (by FY 2021). This fiscal crisis has accelerated due to long-deferred infrastructure needs and declining berth occupancy rates.

The goal of the Berkeley Marina Area Specific Plan (BMASP) is to provide a vision and plan for achieving a financially self-sustainable, publicly-owned marina area with infrastructure and amenities to support current and future community needs, while adapting to climate changes and promoting recreation and environmental stewardship. A Draft Environmental Impact report (DEIR) will be prepared to ensure the BMASP meets the requirements of the California Environmental Quality Act (CEQA).

The project will involve an extensive public process to ensure that the vision is a product of the community's needs for decades to come.

On October 10, 2018, the City issued a competitive Request for Proposals (RFP) to provide professional consultant services necessary to produce a specific plan and draft environmental document for the Berkeley Marina Area (Specification No. 18-11248-C).

The City received two proposals. After conducting a selection process by a six-member review panel, Hargreaves Associates was identified as the consultant that received the best score according to the criteria contained in the RFP document. Hargreaves has extensive experience, leading projects ranging from Crissy Field in San Francisco to Queen Elizabeth Olympic Park in London. Staff recommends Council approval of a contract with Hargreaves Associates for professional consultant services for the project.

### BACKGROUND

For the last twenty years, there has been a structural deficit in the Marina Fund, which has been offset by staffing reductions and the delay of capital improvements. These options are no longer possible, however, and new approaches are needed.

Marina Area revenue comes primarily from berth rentals and commercial lease rents. Berth Rentals (defined as Occupancy Rates) declined from 88% in 2015 to 77% in 2018. Lease revenue from restaurants and the hotel, whose rent is generally based on a percentage of gross revenue, declined about 5% in 2018. Boaters and commercial tenants have cited the Marina's deteriorating infrastructure, as well as safety and security concerns, to explain these declines.

Much of the existing Marina Area infrastructure – docks, pilings, buildings, parking lots, and roads – were originally constructed in the 1960s and 1970s, and have reached the end of their useful life. The cost to address these existing capital needs is estimated to exceed \$100 million. Since the inception of the Marina Fund, a there has been no dedicated set-aside for a capital reserve account, which means that capital projects and large maintenance projects were only completed if absolutely necessary or if they were funded by outside grants.

The BMASP will include the following:

- Evaluation of existing infrastructure amenities, and operations
- Evaluation of potential new revenue generation opportunities and programs in the context of existing land-use, zoning, regulatory limitations.
- A financial analysis of the operations of the Berkeley Waterfront (revenues and expenses, programs and services)
- Recommendations for a range of optimal models of operation.

The end result will be a comprehensive specific plan for a vibrant, beautiful, ecologically and financially stable marina for the use and enjoyment of generations to come. It will include implementation tools and policies to address future demand for land use, access/circulation/parking, utilities, public services, recreational facilities/ programs/ special events, commercial facilities, and shoreline protection, as well as a 5-year Capital Improvement Program (CIP) plan.

### RATIONALE FOR RECOMMENDATION

The City does not have sufficient expertise to develop a comprehensive specific plan for the Berkeley Marina. After conducting a competitive RFP selection process by a six-member review panel, Hargreaves Associates was identified as the consultant that received the best score according to the criteria contained in the RFP document.



ALTERNATIVE ACTIONS CONSIDERED

At the current rate of expenditures and declining infrastructure, within two years, the Marina will deteriorate to the point where it is no longer useable for many people. At that time, without support from the General Fund or other sources, the City will need to close the Marina docks, close the recreational programs and special events, and drastically reduce maintenance services to the landscaping, parks, roads and pathways at the Waterfront. With a reduced presence of City staff and the general public, the entire area will decline in recreational value and safety.

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Christina Erickson, Deputy Director, PRW, 981-6712  
Nelson Lam, Associate Civil Engineer, PRW, 981-6395

Attachments:

1: Resolution

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

CONTRACT: BERKELEY MARINA AREA SPECIFIC PLAN – HARGREAVES ASSOCIATES IN AN AMOUNT NOT-TO-EXCEED \$1,101,000

WHEREAS, the City’s “Marina Enterprise Fund” – the mechanism for managing all Waterfront revenues and expenditures – has annual revenues of approximately \$6.2 million and annual expenditures of approximately \$7.2 million, with an annual structural deficit in excess of \$1 million. The Fund is projected to exhaust all reserves within the next two years (by FY 2021). This fiscal crisis has accelerated due to long-deferred infrastructure needs and declining berth occupancy rates; and

WHEREAS, the goal of the Berkeley Marina Area Specific Plan (BMASP) and Draft Environmental Document (DEIR) is to provide a vision and a plan for achieving a financially self-sustainable, publicly-owned marina area with infrastructure and amenities to support current and future community needs, while adapting to climate changes and promoting recreation and environmental stewardship; and

WHEREAS, on October 10, 2018, the City issued a competitive Request for Proposals (RFP) to provide professional consultant services necessary to produce a specific plan and draft environmental document for the Berkeley Marina Area (Specification No. 18-11248-C); and

WHEREAS, the City received two proposals. After conducting a selection process by a six-member review panel, Hargreaves Associates was identified as the consultant that received the best score according to the criteria contained in the RFP document; and

WHEREAS, funding for this work is available in the Capital Improvement Fund (Fund 501) and will be included in the second Annual Appropriations Ordinance of FY 2019.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract and any amendments with Hargreaves Associates in the amount of \$1,101,000 for professional consultant services for the Berkeley Marina Area Specific Plan. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director of Parks Recreation & Waterfront

Subject: Contract: Lux Bus America for Charter Bus Transportation Services For Echo Lake Camp and Select Recreation Division Summer Programs

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Lux Bus America to provide charter bus transportation services for Echo Lake Youth Camp and other summer Recreation Division programs for a not-to-exceed total amount of \$226,000 over a five year period, beginning June 1, 2019 and ending June 1, 2024, contingent upon annual budget appropriations.

FISCAL IMPACTS OF RECOMMENDATION

The \$226,000 over a five year period averages out to an annual cost of approximately \$45,200 per year, depending on programming and the number of participants served. Funds in the amount of \$45,200 will be budgeted annually in the Camps Fund and General Fund, and are included in the FY2020 budget as follows: \$40,200 from Echo Lake (Camps Fund) (Fund 125); and \$5,000 from the General Fund Teen Program (Fund 011). The use of these funds for this contract are subject to Council approval of the FY 2020 & FY 2021 Biennial Budget and the FY 2020 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

In March 2019, the City conducted a Request for Proposal (RFP) process for Charter Bus Transportation Services for Echo Lake Camp and Select Recreation Division Summer Programs and more than 30 vendors were invited to submit proposals. The City received two (2) proposals. Staff determined that Lux Bus America's proposal best meets the criteria described in the RFP. As a result, staff recommends Council approval of a contract for a not-to-exceed total amount of \$226,000 for a five-year period beginning June 1, 2019 and ending June 1, 2024.

BACKGROUND

The City of Berkeley Echo Lake Youth Camp, Teen Weekend, Pre-K Camping Trip, and several Recreation Division summer camp program field trips offer bus transportation as part of the programs. The City has previously entered into contract for charter bus

transportation services for these programs. In 2011 and 2014, the City obtained quotes for bus service for Echo Lake and Teen Camp programs and selected Silverado Stages, Inc for contract services. In 2018, Silverado Stages filed for Chapter 11 bankruptcy and no longer provides bus transportation services.

ENVIRONMENTAL SUSTAINABILITY

The use of bus transportation for camps programs greatly reduces the vehicle miles traveled by camp participants in privately owned vehicles, which reduces carbon emissions.

RATIONALE FOR RECOMMENDATION

Staff determined that Lux Bus America's proposal best meets the criteria described in the RFP.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Kim LeMay, Acting Recreation and Youth Services Manager, 981-5147

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

CONTRACT: LUX BUS AMERICA FOR CHARTER BUS TRANSPORTATION SERVICES FOR ECHO LAKE CAMP AND SELECT RECREATION DIVISION SUMMER PROGRAMS

WHEREAS, the Parks, Recreation & Waterfront Department provides bus transportation services for Echo Lake and Teen Camp programs; and

WHEREAS, in March 2019, the City conducted a Request for Proposal process for Charter Bus Transportation Services for Echo Lake Camp and Select Recreation Division Summer Programs and more than 30 vendors were invited to submit proposals. The City received two (2) proposals. Staff determined that Lux Bus America's proposal best meets the criteria described in the RFP; and

WHEREAS, funds in the amount of \$45,200 will be budgeted annually in the Camps Fund and General Fund for the next five years, and are included in the FY20 budget as follows: \$40,200 from Echo Lake (Camps Fund) (Fund 125); and \$5,000 from the General Fund Teen Program (Fund 011). The use of these funds for this contract are subject to Council approval of the FY 2020 & FY 2021 Biennial Budget and the FY 2020 Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract with Lux Bus America to provide bus transportation for Echo Lake and Teen Camp programs for a not-to-exceed total amount of \$226,000 over a five year period, beginning, June 1, 2019 and ending June 1, 2024, contingent upon annual budget appropriations. A record signature copy of said contract amendment to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Approving Proposed Projects Anticipated to be Paid for by the State's Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2020

RECOMMENDATION

Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California's Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.

FISCAL IMPACTS OF RECOMMENDATION

Based on information provided by CaliforniaCityFinance.com and the League of California Cities, the City of Berkeley can expect to collect an estimated \$2,154,652 in Road Maintenance and Rehabilitation Account (RMRA) allocated funding in Fiscal Year (FY) 2020. No budgetary action is required at this time. RMRA appropriations will be addressed with the adoption of the FY 2020 Budget.

CURRENT SITUATION AND ITS EFFECTS

California Senate Bill 1 (SB1), signed into law on April 28, 2017, increased certain vehicle fuel and registration taxes and fees, and with those funds has created an RMRA, a portion of which will be distributed to jurisdictions. As SB1 was approved late in the city's FY 2018 – 2019 budget adoption process, prior to full information on reporting requirements, RMRA funds were not included in the biennial budget adoption in June 2017. SB1 will be included in the FY 2020 - 2021 budget scheduled to be approved on June 25, 2019. The California Transportation Commission (CTC) requires jurisdictions to submit documentation annually that RMRA funds were specifically adopted for allowed local streets and roads purposes. In order to receive this funding, the City must annually submit to the State a list of projects anticipated to be completed. For FY 2019, the CTC requires the submission of a list of projects proposed to be funded with RMRA during FY 2020 by May 1, 2019. The adoption of the attached resolution by Council is a CTC requirement for Berkeley's RMRA project list submittal.

BACKGROUND

On April 28, 2017, the Governor signed Road Repair and Accountability Act (SB1) to address basic road maintenance, rehabilitation, and critical safety needs on both the state highway and local streets and road system. SB1 provides for the deposit of

various funds for the program in the RMRA, which SB1 created in the State Transportation Fund, including the following:

- Revenues attributable to a \$0.12 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment;
- 50% of a \$0.20 per gallon increase in the diesel excise tax, with an inflation adjustment;
- A portion of a new transportation improvement fee imposed under the Vehicle License Fee Law with a varying fee between \$25 and \$175 based on vehicle value and with an inflation adjustment; and
- A new \$100 annual vehicle registration fee applicable only to zero-emission vehicles model year 2020 and later, with an inflation adjustment.

The fuel excise tax increases took effect on November 1, 2017, the transportation improvement fee took effect on January 1, 2018, and the zero-emission vehicle registration fee takes effect on July 1, 2020.

Similar to the Highway Users Tax Account (HUTA), the Road Maintenance and Rehabilitation Account (RMRA) is continuously appropriated, and apportioned on a monthly basis. There is not a set monthly amount as it is use-based. The first apportionments to the City of Berkeley were received in February 2018.

According to the applicable California Streets and Highways Code, eligible projects “shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects”<sup>1</sup>. There is no use-it-or-lose-it requirement in SB1, so multi-year projects are eligible. Eligible projects include, but are not limited to:

- Road maintenance and rehabilitation
- Safety projects
- Railroad grade separations
- Complete streets components, including active transportation, bike/pedestrian, transit facilities, and stormwater capture projects, in conjunction with an allowable project
- Traffic control devices
- Match for state/federal funds for eligible projects

SB1 requires cities and counties to provide basic project reporting to the CTC annually for projects to be funded through the RMRA. On August 16, 2017, the CTC adopted annual reporting guidelines for this funding. The guidelines require jurisdictions to submit documentation annually to show that RMRA funds were specifically adopted for allowed local streets and roads purposes, and also requires the submission of a list of projects proposed to be funded with RMRA during the fiscal year. The legislation also requires annual reporting on work completed during the previous fiscal year. The annual reporting period runs from November 1st through October 31<sup>st</sup>.

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<sup>1</sup> Streets and Highways Code – SHC Division 3. Apportionment And Expenditure Of Highway Funds Chapter 2. Road Maintenance And Rehabilitation Program Section 2030(A)



Complete streets improvements such as bike lanes, curb ramps, and pedestrian crossing improvements are allowable uses of RMRA funds. In addition to the previously designated projects listed in Resolution No. 68,395–N.S., staff has selected the FY 2020 Street Rehabilitation projects for use of RMRA funds. The projects are summarized in the following paragraph, and the complete list is provided in the Resolution (Attachment 1).

Pavement reconstruction or rehabilitation as part of the FY 2020 Street Rehabilitation project (20ST01). Selected segments include Cedar Street from 6th Street to San Pablo Avenue, Center Street from Martin Luther King Jr. Way to Milvia Street, Center Street from Milvia Street to Shattuck Avenue, Rose Street from Leroy Avenue to La Loma Avenue, Santa Fe Avenue from Gilman Street to Cornell Avenue/ Page Street, Shasta Road from Grizzly Peak Boulevard to Park Gate, Shasta Road from Park Gate to east City limit (Golf Course), and Spinnaker Way from Breakwater Drive to Marina Boulevard.

Utilization of the RMRA funding will support the City's Strategic Plan goal of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY

RMRA funds will benefit all modes of transportation by improving road surfaces for bicyclists and transit riders as well as for auto riders, which could result in lessening greenhouse gas emissions.

RATIONALE FOR RECOMMENDATION

A project list is required to be adopted by City Council in order for the City to receive RMRA disbursements from the State Controller's office. Staff proposes use of RMRA funds for rehabilitation or reconstruction of local streets as part of the FY 2020 Street Rehabilitation (20ST01). It should be noted that the provided project list is a plan; in the end-of-year reporting on actual spending of RMRA funds, the CTC allows for the completion of projects not included in this list as long as they meet the requirements for RMRA funding.

ALTERNATIVE ACTIONS CONSIDERED

No reasonable alternative exists as the City's pavement condition is currently in the low end of the fair index category and is projected to decline, and is in need of continued maintenance and rehabilitation.

CONTACT PERSON

Phillip L. Harrington, Director, Department of Public Works (510) 981-6303  
Nisha Patel, Manager of Engineering (510) 981-6406

Attachment:  
1: Resolution

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

RESOLUTION APPROVING PROPOSED PROJECTS ANTICIPATED TO BE PAID FOR BY THE STATE'S ROAD AND MAINTENANCE AND REHABILITATION ACCOUNT (RMRA) FUNDS FOR FISCAL YEAR 2020

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must approve by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City, will receive an estimated \$2,154,652 in RMRA funding in Fiscal Year 2020 from SB 1; and

WHEREAS, this is the third year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has undergone a public process to ensure public input into our community's street priorities and the project list; and

WHEREAS, the City used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will be used by the City for basic street maintenance and rehabilitation, critical safety projects on local roadways, and pedestrian safety and transportation projects throughout the City this year and for similar projects into the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in the low end of the fair condition category,

and this revenue will help us increase the overall quality of our road system, and improve their bicycle and pedestrian mobility and safety; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide; and

WHEREAS, the following list of proposed projects is anticipated to be funded in-part or solely with Fiscal Year 2020 Road Maintenance and Rehabilitation Account revenues:

#### FY 2020 Street Rehabilitation

- Cedar Street from 6<sup>th</sup> Street to San Pablo Avenue (0.31 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Center Street from Martin Luther King Jr. Way to Milvia Street (0.13 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Center Street from Milvia Street to Shattuck Avenue (0.13 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Rose Street from Le Roy Avenue to La Loma Avenue (0.14 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Santa Fe Avenue from Gilman Street to Cornell Avenue/ Page Street (0.27 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Shasta Road from Grizzly Peak Boulevard to Park Gate (0.05 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Shasta Road from Park Gate to east City limit (Golf Course) (0.11 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in April 2020 and will be completed by October 2020.
- Spinnaker Way from Breakwater Drive to Marina Boulevard (0.28 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2020 and will be completed by November 2020.

The following previously proposed and approved projects may utilize fiscal year 2020 Road Maintenance and Rehabilitation Account revenues in their delivery. With the relisting of these projects in the adopted fiscal year resolution, the City is reaffirming to the public and the State our intent to fund these projects with Road Maintenance and Rehabilitation Account revenues:

#### FY 2018 Street Rehabilitation

- Panoramic Way - For the entire street (Canyon Road to east city limit), approximately 3591 LF (0.68 miles), reconstruct the pavement. This work will provide a twenty-year useful life. Construction is to start in April 2019 and will be completed by May 2020.
- Prospect Street - From University of California at Berkeley Campus to Hillside Avenue, approximately 686 LF (0.13 miles), reconstruct the pavement. This work will provide a twenty-year useful life. Construction is to start in April 2019 and will be completed by May 2020.

#### FY 2019 Street Rehabilitation

- 6th Street from Allston Way to Dwight Way (0.37 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in May 2019 and will be completed by November 2020.
- Catalina Avenue from Colusa Avenue to The Alameda (0.19 miles) - reconstruct the pavement. The work will provide a twenty-year useful life. Construction is to start in May 2019 and will be completed by November 2020.
- Derby Street from San Pablo Avenue to Mabel Street (0.20 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in May 2019 and will be completed by November 2020.
- Dwight Crescent from 6th Street to 7th Street (0.08 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in May 2019 and will be completed by November 2020.
- Highland Place from Ridge Road to Hearst Avenue (0.07 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in May 2019 and will be completed by November 2020.
- Ridge Road from La Loma Avenue to Highland Place (0.06 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in May 2019 and will be completed by November 2020.

- Station Place from Catalina Avenue to the south end (entire street) (0.04 miles) - reconstruct the pavement. The work will provide a twenty-year useful life. Construction is to start in May 2019 and will be completed by November 2020.

#### Shattuck Avenue Reconfiguration Project

- Reconfiguration of a three-block segment of Shattuck Avenue from Allston Way to University Avenue to improve pedestrian and bicycle safety, northbound circulation for motorists and transit vehicles, and the quality of public spaces in the Downtown core. Signals, sidewalks, and other hardware components will have a useful life of thirty years. The paving improvements will provide a twenty-year useful life. Construction started in January 2019 and will be completed by September 2020.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit the list of proposed projects to the California Transportation Commission as required by Senate Bill 1, Road Repair and Accountability Act of 2017.





Office of the City Manager

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Public Works

Subject: Purchase Order: Toter Incorporated for Refuse, Recycling and Organic Wheeled Carts

RECOMMENDATION

Adopt a Resolution:

1. Authorizing the City Manager to enter into additional FY 2019 purchase orders with Toter Incorporated for refuse, recycling and organic wheeled carts, for a total FY 2019 amount not to exceed \$292,045; and
2. Authorizing the City Manager to purchase refuse, recycling and organic wheeled carts from Toter Incorporated to piggy-back off of a National Intergovernmental Purchasing Alliance contract with Toter Incorporated, for annual expenditures not to exceed:
  - FY2020.....\$283,155
  - FY2021.....\$292,484
  - FY2022.....\$303,020
  - FY2023.....\$308,068

FISCAL IMPACTS OF RECOMMENDATION

Funding for the remainder of FY 2019 is available in Zero Waste Fund (601) and Cal Recycle Beverage Container Recycling City/County Payment Program Fund (647). The funding for FY 2020 – FY 2023 purchase orders will be subject to appropriation from the Zero Waste Fund (601) and Cal Recycle Beverage Container Recycling City/County Payment Program Fund (647) for future purchases.

CURRENT SITUATION AND ITS EFFECTS

The majority of wheeled carts (20, 32, 64 or 96 gallon sizes) have been provided to both residential and commercial customers from 2008 to 2011 due to continuous daily use. This daily use has resulted in broken lids, wheels and/or axles or cracked cart bodies that cannot be repaired and then require replacement. Also in early 2018, the Zero Waste Division’s remaining replacement supply was completely utilized with the commercial expansion of 400+ new commercial customers that had been collected by the non-exclusive commercial waste hauler franchisees. Therefore in FY2019, the City

has had to purchase new wheeled carts for a cost of about \$167,040 and additional purchases are needed.

This requested purchase order authorization will allow the City to continue 1) to support its Zero Waste goals, 2) promote a clean environmental for and 3) the City's Strategic Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

#### BACKGROUND

Since FY 2014 and with City Council authorization, the Zero Waste Division began purchasing wheeled carts by piggy-backing off of the National Intergovernmental Purchasing Alliance (NIPA) contract with Toter, Inc. This national program provides for master agreements with companies that have lower costs and provided savings to participating public agencies, such as the City of Berkeley. In addition, this has provided the City with a consistent type and style of wheeled carts that allows the City to standardize the wheeled carts use by customers and with a standardization of the wheeled carts by size (gallons) and fabrication, this more easily accommodates repairs of the wheeled carts.

#### ENVIRONMENTAL SUSTAINABILITY

Broken, cracked, or unrepairable wheeled carts can allow the potential spillage of refuse, recyclables and organics when collected or materials placed in the carts during non-service days. These broken, cracked, or unrepairable wheeled also have the potential to contribute to litter in the streets and storm waste run-off.

#### RATIONALE FOR RECOMMENDATION

Replacement supply on hand of refuse, recycling and organics wheeled carts are needed to provide uninterrupted collection services to the City's residential and commercial customers. The Toter carts are a compatible type of cart for the City's collection fleet. NIPA and Toter have implemented a new 5-year contract that extends this competitive pricing until 2023 and offers the City competitive pricing for these carts.

#### ALTERNATIVE ACTIONS CONSIDERED

None

#### CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, Public Works, (510) 981- 6359

#### Attachments:

1: Resolution

Exhibit A: Toter, NIPA, City of Tucson Contract Agreement



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

PURCHASE ORDER: TOTER INCORPORATED FOR REFUSE, ORGANICS, AND RECYCLING CARTS

WHEREAS, the City of Berkeley provides essential refuse, recycling and organic collected services to residents and commercial community members with the goal of reaching Zero Waste, and these services require the purchase of refuse, recycling and organic wheeled carts; and

WHEREAS, Since FY 2014 and with City Council authorization, the Zero Waste Division began purchasing wheeled carts by piggy-backing off of the existing National Intergovernmental Purchasing Alliance (NIPA) contract with Toter Inc. This national program provides for master agreements with companies that have lower costs and provided savings to participating public agencies, such as the City of Berkeley.

WHEREAS, NIPA and Toter have implemented a new 5-year contract that extends this competitive pricing until 2023; and

WHEREAS, the Public Works, Zero Waste Division, has purchased in FY 2019 new wheeled carts at a cost of \$167,040 and additional wheeled carts are needed before the end of this fiscal year, and the Zero Waste Division forecasts additional wheeled cart supply demands and additional annual purchases for new carts that exceed City Manager authority in the coming fiscal years.

NOW THEREFORE, BE IT RESOLVED by the City Council that the City Manager is authorized for additional FY 2019 purchase orders with Toter Inc. for refuse, recycling and organics wheeled carts with a total amount not to exceed \$292,045.

BE IT FURTHER RESOLVED that the City Manager is authorized to purchase refuse, recycling and organics wheeled carts from Toter Inc. that allow the City to utilize the NIPA contract with Toter Inc. to ensure competitive pricing with annual expenditures in fiscal years 2020 through 2023 for amounts not to exceed as follows:

|             |           |
|-------------|-----------|
| FY2020..... | \$283,155 |
| FY2021..... | \$292,484 |
| FY2022..... | \$303,020 |
| FY2023..... | \$308,068 |

- Exhibits
- A: Toter/NIPA Contract

**Toter**<sup>®</sup>

**Built for Extremes**<sup>™</sup>



EXPERIENCED ★ FOCUSED ★ TRUSTED

**TOTER COOPERATIVE CONTRACT**

**#171717**

# TOTER COOPERATIVE CONTRACT #171717

With National IPA, competitive, large volume pricing is right at your fingertips.



## ABOUT NATIONAL IPA

National IPA is a national cooperative purchasing organization that works with public agencies – including government, educational institutions and non-profit agencies – who competitively solicit national contracts for aggregated use to streamline the purchasing process. To learn more, visit [toter.com/national-ipa](http://toter.com/national-ipa).

## ADVANTAGES OF USING NATIONAL IPA

- No cost for eligible organizations to participate with National IPA (eligible organizations include government, educational institutions and non-profit agencies).
- Cooperative contracts are competitively solicited on participants' behalf, saving time and money.
- Contract process has already been conducted by a government agency, so organizations realize tremendous savings (versus sourcing their own products)



## TOTER COOPERATIVE CONTRACT #171717

The City of Tucson, AZ has publicly solicited and awarded to Toter, LLC a cooperative purchasing agreement (Contract #171717) for Toter refuse containers, related waste, and recycling products. This cooperative purchasing agreement is available to public agencies and non-profit entities nationwide via National Intergovernmental Purchasing Alliance (National IPA).

*Effective February 1, 2018 through January 30, 2023*



## TWO-WHEEL CURBSIDE COLLECTION CARTS



- EVR II and EVR I carts available in 16, 21, 24, 32, 35, 48, 64 and 96-gallon sizes are compatible with automated and semi-automated lifters for garbage and yard waste collection with an industry-leading 12-year body warranty.
- Available in a variety of colors, textures, custom hot stamps, graphics and RFID tags
- Nestable design allows fully assembled carts to be stacked inside one another for delivery efficiencies, reduced labor, and reduced delivery expense.
- Bear-Tough Carts provide unmatched resistance to chewing and clawing, protecting both bears and humans.
- Service options for cart assembly and delivery, and full service cart maintenance available

## CURBSIDE COLLECTION OPTIONS



- 2-gallon kitchen collector organics bin is equipped with top and bottom hand grips for easy dumping, a snap tight lid, a wall mountable design and a locking seal to prevent odors. This bin is dishwasher safe, which makes it easy to clean.
- 13-gallon organics bin is designed for collection with large handles at a comfortable height and heavy-duty wheels for easy transport to the curb. Featuring a latch and animal lock, it keeps away pesky predators.
- 21, 32, and 48-gallon organics automated collection carts are specifically designed to withstand heavy, wet organic waste with heavy-duty load ratings, and optional animal resistant locks.

## FEL COLLECTION OPTIONS



- Standard FELs available in 2, 3, and 4-cubic-yard sizes
- Manufactured with a stress-free Advanced Rotational Molding™ process for superior durability, impact resistance, and long life.
- Quieter, rust-resistant and corrosion-proof containers last up to three times longer than steel containers and require no painting.
- Lighter weight and easier to maneuver than conventional steel containers.
- Organics FELs are specifically designed for heavy, wet organic waste with a leak-proof design, locking lid, and built-in drain plug. Available in 2 or 3-cubic-yard sizes

## LIFTER OPTIONS



- TrimLift is a slim profile lifter designed to fit rear-load and side-load applications.
- HighLift is a durable lifter designed to fit rear-load and side-load applications.
- EconoLift is a low-maintenance, low-cost lifter designed to fit most rear loaders.

## AVAILABLE CART COLORS

Toter carts are available in a variety of colors and textures. Granite finishes mask normal wear by helping hide scuffs, scratches, and dirt, keeping cans looking new for years.



Colors shown are as accurate as printing allows. Actual product colors are subject to variation from printed sample.



# Toter®

Built for Extremes™





Office of the City Manager

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Award of Contract: APB General Engineering for Hillview Road and Woodside Road Drainage Improvement Project

RECOMMENDATION

Adopt a Resolution approving plans and specifications for Hillview Road and Woodside Road Drainage Improvement Project, Specification No. 19-11283-C; accepting the bid of APB General Engineering as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$240,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available from the Capital Improvement Program Fund and State Transportation Tax Fund. No other funding is required, and no other projects will be delayed due to this expenditure.

|                                |                  |
|--------------------------------|------------------|
| Low bid by Contractor          | \$222,240        |
| 7.99% Contingency              | \$17,760         |
| <b>Total construction cost</b> | <b>\$240,000</b> |

FY 2019 Funding:

|                                        |                  |
|----------------------------------------|------------------|
| State Transportation Tax Fund (127)    | \$120,000        |
| Capital Improvement Program Fund (501) | \$120,000        |
| <b>Total construction cost</b>         | <b>\$240,000</b> |

This contract has been assigned CMS No. AR3UR.

CURRENT SITUATION AND ITS EFFECTS

This contract has gone through planning, coordinating with outside utility companies, preliminary cost estimates, field investigations, surveys, and extensive design before implementation.

The Hillview Road and Woodside Road Drainage Improvement Project (Specification No. 19-11283-C) was released for bids on January 17, 2019, and bids were opened on February 14, 2019 (see Attachment 3, Abstract of Bids).

Six non-local bids were received, from a low of \$222,240 to a high of \$408,765. APB General Engineering, of Concord, California was the lowest responsive and responsible bidder, with a bid of \$222,240, and their references were found to be satisfactory. Staff recommends a contract for this project be awarded to APB General Engineering. The consultant engineer's estimate for the project was \$220,690.

The Hillview Road and Woodside Road Drainage Improvement Project advances the City's Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

This contract proposes to replace approximately 300 linear feet of aging corrugated metal storm water pipe from the west side of Woodside Road to Wildcat Canyon Road as shown in Attachment 2: Location Map. The pipeline will be located in the existing 10-foot-wide easement within the private property limits of 1101 Hillview Road. The trenchless construction method of horizontal directional drilling will be used to install this section of pipe to minimize construction impacts.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement (CWA) does not apply because the engineer's estimate is below the \$500,000 threshold for CWA eligibility.

The project plans and specifications are on file in the Public Works Department. In accordance with the requirements of the California Environmental Quality Act (CEQA), the project has been determined to be categorically exempt because it consists of maintenance of existing facilities and does not expand their use beyond existing conditions.

### ENVIRONMENTAL SUSTAINABILITY

During the analysis of this project, the location was analyzed for possible green infrastructure improvements to treat runoff. However, green infrastructure is not recommended for this site since introducing runoff infiltration to hillside regions could lead to instability of the hillside.

### RATIONALE FOR RECOMMENDATION

The work requires contracted services, as the City does not possess the in-house labor or equipment resources necessary to complete the project.

### ALTERNATIVE ACTIONS CONSIDERED

The storm water pipe has reached the end of its useful life and requires immediate attention. Therefore, no other alternative actions were considered for this drainage improvement project.



CONTACT PERSON

Nisha Patel, Manager of Engineering & City Engineer (510) 981-6406  
Joe Enke, Supervising Civil Engineer (510) 981-6411

Attachments:

- 1: Resolution
- 2: Location Map
- 3: Abstract of Bids

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

CONTRACT: APB GENERAL ENGINEERING FOR HILLVIEW ROAD & WOODSIDE  
ROAD DRAINAGE IMPROVEMENT PROJECT

WHEREAS, the Hillview Road and Woodside Road Drainage Improvement Project is part of the City's ongoing Storm Drain System Capital Improvement Program to rehabilitate deteriorated storm drains located throughout the City; and

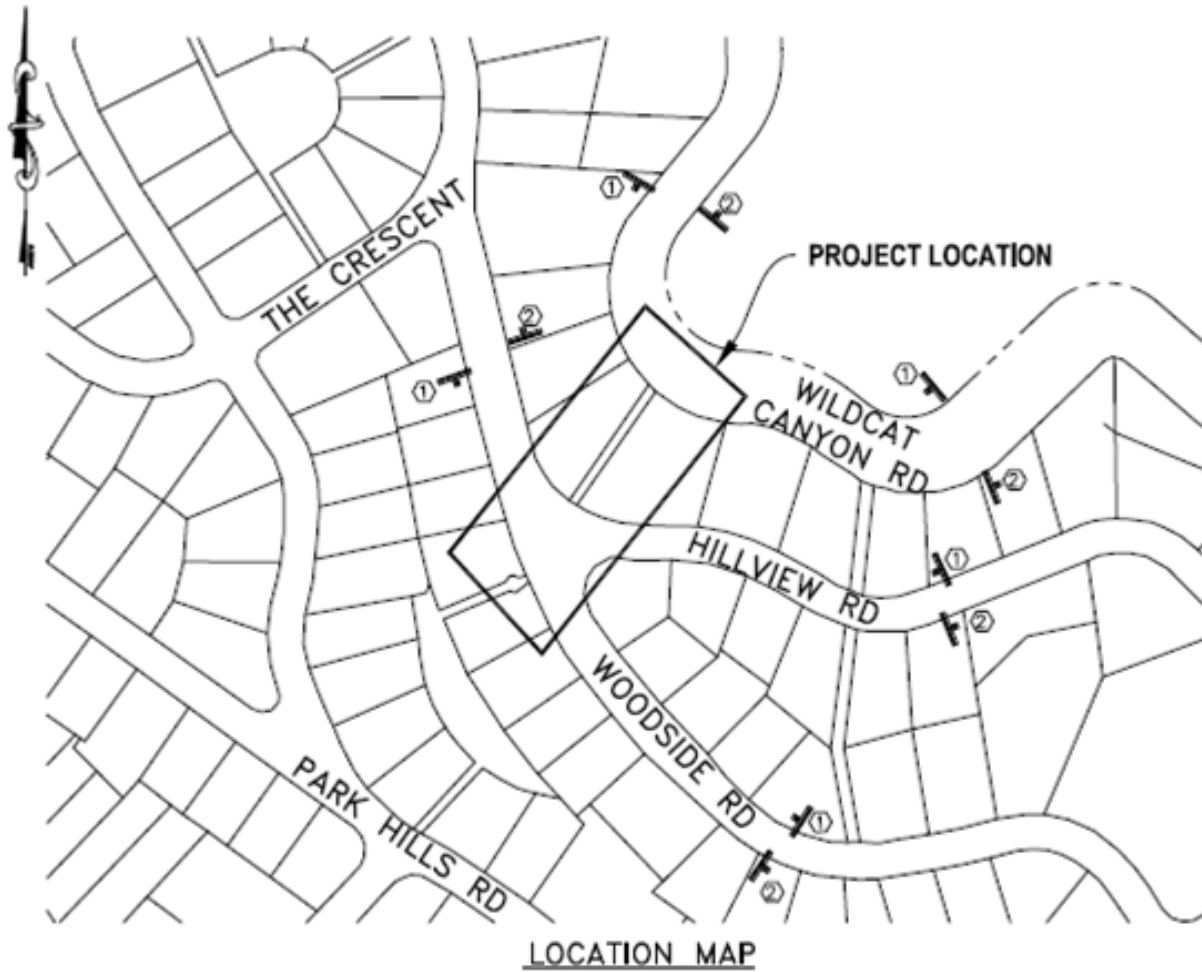
WHEREAS, the City has neither the labor nor the equipment necessary to undertake this Hillview Road and Woodside Road Drainage Improvement Project; and

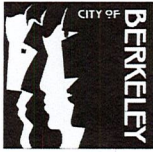
WHEREAS, an invitation for bids was duly advertised and APB General Engineering was the lowest responsive and responsible bidder; and

WHEREAS, funding is available in the current year budget in the Capital Improvement Program Fund (501) and State Transportation Tax Fund (127), and the contract has been entered into the citywide contract database with CMS No. AR3UR.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 19-11283-C for the Hillview Road and Woodside Road Drainage Improvement Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions or change orders, until completion of the project in accordance with the approved plans and specifications with APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project, in an amount not to exceed \$240,000, which includes a 7.99% contingency for unforeseen circumstances. A record signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.





City of Berkeley  
Abstract of Bids Worksheet

Finance Department  
General Service Division

For: *Hillview Rd + Woodside Rd Drawings*

Specification#: *19-11283-C*

Engineer's Estimate: **\$ 220,690.00**

Bid Date: *02/14/19*

|    | Bidders                 | Base Bid          | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO | Bid Bond | Addendum |
|----|-------------------------|-------------------|----------|-----------------|-------------|-------------|-----|----------|----------|
| 1  | <i>Bay Construction</i> | <i>341,478.20</i> | /        |                 |             |             | /   | /        |          |
| 2  | <i>Grade Tech. Sec.</i> | <i>408,765.00</i> | /        |                 | /           |             | /   | /        |          |
| 3  | <i>DeWaney Eng.</i>     | <i>305,070.00</i> | /        |                 | /           |             | /   | /        |          |
| 4  | <i>APB General Eng.</i> | <i>222,240.00</i> | /        |                 | /           |             | /   | /        |          |
| 5  | <i>Express Plumbing</i> | <i>283,706.00</i> | /        |                 | /           |             | /   | /        |          |
| 6  | <i>Kensel Eng.</i>      | <i>230,520.00</i> | /        |                 | /           |             | /   | /        |          |
| 7  |                         |                   |          |                 |             |             |     |          |          |
| 8  |                         |                   |          |                 |             |             |     |          |          |
| 9  |                         |                   |          |                 |             |             |     |          |          |
| 10 |                         |                   |          |                 |             |             |     |          |          |

Bid Recorder: *Blankenship* *02/14/19*

Bid Opener: *Flome* *2/14/19*

Project Manager: *Dann* *02/14/19*



Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip Harrington, Director, Public Works  
 Subject: Contract: McLaughlin Waste Equipment, Inc. to Clean, Repair, and Paint Metal and Plastic Bins

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with McLaughlin Waste Equipment, Inc. to clean, repair, and paint metal and plastic bins for a three year period, with an option to extend the contract for two additional one year terms for a total amount not to exceed \$300,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding is subject to appropriation in Zero Waste Fund (601).

This contract has been entered into the City's contract management database and assigned Contract Management System No. DUIDF.

CURRENT SITUATION AND ITS EFFECTS

The cleaning, repairing and painting of metal and plastic bins is a critical service for the Zero Waste Division. This service extends the useful life of these bins, enabling the Division the ability to support the City's commercial customers. Improperly maintained refuse, recycling and green compost bins can be a source of infectious agents, such as, salmonella, E Coli and listeria that may lead to digestive illnesses and other health problems. In addition, dirty or unrepaired refuse, recycling and green compost bins can be an attraction to vectors.

BACKGROUND

The City's current contractor, Stockton Tri Industries Inc., has provided notice to the City to end the existing contract for these cleaning, repairing and repair services effective June 30, 2019, which is current contract end date.

Request for Proposals (RFP) No. 19-11284-C was released and proposals were solicited by the Finance Department. McLaughlin Waste Equipment, Inc. was the only firm to respond to this RFP. After staff review, the proposal was determined to be responsive to the City's needs

This contract authorization allows the City to continue to support the goal of Zero Waste and the City's Strategic Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

ENVIRONMENTAL SUSTAINABILITY

Cleaned, repaired and painted metal and plastic bins will reduce the potential for spillage or leakage of any refuse, recyclables material and/or green compost placed in the bins on non-service days; reduce vector access; and the potential operational and customer staffs' exposure to infectious agents or diseases.

In addition, cleaned, repaired and painted metal and plastic bins reduce the potential discharge of storm water that may be incidentally captured by bins.

RATIONALE FOR RECOMMENDATION

In order to ensure the uninterrupted services for cleaning, repairing, and painting of Zero Waste Division's refuse, recycling, and green compost bins, it is recommended that Council authorize the execution of a contract and any amendments with McLaughlin Waste Equipment, Inc.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, Public Works, (510) 981-6359.

Attachments:

1: Resolution

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

CONTRACT: MCLAUGHLIN WASTE EQUIPMENT, INC. TO CLEAN, REPAIR, AND PAINT THE CITY'S METAL AND PLASTIC BINS

WHEREAS, the City of Berkeley Zero Waste Management Division has a continuing need for the preventative maintenance and repair of refuse, recycling, and green compost bins; and

WHEREAS, dirty refuse, recycling or green compost bins in a deteriorated condition can attract vectors to customers' facility and can be a source of infectious disease causing agents that may cause severe digestive illnesses other health problems; and

WHEREAS, preventative maintenance and repairs of refuse, recycling, and green compost bins is critical for the Division's commercial operations, and the City does not have in-house staff resources to perform needed specialized preventative maintenance and repairs; and

WHEREAS, Request for Proposals No. 19-11284-C was released and proposals were solicited by the Finance Department, and McLaughlin Waste Equipment, Inc. was the only firm to respond; and

WHEREAS, after staff review, the proposal from McLaughlin Waste Equipment, Inc. was determined to be responsive to the City's needs; and

WHEREAS, funds are subject to appropriation in the Zero Waste Fund 601 and this contract been entered into the City's contract management database and assigned Contract Management System No. DUIDF.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with McLaughlin Waste Equipment, Inc. to clean, paint, and repair metal and plastic bins in an amount not to exceed \$300,000 for a three year period with two one year options to extend and additional City Council authorization would be required to extend the two - one year contract options. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.







Office of the City Manager

CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Department of Public Works  
Subject: Contract No. 31900046 Amendment: Harrison Engineering Inc. for On-Call Civil Engineering and Construction Management Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 31900046 with Harrison Engineering Inc. for On-Call Civil Engineering and Construction Management Services, increasing the contract by \$1,000,000, for a total amount not to exceed \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is subject to appropriation in future fiscal year (FY 2020 through FY 2022) capital budgets from the Capital Improvement Fund (501-54-623-673-0000-000-431-612310-), based on the department's needs for civil engineering, staff augmentation, and construction management services.

|                                    |                     |
|------------------------------------|---------------------|
| Current contract amount            | \$ 500,000          |
| <u>Contract amendment</u>          | <u>\$ 1,000,000</u> |
| Total revised not-to-exceed amount | \$ 1,500,000        |

The Contract Management System number for the contract amendment is CMS No. LT1C1.

CURRENT SITUATION AND ITS EFFECTS

Staff plans to use Harrison Engineering Inc.'s (HEI) contract to provide staff augmentation and additional civil engineering and construction management services to temporarily address a recent shortage of project delivery staff within the Engineering and Transportation Divisions and to provide technical support for time-sensitive projects including but not limited to the following Strategic Plan Projects: Measure M LID Woolsey Street Project, Major Improvements to Downtown Berkeley Infrastructure and Amenities (Shattuck Reconfiguration), and project(s) resulting from the Green Infrastructure Plan. Performance of these additional services will result in expending HEI's contract at a much faster rate than originally anticipated.

This amendment will restore HEI's contract to make up for the previously unanticipated staff augmentation and time-sensitive, project-related services described above and will allow staff to use HEI's contract for upcoming projects as originally planned. This amendment will also extend the duration of this contract by one year to account for the anticipated time expended on these additional services.

The provided services support the Strategic Plan goal of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### BACKGROUND

On July 24, 2018, the Council authorized the City Manager to execute a contract with HEI for On-Call Civil Engineering and Construction Management Services for an amount not to exceed \$500,000.

Since that time, several key project delivery staff within Public Works have ceased employment with the City. Because of the time-sensitive nature of grant-funded design projects and ongoing construction projects, this has resulted in the use of HEI's contract for these unanticipated additional services.

#### ENVIRONMENTAL SUSTAINABILITY

There are no anticipated negative environmental effects of this action. The execution of this contract amendment will help ensure successful completion of several ongoing capital improvement projects including complete streets projects which facilitate walking and cycling as alternatives to driving. This in turn promotes environmental sustainability and meets the Strategic Plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### RATIONALE FOR RECOMMENDATION

There are currently six firms contracted with the City to provide On-Call Civil Engineering and Construction Management Services. The amounts of these contracts vary from \$500,000 to \$1,500,000 depending on the anticipated amount of work. Of these firms, HEI is most able to provide the necessary staff augmentation resources and is also well-equipped to provide the additional civil engineering and construction management services.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could choose not to amend HEI's contract, in which case upcoming capital improvement projects would be delayed, resulting in the potential loss of grant funding for projects in the design phase and increased construction costs for projects in the construction phase.

#### CONTACT PERSON

Nisha Patel, Manager of Engineering, Public Works Department, (510) 981-6406

Joe Enke, Supervising Civil Engineer, Public Works Department, (510) 981-6411  
Farid Javandel, Transportation Manager, Public Works Department, (510) 981-7061  
Kenneth Jung, Associate Civil Engineer, Public Works Department, (510) 981-7028

Attachments:

1: Resolution

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

CONTRACT NO. 31900046 AMENDMENT: HARRISON ENGINEERING INC. FOR ON-CALL CIVIL ENGINEERING AND CONSTRUCTION MANAGEMENT SERVICES

WHEREAS, Council authorized the City Manager to enter into a contract with Harrison Engineering Inc. for On-Call Civil Engineering and Construction Management Services for an amount not to exceed \$500,000 on July 24, 2018 (Resolution No. 68,563-N.S.); and

WHEREAS, recently several key project delivery staff in the City's Public Works Department have ceased employment with the City, resulting in acute project delivery staffing needs; and

WHEREAS, Harrison Engineering Inc. is able to provide temporary staff augmentation and additional civil engineering and construction management services to help ensure the successful completion of several ongoing capital improvement projects, including time-sensitive design and construction projects; and

WHEREAS, this amendment will also provide civil engineering and construction management services for upcoming capital improvement projects as needed; and

WHEREAS, funding in FY 2020, 2021, and 2022, will be respectively identified and requested for appropriation as projects arise; and

WHEREAS, the Contract Management System number for this contract amendment is CMS No. LT1C1.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 31900046 with Harrison Engineering Inc. for On-Call Civil Engineering and Construction Management Services, increasing the contract by \$1,000,000, for a total amount not to exceed \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.



Peace and Justice Commission

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Berkeley Peace and Justice Commission  
 Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission  
 Subject: Resolution: No U.S. intervention in Venezuela

RECOMMENDATION

Adopt a resolution that affirms the sovereign right of the Venezuelan people to negotiate their political differences free from foreign intervention, and urges that the U.S. government withdraw its illegal, unilateral financial sanctions and refrain from military, economic, or diplomatic intervention in the internal affairs of the sovereign state of Venezuela.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Trump administration officials have openly declared their intention to overthrow the duly elected government of Venezuelan President Nicolás Maduro. Years of U.S. sanctions have contributed to a severe economic crisis, following a decades-old pattern of destabilization of U.S. adversaries.

Using the crisis it helped create as a pretext, the U.S. administration recognized opposition leader Juan Guaidó as interim president of Venezuela, launching a diplomatic front to the campaign to undermine the elected government. Administration leaders have called on Venezuelan armed forces to mutiny, and have threatened that all military options are on the table to achieve regime change.

At its regular meeting on March 4, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley affirm the right to self-determination of the Venezuelan people, and urge that the U.S. government refrain from intervention in the internal affairs of the sovereign state of Venezuela.

M/S/C: Bohn/Lippman

Ayes: al-Bazian, Bohn, Chen, Gussman, Lippman, Meola, Morizawa, Pierce, Rodriguez, Tregub

Noes: Maran

Resolution: No U.S. intervention in Venezuela

CONSENT CALENDAR  
April 30, 2019

Abstain: None

Absent: Han, Pancoast

#### BACKGROUND

At its regular meeting on March 4, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley affirm the right to self-determination of the Venezuelan people, and urge that the U.S. government refrain from intervention in the internal affairs of the sovereign state of Venezuela.

The City of Berkeley has long expressed its opposition to U.S. military intervention and economic destabilization of sovereign nations in Asia, Africa, and Latin America.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts or opportunities associated with the subject of this report.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley has acknowledged that foreign interventions have a disastrous impact on life in cities such as Berkeley. The mandate of the Berkeley Peace and Justice Commission finds that: "The intentional destruction of cities in war is the rule and not the exception. The wealth to help the poor, heal the sick, house the homeless, educate the children, and care for the elderly is now spent on ever more costly weapons of mass destruction...Our best protection lies in initiating, devising, and promulgated peaceful and just policy alternatives." (Berkeley Municipal Code Chapter 3.68.010). As Rev. Martin Luther King Jr. put it in 1967, "The bombs we drop in North Vietnam are exploding in the ghettos and barrios of the U.S."

#### ALTERNATIVE ACTIONS CONSIDERED

None

#### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

#### CONTACT PERSON

Igor Tregub, Chairperson, Peace and Justice Commission

Breanne Slimick, Commission Secretary, City Manager's Office (510) 981-7018

Attachments:

1: Resolution

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

NO U.S. INTERVENTION IN VENEZUELA

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, Trump administration officials have openly declared their intention to overthrow the duly elected government of Venezuelan President Nicolás Maduro,<sup>1</sup> have urged the Venezuelan military to overthrow the Maduro government, has recognized a self-appointed opposition politician as president and vetoed any possibility of dialogue despite the efforts of Maduro, the governments of Mexico and Uruguay, and Pope Francis; and

WHEREAS, the U.S. has tightened illegal unilateral economic sanctions,<sup>2</sup> including the seizure of Venezuela's oil properties and bank accounts in the United States and financial sanctions that prevent Venezuela from producing its oil or securing credit or refinancing debt, thereby increasing the hardship on the people of Venezuela by preventing them from accessing imported foods and medicines, while hypocritically seeking to promote a military confrontation by forcing truckloads of aid across the Brazilian and Colombian borders;<sup>3</sup> and

WHEREAS these unilateral sanctions are in violation of the UN and OAS<sup>4</sup> Charters; and

WHEREAS, the U.S. has historically used its economic power to destabilize independent-minded countries, most famously Chile in the early 1970's, making the economy "scream,"<sup>5</sup> as well as Nicaragua in the 1980's, and then using the peoples' economic misery as a pretext for military intervention;<sup>6</sup> and

WHEREAS, Venezuela has the largest oil reserves in the world, and leading administration foreign policy officials have made clear the Trump administration's intention to turn Venezuela's oil over to U.S oil companies for exploitation;<sup>7</sup> and

WHEREAS, Elliott Abrams has been named President Trump's Special Envoy to Venezuela, and is notorious for his central role in the 1980's as a top advisor to Presidents Reagan and Bush in the Iran-Contra scandal, which led to his conviction on criminal charges, and the arming of the Nicaraguan contras, the Salvadoran death squad government, and the genocidal regime in Guatemala responsible for the massacres of hundreds of thousands of indigenous people in that country;<sup>8</sup> and

Resolution: No U.S. intervention in Venezuela

CONSENT CALENDAR  
April 30, 2019

WHEREAS, the U.S. campaign of regime change in Venezuela is in violation of international law,<sup>9</sup> against the interests of the people of Venezuela and the people of the United States;

NOW THEREFORE BE IT RESOLVED that the Council of the City of Berkeley affirms the sovereign right of the Venezuelan people to negotiate their political differences free from foreign intervention, and urges that the U.S. government withdraw its illegal, unilateral financial sanctions and refrain from military, or diplomatic intervention in the internal affairs of the sovereign state of Venezuela; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley requests the City Clerk to send a copy of this resolution to Congresswoman Barbara Lee, Congresswoman Nancy Pelosi, Senator Dianne Feinstein, Senator Kamala Harris, President Trump, and Secretary of State Mike Pompeo.





[Commission Name]

<sup>1</sup> “Trump's declaration on Venezuela sets stage for 'confrontational moment',” CNN, January 24, 2019,

<https://www.cnn.com/2019/01/23/politics/venezuela-us-showdown/index.html>

<sup>2</sup> “Coercion, whether military or economic, must never be used to seek a change in government in a sovereign state,” said Idriss Jazairy, a UN special rapporteur concerned with the negative impact of sanctions. From article: “The US is orchestrating a coup in Venezuela,” Marjorie Cohn, professor emerita at Thomas Jefferson School of Law, former president of the National Lawyers Guild, deputy secretary general of the International Association of Democratic Lawyers, February 2, 2019, <https://truthout.org/articles/the-us-is-orchestrating-a-coup-in-venezuela/>

<sup>3</sup> The United Nations and the Red Cross have refused to participate in Washington’s controversial aid plan to Venezuela. “We will not be participating in what is, for us, not humanitarian aid.” From article: “Red Cross, UN slam ‘Politicised’ USAID Humanitarian Assistance to Venezuela,” February 11, 2019, <https://venezuelanalysis.com/news/14316>

<sup>4</sup> OAS Charter--Article 15: “No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements.”

ARTICLE 16: “No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind.”

<https://treaties.un.org/doc/Publication/UNTS/Volume%20119/volume-119-I-1609-English.pdf>

<sup>5</sup> “Measures were undertaken in 1970 to try to prevent a free and democratic election. There was a huge amount of black propaganda about how if Allende won, mothers would be sending their children off to Russia to become slaves-stuff like that. The US also threatened to destroy the economy, which it could-and did-do.

“Q: Nevertheless, Allende won. A few days after his victory, Nixon called in CIA Director Richard Helms, Kissinger and others for a meeting on Chile. Can you describe what happened?”

“A: As Helms reported in his notes, there were two points of view. The “soft line” was, in Nixon’s words, to “make the economy scream.” The “hard line” was simply to aim for a military coup.

“Our ambassador to Chile, Edward Korry, who was a Kennedy liberal type, was given the job of implementing the ‘soft line.’ Here’s how he described his task: ‘to do all within our power to condemn Chile and the Chileans to utmost deprivation and poverty.’ That was the soft line.”

*Secrets, Lies, and Democracy*, Noam Chomsky, 1994, <https://chomsky.info/secrets04/>

<sup>6</sup> “These sanctions have cut off the means by which the Venezuelan government could escape from its economic recession, while causing a dramatic falloff in oil production and worsening the economic crisis, and causing many people to die because they can’t get access to life-saving medicines. Meanwhile, the US and other governments continue to blame the Venezuelan government — solely — for the economic damage, even that caused by the US sanctions,” Noam Chomsky, former UN Rapporteur Alfred de Zayas, Phyllis Bennis, Boots Riley, and some 65 other academics and experts, January 24, 2019, <https://www.commondreams.org/news/2019/01/24/open-letter-over-70-scholars-and-experts-condemns-us-backed-coup-attempt-venezuela>

“The threats, the economic war, the financial blockade and the sanctions violate both the UN Charter and the OAS Charter.” February 23, 2019, <https://dezayasalfred.wordpress.com/2019/02/23/open-letter-to-the-united-nations-secretary-general-antonio-guterres-and-to-the-high-commissioner-for-human-rights-michelle-bachelet/>

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<sup>7</sup> Perhaps most brazenly, [National Security Adviser John] Bolton appeared in [an interview on Fox Business](#) and disclosed that the U.S. government was in talks with American corporations on how to capitalize on Venezuela's oil reserves, which are proven to be the [world's largest](#). We're in conversation with major American companies now," he said. "I think we're trying to get to the same end result here. ... It will make a big difference to the United States economically if we could have American oil companies really invest in and produce the oil capabilities in Venezuela," Time Magazine, January 30, 2019, <http://time.com/5516920/inside-john-boltons-month-long-p-r-campaign-against-venezuelas-government/>

<sup>8</sup> "Why Ilhan Omar and Elliott Abrams Tangled Over U.S. Foreign Policy," <https://www.nytimes.com/2019/02/14/us/politics/ilhan-omar-elliott-abrams.html>

"Guatemalan Army Waged 'Genocide,' New Report Finds," <https://www.nytimes.com/1999/02/26/world/guatemalan-army-waged-genocide-new-report-finds.html>

<sup>9</sup> UN Charter—Article 2: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered." <http://www.un.org/en/sections/un-charter/un-charter-full-text/>

See also OAS Charter, above



Office of the Mayor

CONSENT CALENDAR  
April 30, 2019

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Appointing an Alternate Member to the Budget and Finance Committee and 3x3 Committee

RECOMMENDATION

Adopt a Resolution approving the appointment of Mayor Jesse Arreguin as the Alternate to the Budget and Finance Policy Committee and the 3x3 Joint BHA/City Council Committee until January 2020 or until new appointments are approved.

BACKGROUND

There are a number of Council appointments to various Partnership Committees, Regional Bodies and Liaisons to City Boards and Commissions. The Mayor is submitting his appointment as an Alternate member of the Budget and Finance Committee and 3x3 Joint BHA/City Council Committee to ensure that, in the absence of one or more members, the Committees will have a quorum to meet and conduct business.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

Not Applicable.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

APPOINTING MAYOR JESSE ARREGUIN AS AN ALTERNATE MEMBER OF THE BUDGET AND FINANCE POLICY COMMITTEE AND 3X3 COMMITTEE

WHEREAS, the City Council has numerous appointments to various Partnership Committees, Regional Bodies and Liaisons to City Boards and Commissions, and must make new appointments every two years following the General Municipal Election; and

WHEREAS, six new Standing Policy Committees were established by the City Council on December 11, 2018; and

WHEREAS, pursuant to Resolution No. 68,726-N.S. and the Governing Policies and Procedures for Standing Policy Committees, appointments to Council Standing Policy Committees must be made by January 31st each year; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley officially makes the following appointments for the period ending January 31, 2020 or until new appointments are approved:

**City Council Standing Policy Committees:**

Budget & Finance Committee

Appoint Councilmember Davila, Councilmember Droste and Councilmember Kesarwani  
Appoint Mayor Arreguin as Alternate

**Partnership Committees:**

3x3 Committee of the Berkeley City Council and the Berkeley Housing Authority

Appoint Councilmember Davila, Councilmember Harrison and Councilmember Kesarwani  
Appoint Mayor Arreguin as Alternate



Office of the Mayor

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín and Councilmembers Sophie Hahn, Lori Droste, and Kate Harrison

Subject: Allocation of \$150,000 to the Berkeley Unified School District for Planning/Pre-Development for Employee Housing

RECOMMENDATION

Approve the allocation of \$150,000 of General Fund revenues from Measure U1 receipts to the Berkeley Unified School District for a planning and pre-development grant for teacher/workforce housing.

BACKGROUND

In November 2016, Berkeley voters overwhelmingly voted to approve Measure U1, raising the gross receipts tax on landlords of 5 or more units from 1.081% to 2.880%. The estimated \$3.5 million raised annually would be used for funding and programs to increase affordable housing and homeless prevention.

In October 2017, BUSD conducted a housing survey which received 800 responses, or over 60% of BUSD's workforce. Only 30% of employees live in Berkeley, with 20% having commutes of 40 minutes or more each direction. 78% of renters said that the high cost of housing has resulted in financial pressures, with 54% stating they have considered leaving BUSD as a result. 69% believe that the cost of housing negatively impacts their long-term ability to stay at BUSD. 31% have moved residences while working for the District due to increased housing costs.

On February 26, 2019, Superintendent Donald Evans and School Board Director Julie Sinai sent a letter to the City Council with an update on their efforts to create workforce housing (Attachment 1). They have conducted a preliminary inquiry which identified four sites owned by the District that could be used as a potential site. However, to move forward on planning and a public input process, planning and pre-development funding is needed. Once that phase is completed the School Board will be able to narrow down the site and begin with design and financing strategies. The BUSD seeks to partner with the City on this development with the end goal of creating 100 units or more units of affordable educator workforce housing by Spring 2022.

With 74% of BUSD employees expressing interest in living in BUSD-owned employee housing and 86% of renters saying such housing would increase the District's ability to recruit employees, there is clear momentum in moving forward with this idea.

The Housing Advisory Commission voted on April 4, 2019 to recommend to Council the allocation of \$150,000 to the Berkeley Unified School District from Measure U1 tax receipts for pre-development and planning for employee housing.

RATIONALE FOR RECOMMENDATION

The need for affordable housing has been identified as a top priority for Berkeley residents. Giving teachers and BUSD employees the opportunity to live in the city they work in improves health and wellness and creates stronger community bonds and allows teachers to engage more with students due to shorter commute times.

FINANCIAL IMPLICATIONS

\$150,000 from the General Fund from Measure U1 tax receipts.

ENVIRONMENTAL SUSTAINABILITY

Developing teacher housing will reduce long commutes and is consistent with the goals of the Climate Action Plan.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Letter from BUSD



2020 Bonar Street, Berkeley, CA 94702  
(510) 644-6206 Fax: (510) 540-5358  
donaldevans@berkeley.net  
Donald Evans, Ed. D.  
Superintendent

February 26, 2019

*Dear Mayor Arreguín and Honorable Members of the Berkeley City Council:*

*On behalf of the Berkeley Unified School District (“BUSD”), with more than 1,200 employees, and almost 10,000 students, the Berkeley School Board would like to thank you for your unanimous decision to place Measure O on the November 2018 ballot. That measure—which passed with over 77% of the vote—enables the City “to issue \$135 million in bonds to create and preserve affordable housing for low-income households, working families, and individuals including teachers.”*

*The success of Measure O was due in no small part to its explicit inclusion of funding affordable housing for teachers. The explicit support of housing for teachers was in part why the Berkeley School Board unanimously supported Measure O, and it was why the Berkeley Federation of Teachers supported and actively campaigned for Measure O.*

*To address this housing crisis, the Board held its third Work Session on February 6<sup>th</sup>, which focused on Educator Workforce Housing on District property. I am pleased to report to you that the Berkeley School Board unanimously voted to move forward. We specifically decided the following:*

- Designate Director Julie Sinai and Superintendent Evans (or designee) to establish communication with the City, and to investigate sites, financing models and timelines and report back to the Board at its April 10, 2019 meeting.*
- Submit a letter to the Mayor and Council requesting Measure O support for educator workforce housing, as articulated in the measure, by expanding income eligibility to include up to 120% AMI.*
- Design a process to narrow the BUSD opportunity sites.*
- Engage the City in exploring a partnership to develop workforce housing for district staff - including but not limited to, financing from Measure O, timelines, and planning for site selection.*

*With the above direction, we respectfully recommend the Berkeley City Council consider the following:*

- 1. Amend the Housing Trust Fund and other relevant City of Berkeley housing policies to foster workforce housing for educators by expanding income eligibility to include up to 120% AMI.*
- 2. Support BUSD with an allocation of \$150,000 from Measure U1 or other appropriate sources for a planning and pre-development grant to conduct planning and pre-development work, including site analysis and selection, design and engage in a transparent public process, and to refine a timeline for project development.*
- 3. Work with the District to identify possible financing opportunities for capital development, including but not limited to, U1, Measure O, Developer Fees, and/or County or State sources.*

*Background:*

*The need for teacher housing, as well as housing for our classified employees, is urgent and is well documented. BUSD recently contracted with the Center for City and Schools at UC Berkeley to help conduct a housing survey of all district employees, certificated and classified employees. Over 800 employees responded, which corresponds to over 60% of all district employees. The survey results*

*make clear that the current affordability crisis is creating significant housing security pressures on BUSD employees. In fact, over half of the households for District employees who rent are “cost burdened” (i.e., they spend more than 30% of their family income on rent) and 20% are “severely cost burdened” (i.e., they spend more than 50% of their family income on rent). Additionally, 78% of District employees who are not homeowners experience financial pressures due to high housing costs, which impacts their ability to stay with BUSD long-term. Combined with the financial burden, the survey showed social and physical health issues related to a significant number of BUSD employees driving long distances to get to Berkeley. These long commutes are resulting in increased health and wellness burdens, and reduced student and community engagement. One of the key statistics that the School Board and District Administration are grappling with is the fact that of District employees who don’t own their own homes, 78% indicated that housing insecurity is impacting their ability to stay with BUSD long-term. Not surprisingly, then, there is significant interest among District employees in workforce housing.*

*Income Eligibility:*

*We recognize that for Measure O to fund housing for teachers, as described in the Measure, it must expand income-eligibility from household income of 60% of AMI or below to up to 120% of AMI for Workforce Housing. The income level for the vast majority of District teachers is higher than 60% of AMI; yet, as the results from the survey show, they still cannot afford to live in or near the community in which they teach.*

*The Berkeley School Board respectfully requests that the City Council explicitly allow the use of Measure O funds to finance affordable housing for District educators (teachers and classified staff) through income-eligible units at up to 120% AMI.*

*Financing:*

*At our work session, we discussed the financial building blocks needed to actualize educator workforce housing. With the contribution of land by BUSD, the ability to attract tax credits due to favorable State of California Laws (the Leno Law), and the fact that educators are working middle class and can pay rent, the core elements of financing are in sight. However, there will be a missing funding gap that must be filled in order to ensure that our educator housing is available to all levels of BUSD educators today and into the future.*

*Site Selection:*

*In 2016-2017, the District commissioned a study to identify District owned opportunity sites that could accommodate housing. While the initial study identified four potential sites, it was only a preliminary inquiry and did not provide the Board with the information needed to narrow the sites. To conduct the necessary planning and public input process, the District needs Planning and Pre-development funds as soon as possible.*

*Timing:*

*At this time, the District’s capital budget does not include housing development as an allowable use of funds, and the Board is in the process of making \$2 million in reductions of our General Fund due to inadequate State funding for public education and increasing costs. Once we get the planning stage compete, the Board can narrow the sites and select a transparent process to move forward with design and financing strategies.*

*We are seeking a partnership with the City. With the possibility of District land combined with feasible financing, together, we have the opportunity to provide 100 or more units of affordable educator workforce housing. We hope that the Council will seek avenues to secure funding in the first phase of Measure O bonds and/or other appropriate funding source such as U1, to support planning, predevelopment and development of educator housing.*



*Once the Board approves the site selection, we intend to move quickly to prepare a proposal for funding with the intention of completing a meaningfully educator (teachers and staff) workforce housing development by Spring 2022. Given the scale of our intended project, and the funding that can be secured outside of the City, providing the "gap" funding will allow the City to leverage the public financing tool available while meeting the ballot commitment in an efficient way. We look forward to partnering with you to make this a reality.*

Sincerely,



*Donald Evans, Ed.D*  
Superintendent



*Julie Sinai*  
School Board Director

*CC: Dee Williams, City Manager*





Office of the Mayor

CONSENT CALENDAR

April 30, 2019

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Appoint Max Levine to the Berkeley Housing Authority Board

**RECOMMENDATION:**

Adopt a Resolution appointing Max Levine to serve a four-year term on the Berkeley Housing Authority Board of Commissioners.

**FINANCIAL IMPLICATIONS:**

None

**BACKGROUND:**

On May 22, 2007, the Berkeley City Council established a Berkeley Housing Authority (BHA) Board of Commissioners. State law mandates BHA commissioners, including successors be appointed by the Mayor and confirmed by the City Council.

Damion McNeil, appointed to the BHA Board in March 2016, resigned in 2018 leaving on vacancy on the BHA Board. With Mr. McNeil's resignation there are currently 3 vacancies on the BHA Board. It is critical that Council appoint new BHA Commissioners to ensure that the Board has a quorum. Decreases in federal funding have also affected the ability of BHA to issue additional vouchers and threatened the long term fiscal viability of the agency. New Commissioners are needed who can work to plan a long-term future for the agency, working in partnership with the city.

I am nominating Max Levine, a Berkeley resident, PTA leader, property owner in the East Bay, with a background in finance and private equity investment. Mr. Levine worked with the Oakland Housing Authority to make improvements to increase their capacity to house low-income residents. He is interested in bringing his experience as a landlord and business person to improve the Berkeley Housing Authority. Mr. Levine does not own property currently under contract with BHA.

**CONTACT PERSON:**

Mayor Jesse Arreguín (510) 981-7100

**Attachments:**

1. Resolution
2. Resume

RESOLUTION NO. -N.S.

APPOINTMENT OF MAX LEVINE TO THE BERKELEY HOUSING AUTHORITY  
BOARD OF COMMISSIONERS

WHEREAS, the Council of the City of Berkeley, as the governing body of the City of Berkeley, declared itself to the Commissioners of the Berkeley Housing Authority (BHA) and appointed two tenant Commissioners pursuant to Health and Safety Code Section 34290; and

WHEREAS, on May 22, 2007 the Mayor appointed and the City Council by a majority vote confirmed the appointment of 5 Commissioners and 2 tenant Commissioners to the BHA Board pursuant to Health and Safety Code Section 34270; and

WHEREAS, on March 8, 2016, the Berkeley City Council confirmed the Mayor's nomination of Damion McNeil to a four-year term on the Berkeley Housing Authority (BHA) Board of Commissioners; and

WHEREAS, in late 2018, Mr. McNeil resigned from the BHA Board and there are currently three vacancies on the Board; and

WHEREAS, the Mayor has nominated Max Levine, a Berkeley resident, PTA leader, property owner in the East Bay, with a background in finance and private equity investment.

WHEREAS, the Mayor of the City of Berkeley is an office filled by election of the people of Berkeley.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Max Levine is appointed to serve as Commissioner of the Berkeley Housing Authority Board.

BE IT FURTHER RESOLVED by the Mayor of the City of Berkeley that, pursuant to Health and Safety Code Section 34272(a), Mr. Levine be appointed to serve a four-year term.

**Max Levine**  
**1442a Walnut St. #505**  
**Berkeley CA 94709**

## **Work Experience:**

### **Private Equity Investment**

*Investor*

Jan 2015 – Present

Berkeley, Ca

- Fund early stage non profit start-ups
- Advise early stage start-ups on strategic direction

### **Cal City Medical (DBA Smart Remedies)/Pharmacy**

*CEO/Founder*

Oct 2011 – Apr 2014

Smart Remedies was acquired by Mobility Rehab Products in April 2014.

Max Levine was responsible for advancing Smart Remedies vision to deliver world-class solutions for increasing sales revenue. He has deep experience in technology, outsourcing, and client services and consistently delivers outstanding growth and exceptional returns to the bottom line.

Smart Remedies was the 4th largest winner of Medicare Bids out of 554 awardees and won more than 200 Medicare contracts in over 80 regions. See less

### **Ascent Services Group**

[www.ascentsg.com](http://www.ascentsg.com)

*Founder*

Jan 2000 – May 2009

IT Ascent was founded in 2000 and acquired by a Private Equity group in 2009.

AscentSG is a Leading Midsize National technology services company that focuses on tactical and strategic consulting work.

Ascent SG emphasizes flexibility through a blend of traditional business and technology process consulting as well as technical staff augmentation. It focuses on strategic enterprise initiatives in Program & Project Management, IT Integration and PMO governance. Ascent SG delivers with innovative people, best practices, and resource optimization. ASG helped companies to lower total cost of ownership.

CWP was a component of ASG with a goal is to help heads of Procurement and HR departments in Fortune 500s network together in order to establish Best Practices across the industry. It is 100% non-profit. It focuses on IT projects for Fortune 500 companies, nationally, primarily in the Healthcare, Biotech and Financial Services space.

Clients:

Amgen  
Blue Shield  
Disney  
Time Warner  
Genentech  
Google  
Kaiser  
McGraw Hill  
McKesson  
Sutter Health  
UHG  
WAMU  
UCSF Medical Center  
Veritas  
Wells Fargo Bank

**Volunteer Experience:**

**Various Boards and non-profit work**

*Jan 2007 – Present*

Max has worked with the Oakland Housing Authority to help make improvements that are helping to house more low income residents.

Max enjoys working with business leaders and policy makers to create sustainable policies and solutions to housing issues and homelessness in California.

PTA Board, Thousand Oaks Elementary School  
SGC Board Thousand Oaks Elementary School



Office of the City Manager

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Mental Health Commission

Submitted by: Councilmember Cheryl Davila

Subject: Proclaiming May 2019 as Mental Health Month

RECOMMENDATION

Adopt a Resolution proclaiming May 2019 as Mental Health Month in the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Substance Abuse and Mental Health Services Administration (SAMHSA) has determined that persons diagnosed with severe mental illness have a life expectancy of 25 years less than members of the general public. Through their National 10 x 10 Campaign they are bringing awareness to this devastating fact and have pledged to decrease that disparity by ten years in the next ten years. In the City's Mental Health Division many mental health clients also have co-occurring addiction disorders, exacerbating existing barriers to recovery and increasing the disparity in their life expectancy.

Mental Health America, an organization working to improve the mental health of all Americans, began observance of Mental Health Month during the month of May in 1949. Their primary goal was to promote awareness of mental health conditions and mental wellness for all. Local government agencies, public and private institutions, businesses and schools join in this annual campaign to raise public awareness and understanding of mental health and illness, and to reduce the stigma associated with mental health problems and treatment. Council is requested to join in this national campaign in order to promote increased awareness of mental health and mental disabilities in the City of Berkeley.

BACKGROUND

The mental health and well-being of the City of Berkeley's residents is a critical issue that affects not only quality of life, but also the health of our communities, families, and economic stability. Mental disorders and mental health problems affect residents of all backgrounds and all stages of life, and no one is immune from its affects. The World

Health Organization (WHO) found that mental illnesses is the top ranking cause of disability in the United States and the most prevalent health problem in America today – more common than cancer, lung and heart disease combined. Nationally, one in four adults lives with a diagnosable, treatable mental health condition. According to WHO, in a typical workplace with 20 employees, four will likely develop a mental illness this year. More than three out of four employees who seek care for workplace issues or mental health problems see substantial improvement in work performance after treatment. Although mental health treatment has been shown to be effective, an estimated two-thirds of adults and young people with mental health challenges are not receiving the care they need to improve their lives significantly.

Socioeconomic inequalities and disparities in health have been widening for decades. In the United States, the data consistently show that people living in poverty, and particularly those who are members of minority communities, bear a disproportionate burden of exposure to unhealthy environments and are at greater risk for mental and behavioral health-related conditions. The Health, Housing & Community Services (HHCS) Mental Health Division has recently initiated a Health Equity Committee to assess and address inequities in access to mental health services.

The City of Berkeley Mental Health Division has been engaged in Mental Health Services Act (MHSA) planning and implementation in recent years, with the intent to identify areas of greatest need and to increase effective mental health services that promote mental health recovery. The Mental Health Division will continue to participate in a comprehensive and inclusive planning process to transform services provided by the Mental Health Division in alignment with core MHSA principles.

To strengthen the Berkeley/Albany community, the Mental Health Division also provides Mental Health First Aid training to enable community members to better assist their friends, family and neighbors who may have signs and symptoms of a mental health crisis or illness. The Mental Health First Aid Training teaches participants how to use a 5-step action plan to help connect a person in distress to appropriate professional, peer, social or self-help care.

The basis for a Citywide May is Mental Health Month proclamation is to increase awareness of the importance of mental health, and that mental health and physical health go hand-in-hand. This awareness helps to demonstrate commitment and support to Berkeley/Albany residents who have a mental illness and their families. This event also promotes hope and encourages those with mental illness to recover and become productive members of the community.

The Mental Health Division and the Berkeley/Albany Mental Health Commission are hosting a “May Is Mental Health Month” celebration entitled: “Strengthening Mental Wellness in all Communities”. The free event will be held on Thursday, May 16 from



5:45-8:30pm at the South Berkeley Senior Center. The program will include a panel presentation, information sharing, food, entertainment, and prizes. Community achievement awards will be presented and the winning videos of the youth video contest will also be viewed at this event.

At its March 28, 2019 meeting, the Mental Health Commission passed the following motion: Approve the May Is Mental Health Month Council Item  
Ayes: Castro, cheema, Davila, Fine, Kealoha-Blake, Ludke, Posey; Noes: None;  
Abstentions: None;  
Absent: Heda.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Proclaiming May as Mental Health Month offers us the opportunity to bring awareness that treatment for mental health problems is effective, that the successes of people in recovery are often remarkable, and to acknowledge men and women in the field who dedicate their lives to help people with psychiatric disabilities and other mental health problems.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Cheryl Davila, Councilmember District 2, 510.981.7120  
Karen Klatt, Commission Secretary, Health, Housing & Community Services, 981.7644

Attachments:

1: Resolution PROCLAIMING MAY 2019 AS MENTAL HEALTH MONTH

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

PROCLAIMING MAY 2019 AS MENTAL HEALTH MONTH

WHEREAS, mental health is essential to everyone's overall health, productivity and well-being; and

WHEREAS, one in four American adults are affected by a mental illness; and

WHEREAS, mental health problems do not discriminate; they affect people regardless of race, creed, age, life style, or economic status; and

WHEREAS, Mental Health Recovery is possible with proper treatment and support empowering mental health consumers to lead full and productive lives; and

WHEREAS, as many as eight million Americans who have serious mental illnesses do not receive adequate treatment each year; and

WHEREAS, people who have untreated mental health issues use more general health services than those who receive mental health services when they need them; and

WHEREAS, The Substance Abuse and Mental Health Services Administration (SAMHSA) has determined that persons with severe mental illness have a life expectancy of 25 years less than members of the general public; and

WHEREAS, more than 50% of persons receiving treatment in the mental health system also have Co-Occurring Disorders compounding their barriers to recovery and increasing the disparity in their life expectancy; and

WHEREAS, the City of Berkeley has made a commitment to community-based systems of mental health care in which all residents can receive high-quality and consumer-centered services; and

WHEREAS, Mental Health First Aid training is available in Berkeley to enable community members to better assist their friends, family and neighbors who may have signs and symptoms of mental illness or be in a crisis; and

WHEREAS, the City of Berkeley has been actively involved in the planning and implementation of the Mental Health Services Act to increase effective mental health services that promote Mental Health Recovery in Berkeley; and

WHEREAS, we commend the Mental Health Division, for their outstanding work improving the quality of life for mentally disabled individuals in our community; and

April 30, 2019

WHEREAS, Mental Health America observes Mental Health Month every May to raise awareness and understanding of mental health and illness.

NOW THEREFORE, BE IT RESOLVED that I, Jesse Arreguin, Mayor of the City of Berkeley, do hereby proclaim May 2019 as Mental Health Month in the City of Berkeley and call upon all Berkeley citizens, government agencies, public and private institutions, businesses and schools to recommit our community to increasing awareness and understanding of mental illness and the need for appropriate and accessible services for all people with mental illnesses.





Councilmember  
Cheryl Davila  
District 2

CONSENT CALENDAR  
April 30, 2019

**To:** Honorable Mayor and Members of the City Council  
**From:** Councilmember Cheryl Davila  
**Subject:** Spiral Gardens and Movement Generation Justice & Ecology Project:  
Relinquishment of Council Office Budget Funds to General Fund and  
Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Spiral Gardens and Movement Generation Justice & Ecology Project's May 11, 2019, welcoming of Leah Penniman for a wonderful talk and dialogue about *Farming While Black: Soul Fire Farm's Practical Guide to Liberation on Land*: her new book with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011 11 102 000 0000 000 411).

ENVIRONMENTAL SUSTAINABILITY

Providing insight, inspiration and education on food sovereignty, an important topic when many are now being confronted with food insecurity.

BACKGROUND

We are proposing that the City Council make a minimum grant of \$100 to Movement Generation and Spiral Gardens work with Bay Area Farmers of Color and the author Leah Penniman. Leah is a Black Kreyol farmer, author, mother, and food justice activist who has been tending the soil and organizing for an anti-racist food system for over 20 years. Leah currently serves as founding co-executive director of Soul Fire Farm in Grafton, New York, a people-of-color led project that works toward food and land justice. Through programs such as the Black-Latinx Farmers Immersion, a sliding-scale farmshare CSA, and Youth Food Justice leadership training, Soul Fire Farm is part of a global network of farmers working to increase farmland stewardship by people of color,

restore Afro-indigenous farming practices, and end food apartheid. And now, with the new book *Farming While Black*, Soul Fire Farm extends that work by offering the first comprehensive manual for African-heritage people ready to reclaim our rightful place of dignified agency in the food system. A panel discussion will be held on May 11, 2019, with some amazing Bay Area Farmers of Color who will share their reflections on their work and the state of the movement for food sovereignty.

CONTACT PERSON

Cheryl Davila, Councilmember, District 2                      510.981.7120

ATTACHMENTS: 1: Resolution

2: Flyer

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

**WHEREAS**, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011 11 102 000 0000 000 411); and

**WHEREAS**, a California non-profit tax-exempt corporation Movement Strategy Center and Spiral Gardens seeks funds in the amount of \$250 for the community event on May 11, 2019, with an author and Bay Area Black Farmers of Color,

**WHEREAS**, Movement Strategy Center and Spiral Gardens are providing inspiration and education by discussions on the state of the movement for food sovereignty and sound nutrition..

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Movement Strategy Center to fund the panel discussions.



**FARMING  
WHILE BLACK**

a book talk with author  
**LEAH PENNIMAN**  
of Soul Fire Farm  
+ Panel with Bay Area  
Farmers of Color

**Saturday, May 11, 2019, 1-3 PM**  
@ **Spiral Gardens Community Farm**  
across the street from  
2850 Sacramento St. at Oregon St.  
Berkeley, CA







Cheryl Davila  
Councilmember  
District 2

**CONSENT CALENDAR**

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila and Ben Bartlett

Subject: Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans

**RECOMMENDATION**

Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following:

- Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society.
- Develop rules and regulations to halt the loss of People of Color including the African American communities.
- Develop a “right to return” for Berkeley’s People of Color including the African American communities who have been displaced by these economic and social developments, especially those who continue to be employed in our City, even after having to relocate beyond our boundaries.
- Solicit expert and lived experience testimonies regarding displacement and gentrification.
- Recommend alternatives to prevent displacement and gentrification of our valued Berkeley citizens of color and African Americans.

**CURRENT SITUATION**

Minority groups are being pushed out of the neighborhoods in which they live. According to a study from the California Housing Partnership, between 2000 and 2015 the number of low-income households of color in the nine Bay Area counties dropped by 28%. This was matched in time by a 30% increase in rent rates. At the same time, there was no change in the proportion of white households. In Berkeley, from a high of 23.5% in 1970,

the Black population has been more than cut in half. According to the United States Census Bureau, it is now less than 10% of the total composition of the city.

Experts agree that the rising costs of housing in the Bay Area, primarily due to the rising fortunes of Silicon Valley, have priced many of the older residents out of the city. This is especially true of those or their family members who don't own homes.

In short, displacement has had a large negative effect on long-term black residents of Berkeley, both as a community and as a fate suffered by individual persons and families at the hands of rent increases by landlords.

### **BACKGROUND**

Berkeley's neighborhoods were historically segregated based upon custom, as well as, contracts. Prior to 1948, so-called restrictive covenants by neighborhood groups blocked African American's and People of Color's access to "white communities". After the Supreme Court ruling *Shelley vs. Kraemer*, redlining or placing color codes on city maps to indicate where minorities could and could not live became the scheme to enforce housing discrimination. The result of this discrimination was that almost all Asian and Black Berkeleyans had to live south of Dwight Way and west of Martin Luther King Jr. Way (aka Grove Street) according to Charles Wollenberg, author of *Berkeley: A City in History*. Under these discriminatory conditions, "redlining" excluded Asian and Black Berkeleyans from most other parts of the City, thousands of Black families moved to South Berkeley during and after WWII.

According to *Redlining: The history of Berkeley's Segregated Neighborhoods*, by Jesse Barber, *Berkeleyside.com*, September 20, 2018, which stated, "They (Black residents after WWII) were cordoned off, not allowed to move to the north or to the east, so they built their own lives right there where they could find housing. Opening shops, stores, cobblers, food, etc. they prospered." The thriving *Lorin Station* business community in what is now called the "Adeline Corridor" developed organically to serve the needs of the growing South Berkeley African-American and Japanese citizenry. Fast forward to the 2000s: Minorities were being pushed out of the very neighborhoods in which they had been formerly compelled to live. According to a study from the California Housing Partnership, between 2000 and 2015 the number of poor households of color in the nine Bay Area counties dropped by 28%. This was matched in time by a 30% increase in rent rates. At the same time, there was no change in the proportion of white households.

In Berkeley, from a high of 23.5% in 1970, the African American population has decreased, significantly. According to the U.S. Census Bureau, it is now less than 10% of the total composition of the City, approximately 7%, currently.

Experts agree that the rising costs of housing in the Bay Area, primarily due to the rising fortunes of Silicon Valley, have priced many of the older residents out of our City. This is especially true of those or their family members who don't own homes.

In short, displacement has had a large negative effect on long-term African American and POC residents of Berkeley, both as a community and as a fate suffered by individual persons and families at the hands of rent increases by the unscrupulous.

### **ENVIRONMENTAL SUSTAINABILITY**

Our community will be made whole again by having a diverse community filled with people of color including African Americans who will no longer be displaced. Possible reduction in Green House Gas (GHG's) since commute times may be eliminated or reduced.

### **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS**

There are currently few, if any, protections against the effects of gentrification; this, in conjunction with uncontrollably rising housing costs, makes it probable that Berkeley's declining Black population will continue to decrease. Therefore, the creation of this workshop will be the first steps towards creating legislation and policies to decrease or stop gentrification.

### **ACTIONS/ ALTERNATIVES CONSIDERED**

There are very few alternatives that the City can consider, as creating legislation with the guidance of experts on gentrification and displacement may be the best action to combat such issues.

### **OUTREACH OVERVIEW AND RESULTS**

This legislation is designed to enable the Berkeley City Planning Commission and Housing Advisory Commission to create a workshop in which it will partner with multiple experts towards finding solutions for the causes and effects of gentrification and displacement.

### **RATIONALE FOR RECOMMENDATION**

As the cost of housing and rent continue to rise in the Bay Area and Berkeley especially, low-income populations are struggling greatly to remain in their homes and many have already been displaced. A large proportion of this displaced population are from the black community. This recommendation will serve to protect those who are most vulnerable to the detrimental effects of development and rising housing costs as well as find a more equitable path of development.

### **IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT**

The workshop will be created and facilitated by the Berkeley City Planning and Housing Advisory Commissions and will work alongside experts and advisors on displacement and gentrification.

### **FINANCIAL IMPLICATIONS**

Staff time will be necessary to implement this workshop. The anticipated date for such a workshop is June 2019.

### **CONTACTS:**

|                                         |              |
|-----------------------------------------|--------------|
| Cheryl Davila, Councilmember District 2 | 510.981.7120 |
| Ben Bartlett, Councilmember District 3  | 510.981.7130 |



**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Sophie Hahn, Mayor Jesse Arreguín,  
 and Councilmembers Cheryl Davila and Rigel Robinson  
 Subject: Good Food Purchasing Program Resolution

RECOMMENDATION

Adopt a resolution in support of the Good Food Purchasing Program's core values and join San Francisco, Oakland, Los Angeles and Chicago as one of the first five cities nationwide to become a Good Food Purchasing partner, and refer to the City Manager to incorporate over time the vision and standards of the Good Food Purchasing Program (GFPP) into City of Berkeley food purchasing practices.

SUMMARY STATEMENT

When Berkeley purchases or contracts for food, we have the opportunity to express our health, environmental, labor and other values. The City has purchasing policies to ensure preference for local vendors, fair labor practices, and environmental sustainability (including the newly adopted requirement that foodware purchased by the City be reusable or compostable), but to date we have not adopted a clear set of values to express through the purchase of food. The Good Food Purchasing Program, based out of Berkeley, provides a comprehensive, practical and carefully researched set of progressive food values for Cities to adopt, and workable policies to incorporate over time.<sup>1</sup>

The Good Food Purchasing Program seeks to transform the way public institutions purchase food by creating a transparent and equitable food system built on five core values: local economies, health, valued workforce, animal welfare and environmental sustainability. In addition, the Center for Good Food Purchasing provides a set of tools, technical support and a verification system to help cities and other entities meet their goals. By becoming a Good Food Purchasing partner the City of Berkeley can ensure that these core values are expressed in the food purchased and served by the City of Berkeley.

BACKGROUND

Food purchasing choices have significant implications for the health and wellbeing of Berkeley residents, the working conditions and wages of food workers, the welfare of animals used in food production and the carbon footprint of our local community. Good Food Purchasing Policy is shifting government and school district purchasing decisions to mainstream better food procurement, combining social and economic food justice into a single framework.

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<sup>1</sup> Good Food Purchasing Program Overview. [Web](#).

GFPP makes recommendations and provides technical assistance to governments and school districts, setting targets and measuring the impact of changes with its professional staff. Since the City of Berkeley's food purchases are relatively limited, GFPP's practice of conducting a formal survey of contracts of partner institutions will not be pursued at this time. But an endorsement of the GFPP's values, partnerships for information sharing, and incremental changes by City departments engaged in food purchasing will improve Berkeley's own practices while strengthening the program's reach with food producers overall.

The City of Berkeley purchases food in a variety of ways, including the North Berkeley Senior Center, South Berkeley Senior Center, the Berkeley Police Department's jail facility, the administration of public events and meetings, and the administration of internal staff and council meetings. While the total expenditure of these food purchases are likely less than \$5 million annually, the threshold at which the GFPP recommends a formal purchasing study, the City can endorse and strive toward the value areas outlined by the program.

Many school districts and several local governments around the country have already created partnerships with GFPP, contributing to a movement that is expected to foster meaningful institutional change among food distributors and manufacturers.

In 2016, the Oakland Unified School District implemented the GFPP to complement their existing California Thursday program, which requires meals to be sourced from within the State, and Meatless Monday, which requires meals to be plant-based once a week. Since implementing the program, the district has moved from a 2-star to a 4 star rating.<sup>2</sup> The San Francisco Unified School District has implemented the GFPP, expanding the district's Buy American provision that requires that school meal resources to maximize benefits to American growers and producers.<sup>3</sup>

As an example of success, the Los Angeles Unified School District, the first government entity to adopt and implement the GFPP, cites the following accomplishments:<sup>4</sup>

- \$12 million redirected toward the purchase of local produce
- 150 new jobs created in Los Angeles County food chains
- Higher wages for local truck drivers and support for the United Farm Workers.
- 15 percent decrease in spending on meat and 19.6 million gallons of water saved each week via the implementation of Meatless Mondays
- Antibiotic-free Chicken
- Lower-sodium bread products without high fructose corn syrup
- Bread rolls from central California, rather than out of state

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<sup>2</sup> GFPP Presentation + District Commitment. Oakland Unified School District Legislative Information Center [Website](#).

<sup>3</sup> Board of Education Resolution 164-26A3, adopted May 24, 2016

<sup>4</sup> Measuring Impact. Good Food Purchasing Program [Website](#).

Entities that have implemented the GFPP include Washington D.C., Cook County (IL), Chicago Public Schools, Austin (TX), Austin Independent School District (TX), and the Land Stewardship Project of Twin Cities (MN).

In the context of Berkeley, the program has strong synergy with existing City efforts like Green Monday, which aims to reduce institutional meat consumption and promote plant-based food options. Conservative estimates put livestock emissions at 18 percent of global greenhouse gas emissions, more than the entire transportation sector combined.<sup>5</sup> And meat consumption continues to grow globally, as the United Nations predicts that consumption will double by 2050 without major changes in consumer choices.<sup>6</sup> This underscores how a program that reduces meat consumption and reduces supply chain emissions through local purchasing can help the City achieve important climate goals.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS

The GFPP has strong synergies with Berkeley's Green Monday initiative, adopted by the City Council in September of 2018 to combat animal agriculture's role in climate change. The item referred to the City Manager to serve plant-based foods on Mondays or another day of the week to reduce GHG and other impacts and raise awareness of the substantial environmental footprint of food choices.<sup>7</sup> Green Monday strengthened a 2015 resolution establishing Meatless Monday, which called for restaurants, grocery stores, and schools to offer a greater variety of plant-based options.

Additionally, the GFPP supports the City of Berkeley's 2009 Climate Action Plan and its 2018 Climate Emergency Declaration. The Climate Action Plan highlights how sustainable food systems "reduce the distances food must travel to get to our tables," "prioritize the consumption of organic food over conventional food, and the consumption of vegetables rather than meat... globally farm animals generate 18 percent of greenhouse gas emissions, according to estimates by the United Nations."<sup>8</sup> The Climate Emergency Declaration states that our community must mobilize "to reach zero greenhouse gas emissions across all sectors at wartime speed," mitigating and averting irreversible damage to our society and Earth's ecosystems.<sup>9</sup>

In terms of local purchases, partnering with the GFPP could strengthen the City's local vendor preferences, which extend a five percent preference to local business enterprises for supplies, equipment and nonprofessional services from \$100 to \$25,000.<sup>10</sup> Unlike GFPP, this policy does not define "localness" by miles of transport, but rather a business's physical presence within City limits.

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<sup>5</sup> Bailey, Rob; Froggatt, Antony; and Wellesley, Laura. Livestock – Climate Change's Forgotten Sector Global Public Opinion on Meat and Dairy Consumption. December 2014. [Web](#).

<sup>6</sup> Meat & Meat Products. United Nations; Food and Agriculture Organization. [Web](#).

<sup>7</sup> Resolution Establishing Green Monday. Berkeley City Council [Website](#).

<sup>8</sup> City of Berkeley Climate Action Plan. Chapter 3. p. 33. [Web](#).

<sup>9</sup> Resolution No. 68,486 Endorsing the Declaration of a Climate Emergency. [Web](#).

<sup>10</sup> Local Vendor Preferences. Berkeley City Finance Department [Website](#).

In terms of labor standards, the City of Berkeley requires that companies, nonprofits, and other entities with significant city contracts not discriminate in the provision of bereavement leave, family medical leave, or health benefits between its employees with domestic partners and employees with spouses.<sup>11</sup> In addition, the City's Living Wage ordinance requires that significant vendors pay employees living wages as defined by the City.<sup>12</sup>

These existing laws demonstrate the City's commitment to express residents' values through purchasing decisions.

#### ACTIONS/ALTERNATIVES CONSIDERED

An alternative considered was to partner with the GFPP to do a baseline assessment of Berkeley's food purchasing practices, at an approximate cost of \$15,000, and then referring to the City Manager to implement purchasing requirements aligned with the survey's results. However, since this review would require time and funds and the City's spending on food is estimated to be below \$5 million, a resolution endorsing GFPP's purchasing values and incremental changes by individual City departments appears to be a more effective approach.

#### CONSULTATION/OUTREACH OVERVIEW & RESULTS

Adoption of the Good Food Purchasing Policy has minimal direct impact on community members, since it only applies to food purchased by the City.

Councilmember Hahn's office conducted outreach with staff members at the Good Food Purchasing Program, including Anna Lappé, a coordinator for the Good Food Purchasing network, to discuss how the program can be feasibly implemented and the program's implications for labor standards and environmental impact. The Councilmember's office also consulted Alexa Delwiche, the Executive Director and Co-founder of the Center for Good Food Purchasing, to understand formal requirements to enroll in the program, potential costs to the city, and how the GFPP's values could be adopted and implemented over time. Boston's recent endorsement and resolution language were also discussed.

Finally, staff in the City of Berkeley's Office of Energy & Sustainable Development were also consulted to discuss implementation and feasibility.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley is committed to expressing its values through its purchasing decisions, and this resolution will raise awareness of GFPP's five core values: local economies, health, valued workforce, animal welfare and environmental sustainability.

By establishing a formal relationship with GFPP through an endorsement of its principles, Berkeley will join a host of Cities helping transition local, state and national entities to more ethical, humane and environmentally sound food production.

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<sup>11</sup> Equal Benefits to Employees of City Contractors. Chapter 13.29. [Web](#).

<sup>12</sup> City of Berkeley Living Wage Ordinance.



#### IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

This resolution will not require enforcement, but staff will be provided with information on how future contracts can effectively implement GFPP values and how GFPP staff can provide guidance in future decision making. It is hoped that staff involved in food purchasing for the City of Berkeley will review and incorporate components of the GFPP as possible.

The principles of the Good Food Purchasing Program can be found at <https://goodfoodpurchasing.org/program-overview/#values>

#### FISCAL IMPACTS

This recommendation could reduce or increase food purchasing costs as parts of the GFPP are implemented, but as this recommendation is not a specific mandate, there are no “imposed” costs or savings. It is expected that any possible savings that could help achieve the goals of the GFPP would be implemented, and some added costs could be incurred to support these objectives as well.

#### ENVIRONMENTAL SUSTAINABILITY

The item is consistent with Berkeley policies and vision on environmental sustainability, including Green Monday, the Climate Action Plan, the Resilience Plan and the Climate Emergency Declaration. Reducing meat and sourcing food locally results in significant reductions in GHGs, helping the City achieve its Climate Action Goals.

#### OUTCOMES & EVALUATION

The expected outcome of this item is that the City will receive guidance from GFPP on how to improve its purchasing decisions, setting an example for other cities, districts, and states around the country. Over time, it is hoped that the City will incorporate purchasing practices recommended by the GFPP. Information about implementation and outcomes should be included in the City’s biannual climate action report, since measures to implement GFPP food purchasing standards will support the plan’s goals.

#### CONTACT

Sophie Hahn, District 5, (510) 981-7150

RESOLUTION NO. \_\_\_\_\_

ENDORING THE VALUES OF THE GOOD FOOD PURCHASING PROGRAM (GFPP)

WHEREAS, the food system has substantial implications for the health of our communities, the resilience of our local economy, nutrition, the labor conditions of transportation and farm workers, the sustainability and climate goals of our cities, and animal welfare; and

WHEREAS, the Good Food Purchasing Program (GFPP) is leading efforts by cities and school districts to bring purchasing standards in line with these values; and

WHEREAS, the Los Angeles Unified School District, San Francisco Unified School District, Oakland Unified School District, Austin Independent School District (TX), Chicago Public Schools, Boston (MA), Washington D.C., Cook County (IL), Austin (TX), and the Land Stewardship Project of Twin Cities (MN) have partnered with GFPP; and

WHEREAS, these partnerships are forging a coalition that can encourage better food production standards by leveraging collective purchasing power; and

WHEREAS, the City of Berkeley already supports similar initiatives like Green Monday, a program encouraging institutions to incrementally replace animal products with plant-based food options with notable benefits for animal welfare, nutrition, and the environment; and

WHEREAS, the technical support and network of GFPP helped the Los Angeles Unified School District redirect \$12 million toward the purchase of local produce, create 150 new jobs in Los Angeles County food chains, achieved higher wages for local truck drivers and support for the United Farm Workers, achieved a 15 percent decrease in spending on meat, reduced water-use by 19.6 million gallons each week; and

WHEREAS, an endorsement of GFPP's values can help the city achieve progress in food purchasing standards and encourage institutions with larger food budgets to adopt the program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley endorses the Good Food Purchasing Program's five core values of localness, nutrition, labor rights, environmental sustainability, and animal welfare, and seeks to implement these values over time through its own food purchasing practices.

BE IT FURTHER RESOLVED that the City of Berkeley endorses efforts by other institutions to formally adopt the review processes and implementation of the Good Food Purchasing Program.



CONSENT CALENDAR  
April 30, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Rigel Robinson and Sophie Hahn  
Subject: Referral: Report on Public Realm Pedestrianization Opportunities

### RECOMMENDATION

Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.

### BACKGROUND

In many ways, the City of Berkeley is at the forefront of smart, transit-oriented urban growth. Among all US cities of 100,000+ inhabitants, the US Census and American Community Surveys show that Berkeley ranks third in percentage of pedestrian commuters at 16%<sup>1</sup>, first in percentage of bicycle commuters at 10%<sup>2</sup>, and 13th in percentage of public transit ridership at 22%<sup>3</sup>. Berkeley plays a crucial role on the national stage when it comes to designing safe, inclusive, and sustainable urban environments for pedestrians, cyclists, transit, and motorists.

As urban centers have shifted to design around people instead of cars, cities like Detroit, Los Angeles, and New York have looked to pedestrian plazas and shared streets like those found in Europe or Asia. These cities have found that street-to-plaza conversions promote local businesses, encourage neighborhood interaction, increase pedestrian safety, stimulate non-motorized transportation, and contribute to the vibrant identity and community of the city.<sup>4</sup> Common concerns toward street closure include the effect of closure on street network connectivity and the capacity of adjacent streets.

An ideal solution to address these concerns would not only incorporate full access to pedestrians and cyclists, but also incorporate express access for public transit and emergency medical services through the use of bollards or planters.

<sup>1</sup> <https://web.archive.org/web/20060312115227/http://www.bikesatwork.com/carfree/carfree-census-database.html>

<sup>2</sup> [http://bikeleague.org/sites/default/files/Where\\_We\\_Ride\\_2014\\_data\\_web.pdf#12](http://bikeleague.org/sites/default/files/Where_We_Ride_2014_data_web.pdf#12)

<sup>3</sup> [https://en.wikipedia.org/wiki/List\\_of\\_U.S.\\_cities\\_with\\_high\\_transit\\_ridership](https://en.wikipedia.org/wiki/List_of_U.S._cities_with_high_transit_ridership)

<sup>4</sup> <http://www.deeproot.com/blog/blog-entries/the-rise-of-the-pedestrian-plaza-street-to-plaza-conversions-in-the-u-s>

When considering pedestrianization zones in Berkeley, the report should review prior recommendations as well as existing public realms that regularly undergo street closure. Telegraph Ave between Bancroft Way and Dwight Way has been previously recommended and regularly undergoes closure for the Telegraph Holiday Street Fair and Berkeley World Music Festival.<sup>5</sup> Center St or Allston St between Martin Luther King Jr Way and Milvia St are often closed for the Berkeley Farmers' Market on Saturdays or annually for the Bay Area Book Festival. Besides the Telegraph Ave entrance to campus, Center St between Shattuck Ave and Oxford St<sup>6</sup> as well as Euclid Ave between Hearst Ave and Ridge Rd function as other primary entrances to the campus area. Based on the City of Berkeley's Pedestrian Master Plan and Bicycle Plan, all of these destinations represent high injury corridors as well as concentrated areas of demand for pedestrians and cyclists.<sup>78</sup>

### FINANCIAL IMPLICATIONS

Staff time.

### ENVIRONMENTAL SUSTAINABILITY

Increasing non-motorized transportation and promoting walkable lifestyles reduces greenhouse gas emissions caused by automobile use.

### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
David Lin, Intern

### Attachments:

- 1: Telegraph Avenue Public Realm Plan (<https://www.berkeleyside.com/wp-content/uploads/2016/09/Telegraph-Public-Realm-Plan-Final-Low-Res.pdf>)
- 2: City of Berkeley Pedestrian Master Plan ([https://www.berkeleyside.com/wp-content/uploads/2019/02/Berkeley-PMP\\_2019-02-05-Worksession-Presentation.pdf](https://www.berkeleyside.com/wp-content/uploads/2019/02/Berkeley-PMP_2019-02-05-Worksession-Presentation.pdf))
- 3: City of Berkeley Bicycle Plan (<http://www.bikeberkeley.com/wp-content/uploads/2017/07/Berkeley-Bicycle-Plan-2017-Final.pdf>)

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<sup>5</sup> <https://www.berkeleyside.com/wp-content/uploads/2016/09/Telegraph-Public-Realm-Plan-Final-Low-Res.pdf>

<sup>6</sup> <https://ecocitybuilders.org/eco-plaza-in-the-heart-of-the-city/>

<sup>7</sup> [https://www.berkeleyside.com/wp-content/uploads/2019/02/Berkeley-PMP\\_2019-02-05-Worksession-Presentation.pdf](https://www.berkeleyside.com/wp-content/uploads/2019/02/Berkeley-PMP_2019-02-05-Worksession-Presentation.pdf)

<sup>8</sup> <http://www.bikeberkeley.com/wp-content/uploads/2017/07/Berkeley-Bicycle-Plan-2017-Final.pdf>



Office of the City Manager

PUBLIC HEARING

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: FlixBus Franchise Agreement for Long-Distance Bus Service

RECOMMENDATION

Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a franchise agreement between FlixBus, Inc. and the City of Berkeley to provide long distance bus service to the public.

FISCAL IMPACTS OF RECOMMENDATION

The current proposal is for the FlixBus stop to be located on the University of California, Berkeley (UC Berkeley) campus on the West Crescent, east of Oxford Street between Center and Addison Streets. The fees associated with the Franchise Agreement are proposed to be structured as follows and as shown in Exhibit B.

- With the FlixBus stop located on the UC Berkeley campus, as currently proposed, the franchise fee would consist of a roadway usage fee of \$0.10 per trip, for an annual total of \$169 to be deposited in the General Fund (Fund 011). This is in addition to the diesel fuel tax collected by the State, part of which is returned to the cities for roadway maintenance.
- If FlixBus instead were to locate its stop within City right-of-way, a bus-stop maintenance fee of \$400 would be added to the roadway usage fee, for an annual total of \$569. The maintenance fee would be deposited in the General Fund (Fund 011).
- If the FlixBus stop were to be located in the City right-of-way where there are currently metered parking spaces, FlixBus would also pay the parking meter rate for the total annual dwell time of the buses. This amount is estimated to be \$986 for the first year, for a total annual fee of \$1,555 (\$169+\$400+\$986). The parking meter fee would be deposited into the Parking Meter Fund (Fund 631).

In addition to the above-listed fees, FlixBus would need to separately pay a permit application fee, to reimburse staff time for reviewing the application, before being issued a permit for any bus stop proposed to be located within City right-of-way. As mentioned

above, the current proposal is for the FlixBus stop to be located on the UC Berkeley campus.

#### CURRENT SITUATION AND ITS EFFECTS

There is no direct access to long distance (intercity or interstate) bus service in Berkeley. Current operators (Greyhound, Megabus, Hoang Express) have their stops in Oakland, the closest of which is the Greyhound bus terminal on San Pablo Avenue at 21<sup>st</sup> Street. The only Berkeley access to long-distance public transportation is the train station on Second Street, which is served by Amtrak's Capitol Corridor line that runs between the Bay Area and Sacramento.

This lack of direct access to long-distance public transportation is surprising given that Berkeley is home to the UC Berkeley campus, which attracts a substantial number of out-of-town students. UC Berkeley in particular has a high concentration of students and individuals who originate from California's central and southern areas.

FlixBus is a long-distance bus company proposing routes that will connect Berkeley to Southern California and Salt Lake City, Utah, with points in between. The company has obtained approval from the California Public Utilities Commission (CPUC) to provide intercity bus service and is already operating at a bus stop in San Francisco. They have worked with UC Berkeley staff to locate a stop on campus adjacent to Crescent Lawn, situated between University Avenue and Center Street east of Oxford Street. They plan to start serving Berkeley in spring 2019.

The City Attorney determined upon a review of the City's Charter that FlixBus must obtain a franchise agreement before operating transportation services on public streets.

#### BACKGROUND

Council adopted a resolution on March 26, 2019, declaring the Council's intention to consider at a public hearing, set for April 30, 2019, whether to grant a franchise to FlixBus to provide long-distance bus service to the Berkeley public. Previous to this action, Council directed the City Manager to initiate a franchise agreement with FlixBus on October 30, 2018. FlixBus contacted staff in late 2017 regarding their desire to provide service in the City and worked with Council, as directed by the Berkeley Municipal Code Chapter 9.60, to get the initiation of a franchise agreement referred by Council to the City Manager.

The City's General Plan contains several policies and actions to support the expansion of public transportation. Entering into a franchise agreement to allow FlixBus service in Berkeley is consistent with "Policy T-2: Public Transportation Improvements: Encourage regional and local efforts to maintain and enhance public transportation services."

FlixBus originated in Europe in 2013 and is currently providing international long-distance bus service between twenty-eight (28) European countries. The company received California Public Utilities Commission (CPUC) approval on June 12, 2018 for

operating intrastate long-distance bus service and has begun operations in California, Nevada, and Arizona.

FlixBus is responsible for network planning, customer service, quality management, marketing and sales, ticketing, pricing, and business development. The company employs existing regional bus operators for the day-to-day transporting of passengers. All buses are equipped with Wi-Fi and power outlets and allow bicycles on-board as luggage. Fare prices are dynamic. As an example, one-way fares from the Bay Area (San Francisco or Oakland) to Los Angeles range from \$4.99 to \$54.99, depending on date and time of travel.

#### ENVIRONMENTAL SUSTAINABILITY

FlixBus will provide long-distance bus service to visitors to and residents of Berkeley and will integrate into the existing transportation network. Buses are one of the most efficient methods of transportation. At a conservative estimate of 5 mpg, a bus carrying half of its capacity, 27 passengers, has an effective fuel economy of 135 passenger miles per gallon, dwarfing that of even the most efficient hybrid personal vehicles which average 45 miles per gallon. Furthermore, buses reduce the number of vehicles on the road, and thus reduce congestion. FlixBus is proposing and promoting carbon-dioxide offsets as an option with ticket purchase to every customer. The FlixBus service will help the City achieve the Berkeley Climate Action Plan greenhouse gas emission reduction targets of 33% below year 2000 levels by the year 2020, and 80% below year 2000 levels by 2050.

#### RATIONALE FOR RECOMMENDATION

FlixBus will address public demand for direct access to long-distance public transportation. The current proposal to locate the Berkeley bus stop on the western edge of the UC Berkeley campus places it in close proximity to the City's downtown, a transit-rich environment that provides direct and convenient access for Berkeley residents, visitors and the campus community.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could opt to have language edited, added, or removed from the franchise agreement. Council could also reject the franchise agreement in totality, which would result in no direct access in Berkeley to a publicly available long-distance bus service.

#### CONTACT PERSON

Farid Javandel, Transportation Division Manager, Public Works, (510) 981-7061  
Beth Thomas, Principal Planner, Public Works, (510) 981-7068

#### Attachments:

1: Ordinance

Exhibit A: DRAFT Franchise Agreement between FlixBus, Inc., and the City of Berkeley

Exhibit B: Franchise Fees – Initial Launch and Future Adjustments

- 2: FlixBus Route Maps
- 3: Public Hearing Notice



## ORDINANCE NO. ##,###-N.S.

AUTHORIZING THE CITY MANAGER TO EXECUTE A FRANCHISE AGREEMENT BETWEEN FLIXBUS, INC. AND THE CITY TO OPERATE LONG-DISTANCE BUS SERVICE IN BERKELEY FOR AT LEAST A TEN-YEAR TERM

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. The Council finds as follows:

- a. Council referred to the City Manager the initiation of a franchise agreement with FlixBus, Inc. (FlixBus) on October 30, 2018.
- b. Council adopted a resolution on March 26, 2019, declaring the Council's intention to consider at a public hearing, set for April 30, 2019 at 6:00 p.m., whether to grant a franchise to FlixBus to provide long-distance bus service to the Berkeley public.
- c. The City's Climate Action Plan has set a target of reducing transportation emissions 33% below 2000 levels by 2020, and 80% below 2000 levels by 2050. The Plan states that transportation modes, such as public transit, walking, and cycling, must become primary means of fulfilling the City's mobility needs to achieve these targets.
- d. The City's General Plan includes Policy T-2: Public Transportation Improvements: Encourage regional and local efforts to maintain and enhance public transportation services.
- e. The only current direct access to long-distance public transportation within Berkeley is the Amtrak station located at University Avenue and Second Street for the Capitol Corridor route between Sacramento and San Jose.
- f. FlixBus is a long-distance bus company proposing routes that will connect Berkeley to Southern California and Salt Lake City, Utah, with points in between.
- g. FlixBus has obtained approval from the California Public Utilities Commission (CPUC) to provide intercity bus service and is already operating at a bus stop in San Francisco.
- h. The execution of a franchise agreement with FlixBus will enable long-distance bus service to operate on City streets.
- i. FlixBus will work with City Public Works staff regarding their service and will meet reporting requirements as indicated in Exhibit A.

Section 2. The City Manager is hereby authorized to enter into a 10-year franchise agreement, which may be extended upon mutual consent with FlixBus Inc., as operator

of long-distance bus service in Berkeley. A franchise fee schedule, as proposed in Exhibit B, will be reviewed annually and adjusted as needed based on analysis of staff time, required resources, the stop location(s), service levels, and meter rates. Revenue from the Roadway Usage Fees and Bus Stop Base Fees will be deposited into the Fund 011 General Fund. Revenue from the Bus Stop Usage Fee will be deposited into the Fund 631 Parking Meter Fund. Contract terms are further described in the draft franchise agreement set forth in Exhibit A.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Exhibits

A: DRAFT Franchise Agreement between FlixBus, Inc., and the City of Berkeley

B: Initial Franchise Fees

## **FLIXBUS, INC. FRANCHISE AGREEMENT**

**THIS agreement** is made and entered into this day of [REDACTED], 2019 by and between the City of Berkeley, a municipal corporation ("City"), and FLIXBUS, INC., a Delaware corporation with a registration in San Francisco, California ("Grantee").

**WHEREAS**, pursuant to Chapter 9.60 of the Berkeley Municipal Code (BMC), Grantee has applied to City for a Franchise to provide inter-city and inter-state bus service to the public with a stop in the City of Berkeley ("Franchise"); and

**WHEREAS**, on March 26, 2019 and April 2, 2019, the City Council held a public hearing for the purpose of hearing persons in favor of or in opposition to the granting of such Franchise; and

**WHEREAS**, the City Council has determined that the grant of such Franchise to Grantee is in the public interest; and

**WHEREAS**, City and Grantee desire to enter into a Franchise Agreement ("Agreement") in order that Grantee may provide inter-city and inter-state bus service in the City of Berkeley;

**NOW, THEREFORE**, City and Grantee do hereby agree as follows:

### **1. GRANT OF FRANCHISE**

By Ordinance No. [REDACTED] City granted to Grantee an exclusive Franchise authorizing Grantee to provide inter-city and inter-state bus service to the public in the City of Berkeley and to use the public rights of way for such purpose no sooner than thirty (30) days after the second public hearing. Grantee acknowledges that this Franchise is subject to the terms and conditions specified in the City Charter, the terms and conditions specified in Ordinance No. [REDACTED]-N.S., the provisions of Chapter 9.60 of the Berkeley Municipal Code, and the terms and conditions of this Franchise agreement ("Agreement").

### **2. TERM OF FRANCHISE**

Subject to Section 11 of this Agreement, the Franchise shall be not less than 10 years. Grantee shall pay annual Franchise fees as set forth by the Public Works Department. Initial fees are set forth in Exhibit A.

### **3. RELATIONSHIP OF GRANTEE TO CITY**

A. Grantee shall be deemed at all times to be a franchisee and shall be wholly responsible for the manner in which Grantee performs the services required of Grantee by the terms of this Agreement. Grantee shall be liable for the acts and omissions of it, its employees and its agents. Nothing contained herein shall be construed as creating an employment or agency relationship between City and Grantee.

- B. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Grantee's services only and not to the means by which such a result is obtained.
- C. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement.

#### **4. GRANTEE'S RECORDS AND REPORTING**

- A. Grantee shall keep and maintain books of account and other records showing all business transactions conducted by Grantee in connection with the Franchise granted to Grantee. Such records shall be kept at Grantee's place of business shown in Section 15 of this Agreement for receipt of notices.
- B. Grantee shall require its subcontractors, if any, who perform any services in connection with the Franchise granted to Grantee to keep and maintain books of account and other records showing all business transactions conducted by such subcontractors in connection with the Franchise granted to Grantee.
- C. Pursuant to Section 61 of the City Charter, all such books of account and other records shall be subject to inspection and/or audit at Grantee's place of business during normal business hours upon request or demand of the City Manager, City Auditor, City Attorney, or other City officer, employee or consultant authorized by any of these officers. The purpose of such inspection and/or audit shall be for verification of any fees or penalties paid by Grantee, and the accuracy thereof.
- D. Operator shall deliver a report twice annually to the City. The half-year report will be due January 31 for the period covering July 1 through December 31 of the previous calendar year. The annual report will be due July 31 for the previous fiscal year of July 1 through June 30. It shall be submitted in Microsoft Word and PDF and contain information as required by the Public Works Department. The following pieces of information are required to be included by the Grantee in the report: average daily passenger boardings and alightings at the Grantee's bus stop in Berkeley for the period covered by the report, including the average for weekdays and weekend days; frequency and schedule of the grantee's bus service to the Berkeley stop by route, including any schedule changes that occurred during the reporting period; and a list of complaints and positive feedback about the Grantee's buses or bus service received during the reporting period from Berkeley passengers.

#### **5. AUDIT REQUIREMENT**

In the event any audit conducted by City or by City's representative discloses that Grantee has made any intentional misrepresentation with respect to the fees or penalties due to City, or discloses that Grantee has underpaid fees or penalties due to City in an amount greater than One Thousand Dollars (\$1,000), then in addition to

any other remedies available to City, Grantee shall reimburse City for City's costs incurred in the performance of the audit. Such reimbursement shall be paid by Grantee within thirty (30) days of the date City notifies Grantee of the amount of City's costs.

**6. INDEMNIFICATION**

- A. Grantee shall defend, indemnify, and save harmless City and its respective commissioners, officers, agencies, departments, agents, and employees (each, an "Indemnified Party"; and collectively, "Indemnified Parties") from and against any and all claims, demands, causes of action, proceedings or lawsuits brought by third-parties ("Claims"), and all losses, damages, liabilities, penalties, fines, forfeitures, costs and expenses arising from or incidental to any Claims (including attorneys' fees and other costs of defense) (collectively, with Claims, "Liabilities"), resulting from, or arising out of, the operation of inter-city and inter-state bus services and the provision of services, whether such operation or services is performed or provided by Grantee or by Grantee's subcontractors or any other person acting for or on behalf of Grantee.
- B. Notwithstanding the foregoing, the following shall be excluded from Grantee's indemnification and defense obligations contained in the preceding paragraph:
  - 1. Any Liabilities to the extent resulting from, or arising out of:
    - a. the gross negligence or willful misconduct of any Indemnified Party; or
    - b. Grantee complying with the written directives or written requirements of City, if Grantee has previously objected to such written directives or requirements in writing, with respect to (A) the location or configuration of a bus stop in relation to the street or sidewalk on which such bus stop is located or to which it adjoins, or (B) a City's standards for alteration or maintenance of sidewalks.
- C. The indemnification obligations set forth in section 6(A) above include any claim against Grantee or City contesting City's authority to issue a permit for a bus stop..
- D. Upon receipt by any Indemnified Party of actual notice of a Claim to which such Indemnified Party is entitled to indemnification in accordance with this Section 6, such Indemnified Party shall give prompt notice of such Claim to Grantee. Grantee shall assume and prosecute the defense of such Claim at the sole cost and expense of Grantee. Grantee may settle any such Claim in its discretion so long as such settlement includes an unconditional release of the Indemnified Party.

- E. Nothing in this Agreement shall constitute a waiver or limitation of any rights which City may have under applicable law. All rights and remedies of City, whether under this Agreement or other applicable law, shall be cumulative.

## **7. INSURANCE REQUIREMENTS**

- A. **Minimum Coverages.** The insurance requirements specified in this section shall cover Grantee's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that Grantee authorizes to work under this Agreement (hereinafter referred to as "Agent"). Grantee shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.
- B. Grantee shall include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover the risks associated with work to be performed by the Agent. To the extent that an Agent does not procure and maintain such insurance coverage, Grantee shall be responsible for any and all costs and expenses that may be incurred in securing such coverage or in fulfilling Grantee's indemnity obligation under Section 6 as to itself or any of its Agents in the absence of such coverage.
- C. In the event Grantee or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that Grantee's or its Agent's insurance, as the case may be, be primary without right of contribution from City.
  - 1. **Workers' Compensation Insurance with Statutory limits, and Employer's Liability Insurance** with a limit of not less than \$1,000,000 per employee for injury by disease and \$1,000,000 for injury for each accident, and any and all other coverage of Grantee's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of City. Such Workers' Compensation & Employer's Liability may be waived, if and only for as long as Grantee is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
  - 2. **Commercial General Liability Insurance for Bodily Injury and Property Damage liability**, covering the operations of Grantee and Grantee's officers, agents, and employees and with limits of liability which shall not be less than \$2,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and **Personal & Advertising Injury liability** with a limit of not less than \$2,000,000. Such policy shall contain a Waiver of

Subrogation in favor of City. City and its commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from Operator's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by Grantee and Grantee's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$5,000,000 combined single limit per accident.
  4. Umbrella Insurance in the amount of \$3,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.
- D. Acceptable Insurers. All policies will be issued by insurers qualified to do business in California and with a Best's Rating of A-VIII or better.
- E. Self-Insurance. Grantee's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to City.
- F. Deductibles and Retentions. Grantee shall be responsible for payment of any deductible or retention on Grantee's policies without right of contribution from City. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.
- G. In the event that City is entitled to coverage as an additional insured under any Grantee insurance policy that contains a deductible or self-insured retention, Grantee shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Grantee, subconsultant, subcontractor, or any of their employees, officers or directors, even if Grantee or subconsultant is not a named defendant in the lawsuit.
- H. Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than the Grantee or its contractors shall be called upon to contribute to a loss covered by insurance for the named insured.
- I. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, Grantee shall:

1. Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
  2. Maintain and provide evidence of similar insurance for at least three (3) years following the expiration or termination of this Agreement, including the requirement of adding all additional insureds; and
  3. If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the commencement of any work hereunder, Operator shall purchase “extended reporting” coverage for a minimum of three (3) years after the expiration or termination of this Agreement.
- J. Failure to Maintain Insurance. All insurance specified above shall remain in force until the expiration or termination of this Agreement. Grantee must notify City if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.
- K. Certificates of Insurance. Prior to commencement of any work hereunder, Grantee shall deliver to City Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.
- L. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Grantee are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Grantee.

## **8. EQUIPMENT**

Any and all equipment necessary for establishing bus stops in the City right of way shall be prepared and installed by the Grantee, including surveys to establish underground utility locations, developing site plans, and getting City-issued permits. The City’s Public Works Department is solely authorized to identify suitable bus stop locations and provide approval for establishing bus stops.

## **9. COMPLIANCE WITH LAW**

Grantee shall perform, implement and manage the installation, operation, maintenance and removal of bus stop equipment in accordance with applicable federal, state, and local law, in accordance with all regulations promulgated under such laws, and in accordance with the terms and conditions of this Agreement.



## **10. PERMITS AND LICENSES**

Grantee shall obtain and maintain, at Grantee's sole cost and expense, all permits and licenses applicable to Grantee's operations under this Franchise, which are required of Grantee by any governmental agency.

## **11. TERMINATION OF FRANCHISE**

- A. If at any time City believes Grantee may not be adequately performing its obligations under this Agreement, City may request from Grantee written assurances of performance and a written plan to correct observed deficiencies in Grantee's performance if written notice of the same is provided by City. Failure to provide written assurances constitutes a separate ground to declare a default under this Agreement.
- B. Grantee shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate the Grantee's right to perform under the Franchise:
1. Should Grantee make a general assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be adjudged bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, filing any answer admitting or not contesting the material allegations of a petition filed against Grantee in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Grantee or of all or any substantial part of the properties of Grantee, or if Grantee, its directors or shareholders, take action to dissolve or liquidate Grantee; or
  2. Should Grantee commit a material breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Grantee demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Grantee to avail itself of this time period in excess of 10 calendar days, Grantee must provide City within the 10 day period a written plan acceptable to City to cure said breach, and then diligently commence and continue such cure according to the written plan); or
  3. Should Grantee violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency applicable to the Franchise and does not cure such violation within ten (10) days of the date of the notice from City to Grantee demanding such cure; or, if such failure is curable but not curable within such ten (10) day

period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Grantee to avail itself of this time period in excess of 10 calendar days, Grantee must provide City within the 10 day period a written plan to cure said violation acceptable to City, and then diligently commence and continue performance of such cure according to the written plan.).

- C. Convenience Termination: If at any time the City or the Grantee would like to terminate the Franchise, 90 days' notice shall be required. The City will return unused Franchise fees to the Grantee and the Grantee will remove all of their installations in the public right of way, including but not limited to street furniture, pavement markings, and poles and ensure that the public right of way is returned to its original condition prior to Grantee's installations.

## **12. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT**

Grantee acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Grantee shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights laws. Grantee will not be responsible for ADA matters which are in the control of City. Grantee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Grantee, its employees, agents or assigns shall constitute a material breach of this Agreement.

## **13. NON- DISCRIMINATION**

In order to minimize the probability of a claim being filed against the City, in the performance of this Agreement, Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

## **14. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER**

Grantee has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Grantee is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Contractor shall pay all state and federal income taxes and any other taxes due. Grantee certifies under penalty of perjury that the taxpayer identification number written below is correct.

## **15. RECEIPT OF NOTICES**

A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Agreement and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Agreement, all notices to City shall be addressed as follows:

City Manager  
City of Berkeley  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704

For purposes of this Agreement, all notices to Grantee shall be addressed as follows:

Pierre Gourdain  
FLIXBUS, INC.  
12575 Beatrice Street  
Los Angeles, CA 90066

## **16. GOVERNING LAW/VENUE**

This Agreement shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Alameda County, California.

## **17. CONFIDENTIALITY**

A. Grantee acknowledges and agrees that City is a public entity subject to the provisions of the Public Records Act (Cal. Gov. C. 6250 et seq.) Except as otherwise required by law, including the Charter of the City of Berkeley and the Berkeley Municipal Code, City will not disclose trade secrets or proprietary financial information received from Grantee. Any such trade secrets or proprietary financial information which Grantee believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid. The specific information must be clearly identified as such.

B. Duty to Defend:

Upon a request for records regarding this Agreement, City will immediately notify Grantee and specify a time when the records will be made available for inspection. If the Grantee, in a timely manner, identifies any proprietary, trade secret, or confidential commercial or financial information which Grantee determines is not subject to public disclosure, the Grantee will be required to fully

defend (including all attorney's fees and costs), in all forums, the City's refusal to produce such information; otherwise, City will make such information available to the extent required by law. To the maximum extent permitted by law, Grantee shall release and hold harmless City from any and all judgments, liabilities, fines or penalties imposed as a result of City's refusal to disclose records regarding this Agreement.

**18. AMENDMENTS**

The terms and conditions of this Agreement shall not be altered or otherwise modified except by a written amendment to this Agreement executed by City and Grantee.

**19. ENTIRE CONTRACT**

The terms and conditions of this Agreement, all exhibits attached and any documents expressly incorporated by reference represent the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement shall supersede any and all prior contracts, oral or written, regarding the subject matter between City and Grantee. No other contract, statement, or promise relating to the subject matter of this Agreement shall be valid or binding except by a written amendment to this Agreement.

**20. SEVERABILITY**

If any part of this Agreement or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

**21. WAIVER**

Failure of City to insist on strict performance shall not constitute a waiver of any of the provisions of this Agreement or a waiver of any other default of Grantee.

**22. ASSIGNMENT**

Grantee may not assign this Agreement without the prior written consent of the City, except that Grantee may assign its right to any money due or to become due hereunder.

**23. SECTION HEADINGS**

The sections and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement.



**WITNESS** THE EXECUTION OF this agreement ON THE DATE WRITTEN BELOW EACH SIGNATURE:

CITY OF BERKELEY

By: \_\_\_\_\_  
City Manager

Countersigned by:

\_\_\_\_\_  
CITY AUDITOR

Attest:

\_\_\_\_\_  
City CLERK

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

GRANTEE

\_\_\_\_\_  
Grantee Representative Name (printed or typed)

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name and title of signatory, if different from Grantee Representative name

Tax Identification No. \_\_\_\_\_

Berkeley Business License No \_\_\_\_\_

Incorporated: Yes \_\_\_\_\_ No \_\_\_\_\_

Certified Woman Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

Certified Minority Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, state ethnicity: \_\_\_\_\_

Certified Disadvantaged Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_

## Franchise Fees – Initial Launch and Future Adjustments

| Description of Fees                                                            |                                                                                                                                                                              |          | Deposit Account                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Roadway usage fee                                                              | Calculated by the number of trips scheduled using City of Berkeley streets, annual true up based on actual service.                                                          |          | General Fund 011                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Bus stop base fee                                                              | Calculated as a per bus stop base fee for establishing and maintaining a bus stop in the City's right-of-way.                                                                |          | General Fund 011                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Bus stop usage fee                                                             | Calculated as a per bus stop usage fee for having a stop in a metered area, based on dwell time and meter rates. Annual true-up based on average dwell time and meter rates. |          | Parking Meters Fund 631                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Roadway Usage Fee                                                              |                                                                                                                                                                              |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Fee Type                                                                       | Cost                                                                                                                                                                         | Unit     | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Roadway usage fee                                                              | \$ 0.10                                                                                                                                                                      | per trip | Assumes 28 trips per week for 39 weeks a year, 46 trips per for for 13 weeks a year for a total of 1690 trips. True-up for actual number of trips.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Estimated annual roadway usage fee                                             | \$ 169.00                                                                                                                                                                    |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Bus Stop Base Fee (Only if bus stop in City's right of way)                    |                                                                                                                                                                              |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Fee Type                                                                       | Cost                                                                                                                                                                         | Unit     | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Bus stop base fee                                                              | \$ 400.00                                                                                                                                                                    | per stop | Covers maintenance and staff time for each stop in the City's right of way.<br>The Department of Public Works is solely responsible for establishing a bus stop, including curb painting.<br>Franchise fees do not include encroachment permits fees or Berkeley business license.<br>Applicant is responsible for obtaining an encroachment permit for installing infrastructure such as poles, flags, or other street furniture.<br>Applicant is responsible for coordinating with an underground utility location company before installing infrastructure that requires any drilling. |
| Bus Stop Usage Fee (Only if bus stop in City's right of way in a metered area) |                                                                                                                                                                              |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Fee Type                                                                       | Cost                                                                                                                                                                         | Unit     | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Estimated average vehicle dwell time                                           | 0.17                                                                                                                                                                         | Hour     | Provided by Flixbus, true up for calculated average dwell time                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Estimated annual usage of stop                                                 | 1690                                                                                                                                                                         | Times    | Provided by Flixbus, true up for actual usage                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Estimated meter rate                                                           | \$ 3.50                                                                                                                                                                      | Hour     | Example - based on City rates in the metered area where the bus stop is located                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Estimated annual bus stop usage fee                                            | \$ 985.83                                                                                                                                                                    |          | Actual fee depends on meter rates in the area where bus stop located                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Examples of Possible Annual Fees                                               |                                                                                                                                                                              |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                |                                                                                                                                                                              |          | <i>Bus stop not in City's right of way</i> \$ 169.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                |                                                                                                                                                                              |          | <i>One bus stop in City's right of way in non-metered area</i> \$ 569.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                |                                                                                                                                                                              |          | <i>One bus stop in City's right of way in Downtown Berkeley Premium Zone at \$3.50 per hour</i> \$ 1,554.83                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

Franchise fees subject to change annually based on analysis of staff time, required resources, stop locations, service levels, and meter rates.



### FLIXBUS ROUTE MAPS

#### Route 2001



Berkeley is part of our main 2001 line. It connects Sacramento, the Bay Area, and Los Angeles.

FlixBus has implemented a multi-stop strategy in the Bay Area and Los Angeles, allowing customers to enjoy more convenient pick-up and drop-off locations for their intercity journeys.

### Route N2007



The N2007 is an overnight bus, connecting wine country with the east Bay Area, Los Angeles and San Diego.

FlixBus will employ a multistop strategy in LA and San Diego, allowing for more direct and convenient trips for passengers. This line passes through Anaheim, creating a connection to the Disneyland parks and resorts.

Route N2301



The N2301 is an overnight bus, connecting the Bay Area with Nevada and Salt Lake City.

## NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

### FLIXBUS, INC. FRANCHISE HEARING

The Department of Public Works is proposing long-distance bus service within City limits with fees to cover capital work, operations, and maintenance, to be launched in Berkeley in 2019. FlixBus' initial proposed routes connect Berkeley to Southern California and Salt Lake City, Utah with points in between. FlixBus has coordinated with University of California, Berkeley staff to locate their initial stop on campus at Crescent Lawn, located between University Avenue and Center Street east of Oxford Street. The franchise agreement allows for the future possibility of bus stops in other locations as well as service changes.

The City is holding a public hearing regarding whether to grant a franchise of no less than 10 years to FlixBus, Inc. as an operator of long-distance bus service within city limits. A franchise is needed for FlixBus, Inc. to provide this service in Berkeley. Revenue from the franchise will be used to cover staff time and materials.

The hearing will be held on **April 30, 2019** at 6:00 p.m. in the Berkeley Unified School District Board Room, 1231 Addison Street, Berkeley.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **April 18, 2019**.

For further information, please contact Beth Thomas, Principal Planner, Department of Public Works at 510-981-7068.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

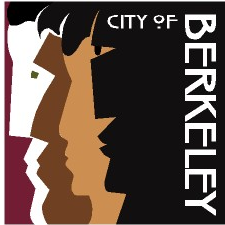
**Published:** April 5, 2019

Published pursuant to Berkeley Municipal Code Section 9.60.050

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on April 18, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk





Office of the City Manager

## SUPPLEMENTAL AGENDA MATERIAL

**Meeting Date:** April 30, 2019

**Item Number:** 26

**Item Description:** New Marina Fee – South Cove Parking Lots

**Submitted by:** Scott Ferris, Parks, Recreation and Waterfront Director

Based on developing an alternate solution, the City Manager is no longer recommending adoption of a new fee for the South Cove Parking lot. The problem the \$10 fee from 5:00 am to 9:00 am was intended to solve, was ferry and charter boat customers arriving at the South Cove lot early, parking all day in the highest demand spots, and limiting use for recreational users. This goal of increasing parking access for recreational users can be accomplished by opening only half of the lot from 5:00 am to 9:00 am and opening it fully at 9:00 am. This will allow early arrivers access and allow recreational users who arrive later in the day access as well.



Office of the City Manager

PUBLIC HEARING

April 30, 2019

*(Continued from April 2, 2019)*

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Scott Ferris, Director, Parks Recreation and Waterfront  
Subject: New Marina Fee – South Cove Parking Lots

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution approving a new Marina Fee Schedule to include a new \$10 parking fee in the South Cove Parking lot, and rescinding Resolution No. 68,415-N.S. and all amendatory resolutions.

FISCAL IMPACTS OF RECOMMENDATION

The cumulative impact of the new South Cove Parking Fee is estimated to add \$26,000 in annual revenue to the Marina Fund (Fund 608). This revenue will offset the City's cost to collect the fee and maintain the parking lot. This fee is not expected to make a significant impact on the Marina Fund's \$1M structural deficit and projected insolvency within the next two years.

CURRENT SITUATION AND ITS EFFECTS

The Marina Fee Schedule was last updated in May, 2018, when Council adopted Resolution No. 68,415-N.S. Since then, parking congestion on the South side of the Waterfront has become an increasing problem. Ferry and charter boat customers arrive early and park all day in the highest demand spots, which has had the effect of squeezing out recreational users.

The recommendation from the City's independent parking consultant, Nelson Nygaard, is to implement a weekday-only fee of \$10/vehicle in order to act as a disincentive for all-day parking in the South Cove Parking lots. This will be charged only Monday through Friday between 5am and 9am. People who need free all-day parking can use the northern side of the 199 Seawall parking lot nearby. The diagram in Attachment 1 illustrates how the parking fee at South Cove will work with the additional parking rule changes that will take effect in April, 2019 at the Waterfront.



**Table 1 - Proposed Fee for South Cove Parking**

Fee	Current	Proposed
South Cove Parking Fee	n/a – no fee exists	\$10 per vehicle, weekdays only, 5am-9am

**RATIONALE FOR RECOMMENDATION**

The \$10 parking fee is comparable to parking fees already in existence at the Berkeley Waterfront, and nearby recreational marinas. Fees for launch ramp access and parking at the Waterfront are currently \$15 per day. The Doubletree Hotel at the Waterfront charges \$28.60 per day for self-parking and \$9 for the first three hours. The Emeryville Marina charges \$20 for 24 hour parking. At Fisherman’s Wharf in San Francisco, customers pay a \$13 parking fee for validated parking at a nearby garage.

**Table 2: Parking Fee Comparisons**

Parking Location	Rate per day	Notes
Berkeley Marina South Cove	\$10.00	Charged only during the hours of 5am-9am on weekdays
Berkley Marina Launch Ramp	\$15.00	Charged for launch ramp access and all day parking; subject to availability
Berkley Marina Doubletree hotel	\$28.60	\$26 for self-parking, plus a 10% parking tax. Hourly rates: 0-3 hrs: \$14; 3-6 hrs: \$20; 6+ hrs: \$26
San Francisco Fisherman’s Wharf - Anchorage Square Garage	\$13.00	Charged for 5am-9am arrival and departure prior to 6pm, with validation.
Emeryville Marina	\$20.00	Charged for 24 hours, paid via parking kiosk

**BACKGROUND**

In October and November of 2018, staff conducted a public process regarding parking changes at the Waterfront. Public comments were taken at two stakeholder meetings (October 9 and October 23, 2018) (see comments here<sup>1</sup>) and three Parks and Waterfront Commission Meetings (September 12, October 10, and November 14, 2018). Attendance ranged from 15 to 100 people, and over 80 verbal comments were made. In addition, staff received approximately 100 written comments, and conducted several more meetings and phone calls with individual stakeholders. This process helped staff to better understand the needs of each group and develop optimal solutions. The feedback we received was constructive, and informed staff’s recommendation.

**ENVIRONMENTAL SUSTAINABILITY**

The proposed new parking fee at the South Cove parking lots will increase the availability of parking stalls to general recreational users at the Berkeley Waterfront, continuing the City’s goal of fostering environmental stewardship of the San Francisco Bay.

<sup>1</sup> [https://www.cityofberkeley.info/Parks\\_Rec\\_Waterfront/Marina/Waterfront\\_Parking\\_Study\\_Review.aspx](https://www.cityofberkeley.info/Parks_Rec_Waterfront/Marina/Waterfront_Parking_Study_Review.aspx)

ALTERNATIVE ACTIONS

Staff considered closing the South Cove Parking Lots between 5am and 9am, but this would restrict access for charter and ferry participants who would be willing to pay for closer access.

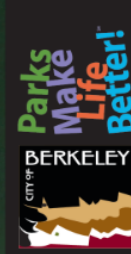
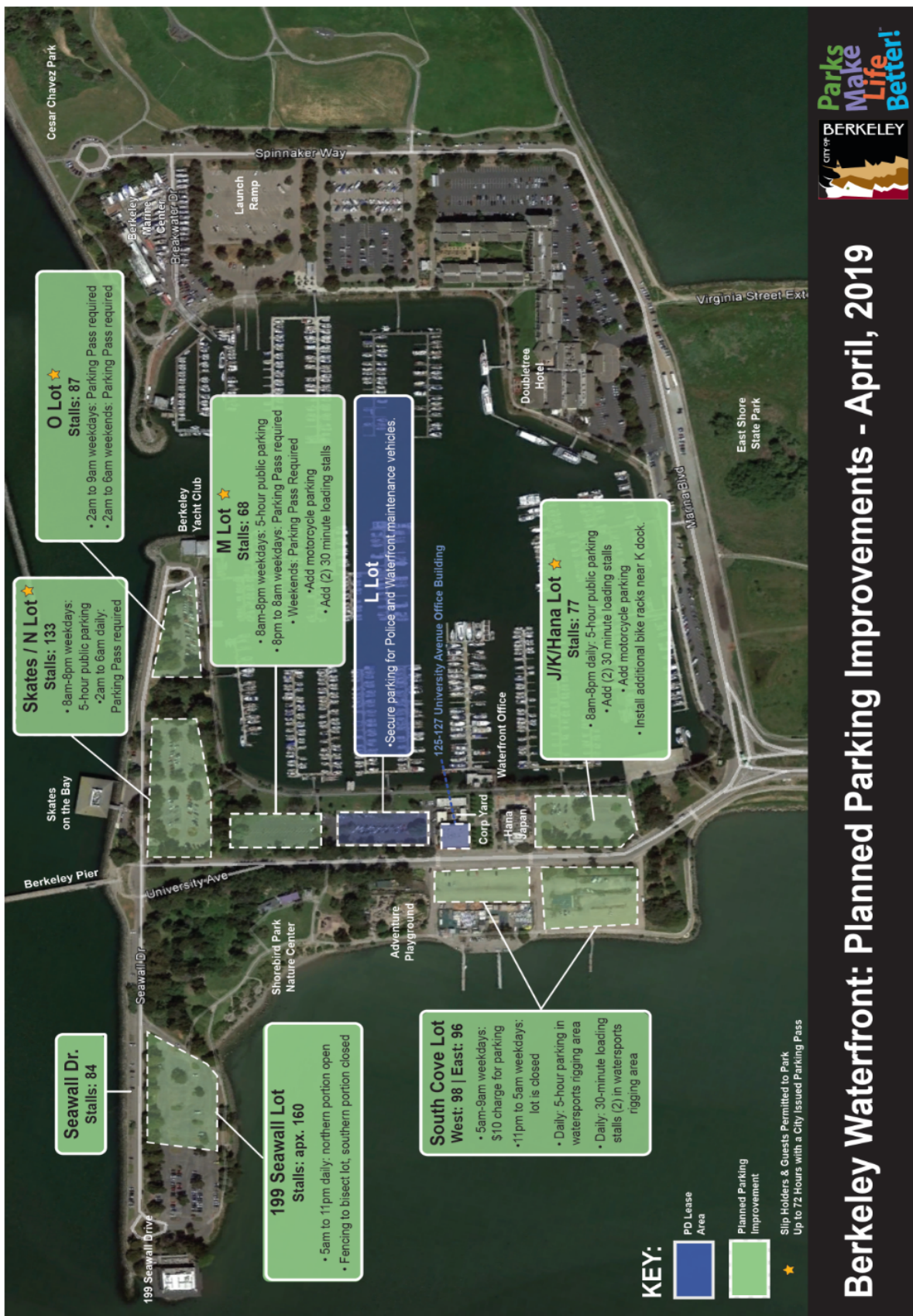
CONTACT PERSON

Christina Erickson, Deputy Director, 510-981-6703

Alexandra Endress, Waterfront Manager, 510-981-6737

Attachments:

1. Parking Changes Overview Map
2. Resolution  
Exhibit A: Fee Schedule
3. Notice of Public Hearing



**Berkeley Waterfront: Planned Parking Improvements - April, 2019**

ATTACHMENT 2

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

ESTABLISHING FEES FOR GOODS AND SERVICES PROVIDED AT THE  
BERKELEY MARINA AND RESCINDING RESOLUTION NO. 68,415-N.S

WHEREAS, on May 15, 2018, Council adopted the new Marina Fee Schedule (Resolution No. 68,415-N.S.); and

WHEREAS, parking congestion at the southern waterfront is an increasing problem; and

WHEREAS, a \$10 charge for parking on weekdays between 5am and 9am in the South Parking Lots will dis-incentivize all-day parking in prime recreational areas to open up space for recreational users and waterfront visitors.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the attached rate structure (Exhibit A) is hereby established for use by the general public for facilities and services at the Berkeley Marina, effective April 2, 2019.

BE IT FURTHER RESOLVED that Resolution No. 68,415-N.S-N.S. and all amendatory resolutions are hereby rescinded effective April 2, 2019.

Exhibit A: Fee Schedule

## Exhibit A: Fee Schedule

### Marina Rate Schedule (effective April 2, 2019)

Berth Fee per size of boat (in feet)	Berths \$/ft	Power \$/ft
20' – 21'	8.20	0
22' – 24'	8.67	0.20
25' – 29'	9.76	0.40
30' – 39'	10.34	0.60
40' – 49'	10.95	0.80
50' – 59'	11.61	1.00
60' – 69'	12.33	1.20
70' – 79'	13.04	1.40
80' – 89'	13.81	1.60

Surcharges	Base Rate Per Foot
Upwind Berth*	15% added to the base rate
Single Berth (Double Finger Berth)	15% added to the base rate
Upwind & Single Berth	30% added to the base rate
Catamaran / Trimaran Fees	40% added to the base rate

Discounts	Base Rate Per Foot
Multiple Berth Discount > 20	-30% off Base Berth Rent
Multiple Berth Discount 11-20	-20% off Base Berth Rent
Multiple Berth Discount 5-10	-10% off Base Berth Rent
Referral Discount for New Slip Holders**	-\$50 on first month of berth fees

Other Fees	Amount
Chaining Fee (per occurrence)	\$120/occurrence
Charter Boat Fee (public dock)	\$35/event + \$1/person
Dry Storage (27' length or less)	\$125/month
Dry Storage (28' length or more)	\$150/month
Electronic key pass (initial 1-2 keys)	\$15/key
Electronic key pass (additional keys)	\$75/key
Electronic key pass (Visitors: initial 1-2 keys)	\$10/key
Group key fee (Organizations)	\$15/key
Floating Home Sewer Charge – monthly	\$25/month
Food Booth Fee	\$500/event
Impound Fee	\$55/day
Insurance – Outdated / Inadequate	\$75/month
Labor Fees	\$75/hour
Launch Ramp – Monthly	\$90/month
Launch Ramp – Seasonal	\$300 per 6-month period
Launch Ramp – Daily	\$15/day
Lien Fee	\$100/occurrence
Limited Access Berth	Vessel Length x Rate
Liveaboard Fee – boat (monthly) ++	\$200/month

Other Fees	Amount
Liveaboard Fee – floating home (monthly) ++	\$200/month
Locker Fee	\$30/month
Merchandise Booth Fee	\$100/event
Skiff <20' length	\$125/month
Slip Transfer Fee	\$30/occurrence
Small Scale Ferry Service Fee	See table below
<b>South Cove Parking Lots Fee***</b>	<b>\$10</b>
Special Event Parking Fee	\$20/vehicle less than 17'; \$50/vehicles /ft for vehicles and trailers in excess of 17'
Visitor Berth Fees (11 – 30 nights)	20% of Base Berth Rent
Visitor Berth Fees (10 nights or less)	\$0.50/foot/night

\*Houseboats excepted

\*\*Fee credit offered on first month of slip fees to both a new slip holder (that has not previously held a slip at the Berkeley Marina) and an existing customer who made the referral.

\*\*\*Charged weekdays only, from 5am to 9am

++ Boaters may apply for a refund of any Liveaboard fee increase that takes effect from FY 2016 onward through the City's Very Low Income Refund policy.

**Small-Scale Ferry Service Fee**

Landings Per Day	Daily Landing Fee		Landings per Day	Daily Landing Fee
1	\$14.34		11	\$68.83
2	\$25.80		12	\$70.27
3	\$35.84		13	\$71.70
4	\$44.44		14	\$73.15
5	\$51.61		15	\$74.58
6	\$57.35		16	\$76.02
7	\$61.65		17	\$77.46
8	\$64.52		18	\$78.89
9	\$65.96		19	\$80.33
10	\$67.40		20	\$81.77

*For each additional SSFS landing in excess of 20 landings, the daily landing fee would increase by \$2.88.*

## ATTACHMENT 3

## NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**New Marina Fee – South Cove Parking Lots**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Parks, Recreation & Waterfront is proposing to increase selected Marina fees, as contained in the attached Marina Fee Schedule and summarized below:

**Table 1 - Current vs. Proposed Fees**

Fee	Current	Proposed	Notes:
1. South Cove Parking Lots Fee	None	\$10	Charged weekdays, between 5am-9am.

The hearing will be held on April 2, 2019, at 6:00 p.m. in the BUSD Board Room, 1231 Addison Street, Berkeley.

For further information, please contact **Alexandra Endress at 510-981-6737**.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **March 21, 2019**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written

correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

**Published:** March 22 & 29, 2019 – The Berkeley Voice  
Published pursuant to Government Code 6062a

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 21, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk





Office of the City Manager

PUBLIC HEARING

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development Department

Subject: Appeal of ZAB Decisions: Denial of Use Permit #ZP2018-0116 (Pardee Block Parking Lot, 2700 Tenth Street), Approval of Use Permit #ZP2018-0117 (Medical Office Building, 1050 Parker Street), and Associated Environmental Review

RECOMMENDATION

1. Adopt a resolution that adopts an Initial Study - Mitigated Negative Declaration (IS-MND) under the California Environmental Quality Act (CEQA) that determines how potential impacts are to be mitigated, concludes that all impacts of the project known as "1050 Parker," including the medical office facility and the off-site parking lot, can be reduced to a less-than-significant level under CEQA, and adopts a Mitigation Monitoring and Reporting Program that ensures the mitigation measures will be implemented.
2. Conduct a public hearing and, upon conclusion, uphold the applicant's appeal and adopt a resolution to approve Use Permit #ZP2018-0116 (Pardee Block Parking Lot, 2700 Tenth Street) for construction of a 43,847 square-foot surface parking lot based on the Findings and Conditions presented by staff to the Zoning Adjustments Board (ZAB) on January 24, 2019. A total of 123 automobile and 18 bicycle parking spaces would be provided to meet a portion of the required parking for the medical office building at 1050 Parker Street (Use Permit #ZP2018-0117); and
3. Conduct a public hearing and, upon conclusion, uphold the applicant's appeal and adopt a resolution to approve Use Permit #ZP2018-0117 (Medical Office Building, 1050 Parker Street) to allow the 60,670 square-foot building to be used entirely for medical offices based on the Findings and Conditions presented by staff to the Zoning Adjustments Board (ZAB) on January 24, 2019, for a modification to Use Permit #ZP2016-0170. Approval of Use Permit #ZP2018-0117 is contingent on approval of Use Permit #ZP2018-0116 for off-site parking.

### FISCAL IMPACTS OF RECOMMENDATION

The medical facility could accrue increased property and business tax revenues to the City and offer additional employment opportunities for a range of staff and medical professionals.

### CURRENT SITUATION AND ITS EFFECTS

On September 16, 2016, the property owner and applicant (Christopher Barlow with Wareham Property Group representing 2621 Tenth Street, LLC and Pardee I, LLC) applied for and later obtained a Use Permit (#ZP2016-0170) for a new three-story, approximately 61,000 square foot commercial building to be occupied with about 20,500 square feet of Medical Office use in the C-W District and around 40,500 square feet of Research and Development use in the MU-LI District. Following the approval, Kaiser Permanente expressed a strong interest in leasing the entire building for a Medical Office facility, which required a general plan and zoning amendment for the western portion of the property and the provision of additional parking to conform to zoning standards for the newly proposed use. In June 2018 the applicant submitted a request to amend the approved Use Permit in order to allow the Medical Office use of the approved building and requested a new Use Permit for an off-site surface parking lot to provide for a portion of the increased required parking that could not be accommodated on-site. The City Council approved the general plan, zoning map, and zoning text amendments on December 11, 2018.

The full use of the 61,000 square foot building as a Medical Office facility requires additional parking because the ratio of required parking for Medical Offices (one space per 300 square feet of floor area) is higher than that of Research and Development (one space per 650 square feet of floor area). The applicant proposes to provide additional parking to meet the need of the Medical Office facility at the off-site surface parking lot at 2700 Tenth Street.

On January 24, 2019, the ZAB approved the use of the building as a Medical Office facility, but denied the off-site parking lot and suggested that other options should be considered for providing parking and transit solutions. The off-site parking lot would provide parking that would meet the Berkeley Municipal Code requirements and has been presented by the applicant as being necessary for the functioning of the proposed use, as set forth in the peer reviewed Parking Needs and Supply Assessment.

On February 4, 2019, the applicant filed an appeal stating that the approval of the Medical Office facility portion of the project and the denial of the off-site parking lot portion of the project does not allow the project to proceed.

On March 20, 2019, the applicant filed a revised appeal letter that requested to withdraw the appeal as it relates to the medical office facility Use Permit and the environmental review, and to only appeal the denial of the parking lot. Although the applicant/appellant requested to withdraw components of the appeal, the Zoning Ordinance does not authorize the applicant to withdraw an appeal once it is filed.

Therefore, staff address all aspects of the project in this report because the approval of the medical office facility Use Permit was stayed upon receiving the applicant's appeal letter and so is still pending as of this hearing. Furthermore, each Use Permit is contingent upon the other, so staff recommends that the Council resolve the totality of the project at this hearing.

### BACKGROUND

The vacant property to be used as medical office, referred to as 1050 Parker, is located on the southwest corner of Parker Street and San Pablo Avenue and is approximately 68,000 square feet in area. The approved Medical Office facility site at 1050 Parker would provide 115 on-site surface parking spaces primarily for visitors.

The portion of the Pardee Block to be used as a parking lot, also referred to as 2700 Tenth Street, is approximately 44,000 square feet in area, is located approximately one block to the southwest, and is occupied by several buildings totaling about 32,000 square feet. The existing buildings on the Pardee Block are either vacant or currently operating as vehicle repair services and are approximately 54,000 square feet in area, half of which would be demolished in order to facilitate construction of the surface parking lot on the northern two-thirds of the parcel.

The remainder of the Pardee Block site would include approximately 27,000 square feet of commercial buildings, which would remain intact and would continue to be leased to commercial tenants. The off-site parking lot at the Pardee Block would provide the balance of 88 required parking for the Medical Office facility to be used by employees, and an additional 35 designated parking spaces for use by the remaining 27,000 square-foot Pardee Block commercial buildings.

On December 14, 2017, the ZAB approved Use Permit #ZP2016-0170 to allow for the construction of a 60,670 square-foot, three-story building with 20,370 square feet of Medical Office and 40,300 square feet of research and development uses, and a 750 square-foot quick service restaurant, with 117 automobile parking spaces and 46 bicycle parking spaces at 1050 Parker Street. An Initial Study-Mitigated Negative Declaration (IS-MND) was also prepared for the original project, pursuant to the provisions of the California Environmental Quality Act (CEQA). The IS-MND was adopted by ZAB on December 14, 2017 in conjunction with the approval of Use Permit #ZP2016-0170.

During the approval process of Use Permit #ZP2016-0170, Kaiser Permanente approached the applicant to lease the entire building for Medical Office uses. In order to accommodate Medical Office use through the portions of the building that are approved for research and development, the underlying zoning of approximately two-thirds of the site needed to be changed from the MU-LI to C-W zoning district, and additional parking spaces needed to be provided based on development standards for the Medical Office use.

In December 2017, the City Council requested that the Planning Commission consider and make recommendations on the necessary rezoning of the portion of 1050 Parker previously designated MU-LI to allow for expanded Medical Office use. The Planning Commission subsequently held two public meetings, in February and April 2018, and forwarded their recommendations to the City Council.

The property owner subsequently submitted a request for a modification to the previously approved Use Permit to allow the 60,670 square-foot building to be used entirely for Medical Offices (Use Permit #ZP2018-0117). A new Use Permit was also requested to allow for off-site parking (Use Permit #ZP2018-0116). Approval of each use permit was to be contingent on approval of the other permit.

The applications for Use Permit #ZP2018-0116 at 2700 Tenth Street and Use Permit #ZP2018-0117 at 1050 Parker Street were considered at the October 25, 2018 ZAB hearing. The ZAB opened a public hearing and directed the applicant team to provide additional analysis and information. The following items were requested by the ZAB: (1) Parking needs of the medical facility upon occupancy; (2) Available on-street public parking supply in the surrounding neighborhood; (3) Potential for alternative off-site parking locations that would not require the demolition of existing buildings and displacement of the existing businesses; (4) Detailed explanation of the West Berkeley Shuttle service; (5) Potential for relocation assistance for the existing businesses; and (6) Potential for street trees surrounding the off-site parking lot.

The ZAB also discussed the need for the Council to take action on the proposed General Plan and Zoning Amendments for 1050 Parker Street prior to considering the Use Permits and so continued the item to the December 13, 2018 hearing. The item was continued once again on December 13, 2018 without discussion to the January 24, 2019 public hearing as the City Council had not yet acted on the General Plan and Zoning Amendments.

On December 4, 2018 the City Council conducted a public hearing regarding reclassification of the zoning as well as the General Plan and West Berkeley Plan designations of 1050 Parker Street and amending the C-W District development standards to allow for the entire previously approved building to be used as a Medical Office facility. The City Council took public testimony, discussed the resolution and ordinance and continued the public hearing to December 11, 2018. On December 11, 2018 the City Council reopened the public hearing and adopted Resolution No. 68,724–N.S. amending the General Plan land use designations for a portion of 1050 Parker Street from a Manufacturing designation to Avenue Commercial, and amending the West Berkeley Plan land use designation from Mixed Use Light Industrial to General Commercial. Additionally, the City Council introduced and adopted the first reading of Ordinance No. 7,638–N.S to rezone a portion of the project site from Mixed Use – Light Industrial (MU-LI) to West Berkeley Commercial (C-W) and to amend the C-W District development standards to allow for a 4-story, 50-foot tall building on the subject

property. The City Council's second reading of the rezone of 1050 Parker Street was adopted on January 22, 2019.

On January 24, 2019 the ZAB conducted a public hearing, took public testimony and adopted Use Permit #ZP2018-0117 for the Medical Office facility on the 1050 Parker Site with revised conditions of approval related to exploring alternative means of providing parking, and adopted the IS-MND. [ZAB voted 6-0-1-1 (Yes: Clarke, Khan, Olson, O'Keefe, Selawsky, Pinkston; No: None; Abstain: Sheahan; Absent: Tregub).] The ZAB then denied Use Permit #ZP2018-0116 for the Pardee Block parking lot at 2700 Tenth Street because it concluded the parking lot would have detrimental impacts on the existing businesses and neighborhood and because alternative means of providing parking and transportation should be considered (see Attachment 4 for Captionor's record). [ZAB voted 5-1-1-1 (Yes: Clarke, Olson, O'Keefe, Selawsky, Pinkston; No: Khan; Abstain: Sheahan; Absent: Tregub).]

On February 4, 2019 the applicant submitted their appeal letter. The letter included appeal points regarding the conditions of approval attached to the approval of the 1050 Parker Street portion of the project and the denial of the Pardee Block Parking Lot portion of the project, as well as the CEQA review. On March 20, 2019, the applicant submitted a follow-up letter to withdraw his appeal of the 1050 Parker and Initial Study – Mitigated Negative Declaration (IS-MND) portions of the ZAB actions. However, the Zoning Ordinance does not authorize the applicant to withdraw an appeal once it is filed; in order to fully resolve the appeal, staff addresses the original appeal letter in its entirety.

#### ENVIRONMENTAL SUSTAINABILITY

The proposed development will meet or exceed environmental requirements for material conservation and waste diversion, energy conservation, stormwater management, transportation management and related effects, as set forth in the IS-MND.

#### RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter, and staff's responses, are as follows.

Appeal Issue – Initial Study Mitigated Negative Declaration: The applicant did not provide any appeal points regarding the appeal of the Initial Study – Mitigated Negative Declaration (IS-MND). They do take issue with the ZAB's concern about traffic and parking impacts, which were studied and mitigated in the analysis.

Staff Response: The City Council previously adopted the IS-MND in conjunction with the first and second readings of the General Plan and Zoning amendments. Therefore, staff recommends that the City Council uphold the findings of the IS-MND for the totality of the project. The IS-MND reflects all of the parking, traffic, and development impacts and mitigation measures to address these permits.

Appeal Issue - 1050 Parker - Medical Office Project: The Applicant asserts that the approval with revised Conditions of Approval adopted by ZAB for Use Permit #ZP2018-0117 “alone does not allow the medical office project to proceed because the applicant still has to provide 88 off-site [parking] spaces at a location to be determined. Assuming such spaces could be located, that process alone would add many months to the process.”

Staff Response: At the January 24, 2019 public hearing, the ZAB discussed revised Conditions of Approval for the proposed Medical Office facility. The Medical Office facility requires a total of 203 parking spaces, 115 of which are provided on the 1050 Parker site. The ZAB’s newly crafted condition provides the applicant with three options to provide documentation in order to address the additional 88 parking spaces that could not be accommodated at the 1050 Parker site. Condition of Approval 83 reads:

*Prior to the issuance of any permits for this Use Permit (medical office facility), the applicant shall present documentation that the required 203 parking spaces can be accommodated in one of the following ways:*

- A. All parking can be situated on the medical office building property [through the use of lifts or other suggested solutions]; or*
- B. A parking lease agreement has been entered into between the medical office building property and one or more off-site parking lots to provide space for all required parking spaces which are not provided on the 1050 Parker property; or*
- C. The applicant can present evidence that parking can be further reduced, and therefore accommodated by the designated on-site parking, through further enhanced transportation demand management plan mechanisms beyond those required under the conditions of approval (Transportation Demand Management COA #67).*

Although Option B allows parking at an off-site parking lot and could include a lot such as the Pardee Block, the ZAB denied the Use Permit for the Pardee Block. The use of another lot at a different location would require a new Use Permit. In addition, the Pardee Block Parking Lot w has been evaluated for environmental impacts and has been found to not have a significant impact after mitigation measures are implemented. Thus, while Condition of Approval 83 does allow for the applicant to identify and use off-site parking, the applicant is correct in noting that the identification of a new location for the off-site parking will delay approval of the project.

Therefore, staff recommends that the City Council grant this appeal point and approve Use Permit #ZP2018-0117 for the Medical Office facility at 1050 Parker Street and revise the Findings and Conditions to include those previously

presented by staff that explicitly allow the use of the Pardee Block as the off-site parking lot for the Medical Office facility. The two use permits together would also satisfy the ZAB's concern about a lease agreement because the parking lot could not be converted to another use without City review and approval.

Appeal Issue – 2700 Tenth - Pardee Block Parking Lot: The applicant's appeal letter states that "[s]ubsequent to the January 24th meeting, the owner of the Berkeley Smog Only Test Center exercised his lease termination option, which was provided to him by Landlord, and will be leaving the Pardee Block property at the end of February 2019. Therefore, the only business that will be required to terminate its lease early on the October 31, 2019 date that we have agreed to is Titan Commercial Wraps. This tenant, which places plastic advertising wraps on commercial vehicles, has an original lease expiration date of March 31, 2020 and occupies a single approximately 2,000 square feet building in the center of the future lot. The remaining seven structures, totaling approximately 30,000 square feet, will be vacant on November 1, 2019. The detriment of removing eight old single-story industrial and storage structures on the Pardee Block site, which are at or beyond their useful life, is far exceeded by the benefit to be gained by addition [of] a Medical Office facility on [the 1050 Parker site, also known as] 2621 Tenth Street."

Staff Response: During the December 11, 2018 City Council hearing regarding the General Plan and Zoning amendments, the Council requested that an additional Condition of Approval be incorporated which referenced the applicant's comments that they were in agreement that the existing commercial tenants were to remain until October 31, 2019. During the January 24, 2019 ZAB hearing the applicant and various business owner tenants at the Pardee Block provided testimony regarding their leases. The captioner's record provides the following applicant statement:

*The commercial wraps company's lease expires on 3/31/2020. So, they would be leaving approximately – it would be five months prior to the end of the lease anyway and they have no options to extend.*

Later, during the ZAB hearing, in response to public comment from the business owners, the applicant read into the record an email correspondence with the owners of the wrap business:

*This is an email from a member of my property management team prior to them executing the lease. I do not want to mislead you. I want to be forth right and forth coming [that] the Pardee Block will be developed in [the] coming years so we can't offer you a long term. To this end I have been advised to offer [a] two-year term for 1,950 square [feet] with 120-day landlord termination option. I want to bring this up to you in case the landlord exercises the option after a year in case you need to vacate. This*

*was in March of 2018. March 2019, 120 days gets you to June. I'm bring this up in consideration for cost. That was on the 7<sup>th</sup> of February 2018. He responded 16 minutes later saying thank you very much for letting me know about the two-year lease. I think the 120-day notice will work for us.*

The ZAB closed the public hearing and denied the Pardee Block Parking Lot portion of project, with findings that “the removal of existing community-serving businesses for a private surface parking lot would be detrimental to West Berkeley and the City. In addition, without compensation or relocation assistance to the existing businesses within the structures to be demolished, there would be a detriment.”

Staff's analysis of the project concluded that the Pardee Block Parking Lot provided the needed parking for the proposed Medical Office facility and recommended approval of both Use Permits and the associated IS-MND, which included mitigation measures to address the potential impacts of the project on parking and circulation in the area.

In the recommendation for approval of both Use Permits, staff concluded that the overall benefits of the project outweigh the loss of the buildings to be demolished. Among other things staff considered the fact that the existing buildings are currently operating as vehicle repair and service businesses and are not used for manufacturing, warehousing, or wholesale trade, which are protected uses under the Mixed Use Residential (MU-R) Zoning District standards. Furthermore, the existing businesses were on leases that expire relatively soon, and the applicant has stated that the tenants were on notice of the applicant's plan to redevelop the property when they entered into their current leases.

The remaining 27,000 square-foot buildings on the Pardee Block currently do not have adequate parking on-site and there has been some concern expressed about the existing businesses utilizing on-street parking in the neighborhood. The 35 spaces allocated on the Pardee Block Parking Lot for use by the remaining commercial buildings will open up more on-street parking opportunities than currently exists for area residents, businesses, visitors, and employees.

On the 1050 Parker property, the applicant will provide bicycle parking spaces, and the project requires Transportation Demand Management measures, including payment towards the West Berkeley shuttle and transit pass subsidies, which have the potential to decrease the actual parking demand of the Medical Office facility. Nonetheless, upon occupancy and operation of the building, the 115 on-site surface parking spaces and the 88 spaces that would be provided on the off-site parking lot would still be needed.



The City Council has already amended the General Plan, zoning map and C-W District development standards to allow for the entire previously approved building to be used as a Medical Office facility. The off-site parking lot is needed to satisfy both the City's parking requirements for a Medical Office facility as well as the actual parking demand according to the project-specific Parking Needs and Supply Assessment. The off-site parking lot will allow the Medical Office facility to operate from the 1050 Parker location without significant parking or traffic impacts, as reflected in the Initial Study – Mitigated Negative Declaration.

Therefore, staff recommends that Council uphold this appeal point and approve Use Permit #ZP2018-0116 for the parking lot at 2700 Tenth Street based on the findings presented by staff to the ZAB at its hearing on January 24, 2019.

#### ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may also (1) affirm the ZAB's decisions, (2) remand the matters to the ZAB, or (3) reverse the ZAB's decision.

#### Action Deadline:

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

#### CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Loyal Nawfal, Project Planner, (510) 981-7424

#### Attachments:

1. California Environmental Quality Act (CEQA) – Draft Resolution
  - Exhibit A: Initial Study and Draft Mitigated Negative Declaration
  - Exhibit B: Responses to Comments on Draft IS-MND
  - Exhibit C: Mitigation Monitoring and Reporting Program
2. Draft Resolution, 1050 Parker Use Permit #ZP2018-0117
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans
3. Draft Resolution, 2700 Tenth Use Permit #ZP2018-0116
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans

4. Appeal Letters, dated February 4, 2019 and March 20, 2019
5. ZAB Staff Reports
  - a. 1050 Parker Street, dated January 24, 2019
  - b. 2700 Tenth Street, dated January 24, 2019
6. Index to Administrative Record
7. Administrative Record
8. Public Hearing Notice

RESOLUTION NO. \_\_\_\_-N.S

ADOPT FINDINGS TO AFFIRM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT A PROPOSED MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE MEDICAL OFFICE BUILDING AT 1050 PARKER STREET AND THE OFF-SITE PARKING LOT AT 2700 TENTH STREET, COLLECTIVELY KNOWN AS THE “1050 PARKER STREET” PROJECT

WHEREAS, on June 4, 2018 Christopher Barlow with Wareham Property Group representing 2621 Tenth Street, LLC and Pardee I, LLC (“applicant”) filed applications (1) Use Permit #ZP2018-0116 at 2700 Tenth Street to construct a 43,847 square-foot surface parking lot with a total of 123 automobile and 18 bicycle parking spaces would be provided to meet a portion of the required parking for the 1050 Parker Street medical office facility within the Mixed Use Residential (MUR) Zoning District and (2) Use Permit #ZP2018-0117 at 1050 Parker Street for a modification to previously approved Use Permit #ZP2016-0170 to allow the 60,670 square-foot building to be used entirely for a medical office facility within the West Berkley Commercial (C-W) Zoning District; and

WHEREAS, on August 22, 2018, staff deemed the applications complete, and preparation of a Draft Initial Study was begun to determine potential significant effects of the project including Use Permit applications for medical office use and an off-site parking lot; and

WHEREAS, on September 4, 2018, the Notice of Intent (NOI) to adopt the IS-MND was published and was mailed to adjoining property owners and occupants, and to interested neighborhood organizations. In addition, the applicant filed the NOI with the County Clerk and the Draft Initial Study – Mitigated Negative Declaration (IS-MND) was submitted to the State Clearinghouse (SCH #2018092001) for distribution to interested State and regional agencies; and

WHEREAS, on October 4, 2018, the public review period concluded and none of the comments received on the IS-MND constituted new information that warranted recirculation of the IS-MND. Comments received did not identify new impacts nor result in a substantial increase in the severity of impacts; and

WHEREAS, on October 19, 2018, a Final Mitigated Negative Declaration and Response to Comments was issued; and

WHEREAS, the potential impacts of the proposed development and the necessary General Plan, West Berkeley Plan and zoning amendments have been evaluated and can be reduced to a level of “less than significant” through the implementation of the mitigation measures and any conditions of approval that would be required for future development of the properties; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California; and

WHEREAS, on December 11, 2018 the City Council adopted the 1050 Parker Street Medical Office and Off-Site Parking Lot Project Mitigated Negative Declaration, which consists of the Initial Study - Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program in conjunction with the resolution to amend the General Plan land use designations for a portion of 1050 Parker Street / 2621 Tenth Street from a Manufacturing designation to Avenue Commercial, and amending the West Berkeley Plan land use designation from Mixed Use / Light Industrial to General Commercial and ordinance to rezone a portion of the project site from Mixed Use – Light Industrial (MU-LI) to West Berkeley Commercial (C-W) and amend the C-W District development standards to allow for a 4-story / 50-foot tall building on the subject property; and

WHEREAS, on January 24, 2019 the Zoning Adjustments Board adopted the 1050 Parker Street Mitigated Negative Declaration, which consists of the Initial Study - Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program in conjunction with the approval of Use Permit ZP2018-0117 to modify Use Permit #ZP2016-0170 to allow the 60,670 square-foot building to be used entirely for medical offices at 1050 Parker Street within the West Berkeley Commercial (C-W) Zoning District.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that after reviewing the Initial Study / Mitigated Negative Declaration, and considering all oral and written information presented at or before this hearing, the Council exercises its independent judgment to find and affirm the adoption the 1050 Parker Street Mitigated Negative Declaration as follows:

1. That the 1050 Parker Street IS-MND, which consists of the Initial Study / Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program (MMRP) attached as Exhibit C, has been completed in accordance with the requirements of CEQA statutes, the CEQA Guidelines, and City of Berkeley CEQA procedures; and
2. That the IS-MND constitutes an adequate, accurate, objective and complete analysis addressing all issues relevant to the approval of the project, consisting of (1) Use Permit #ZP2018-0116 at 2700 Tenth Street to construct a 43,847 square-foot surface parking lot with a total of 123 automobile and 18 bicycle parking spaces would be provided to meet a portion of the required parking for the 1050 Parker Street medical office facility, and (2) Use Permit #ZP2018-0117 at 1050 Parker Street for a modification to previously approved Use Permit #ZP2016-0170 to allow the 60,670 square-foot building to be used entirely for a medical office facility; and
3. That the IS-MND has been reviewed and considered prior to acting on the proposed project and that the IS-MND reflects the independent judgment and analysis of the City; and
4. That the IS-MND identifies all potentially significant adverse environmental impacts and feasible mitigation measures or standard conditions of approval that would reduce these impacts to a less-than-significant level. All of the mitigation measures

identified in the Mitigated Negative Declaration, including those in the MMRP, shall be adopted and implemented as Conditions of Approval for the Use Permits. The City finds that on the basis of the whole record before it, there is no substantial evidence that the project, as mitigated and conditioned, would have a significant impact on the environment.

5. That the monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the attached MMRP which shall be incorporated into the Conditions of Approval for development of the project. Adoption of the MMRP constitutes fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Berkeley, the project sponsor, or other identified public agencies of responsibility, and will reduce the environmental impacts to a less-than significant level.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Berkeley readopts the Initial Study - Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the 1050 Parker Street Medical Office and Off-Site Parking Lot Project, which have been completed in compliance with CEQA.

Exhibits:

- A. Initial Study/Mitigated Negative Declaration (IS-MND)
- B. Responses to Comments on Draft IS-MND
- C. Mitigation Monitoring and Reporting Program



1050 Parker Street Medical Office and  
Off-Site Parking Lot Project  
Use Permit ZP2018-0116 and  
Modification of Use Permit ZP2016-0170

Initial Study – Mitigated Negative Declaration

*prepared by*

**City of Berkeley**

Department of Planning & Development, Land Use Division  
1947 Center Street, 3<sup>rd</sup> Floor  
Berkeley, California 94704  
Contact: Layal Nawfal, Project Planner, (510) 981-7424

*prepared with the assistance of*

**Rincon Consultants, Inc.**  
449 15<sup>th</sup> Street, Suite 303  
Oakland, California 94612

**September 2018**

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**September 2018**



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Appendix G Historical Resource Evaluations

City of Berkeley  
1050 Parker Street Medical Office and Off-Site Parking Lot Project  
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## Initial Study

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### 1. Project Title

Medical Office and Off-Site Parking Lot Project, Use Permit #ZP2018-0116 and Modification of Use Permit #ZP2016-0170

### 2. Lead Agency Name and Address

City of Berkeley  
 Department of Planning & Development, Land Use Division  
 1947 Center Street, 3rd Floor  
 Berkeley, California 94704

### 3. Contact Person and Phone Number

Layal Nawfal, Associate Planner  
 (510) 981-7424

### 4. Project Location

The project site is located in the city of Berkeley. The proposed medical office building (medical office) site is a vacant site bound by an adjacent commercial property and Parker Street on the north, San Pablo Avenue on the east, commercial properties on the south, and Tenth Street on the west. The medical office site comprises 1.6 acres on the following parcels:

- 1050 Parker Street, assessor's parcel number (APN) 54-1763-1-3
- 2621 Tenth Street, APN 54-1763-10
- 2612 San Pablo Avenue, APN 54-1763-3-3

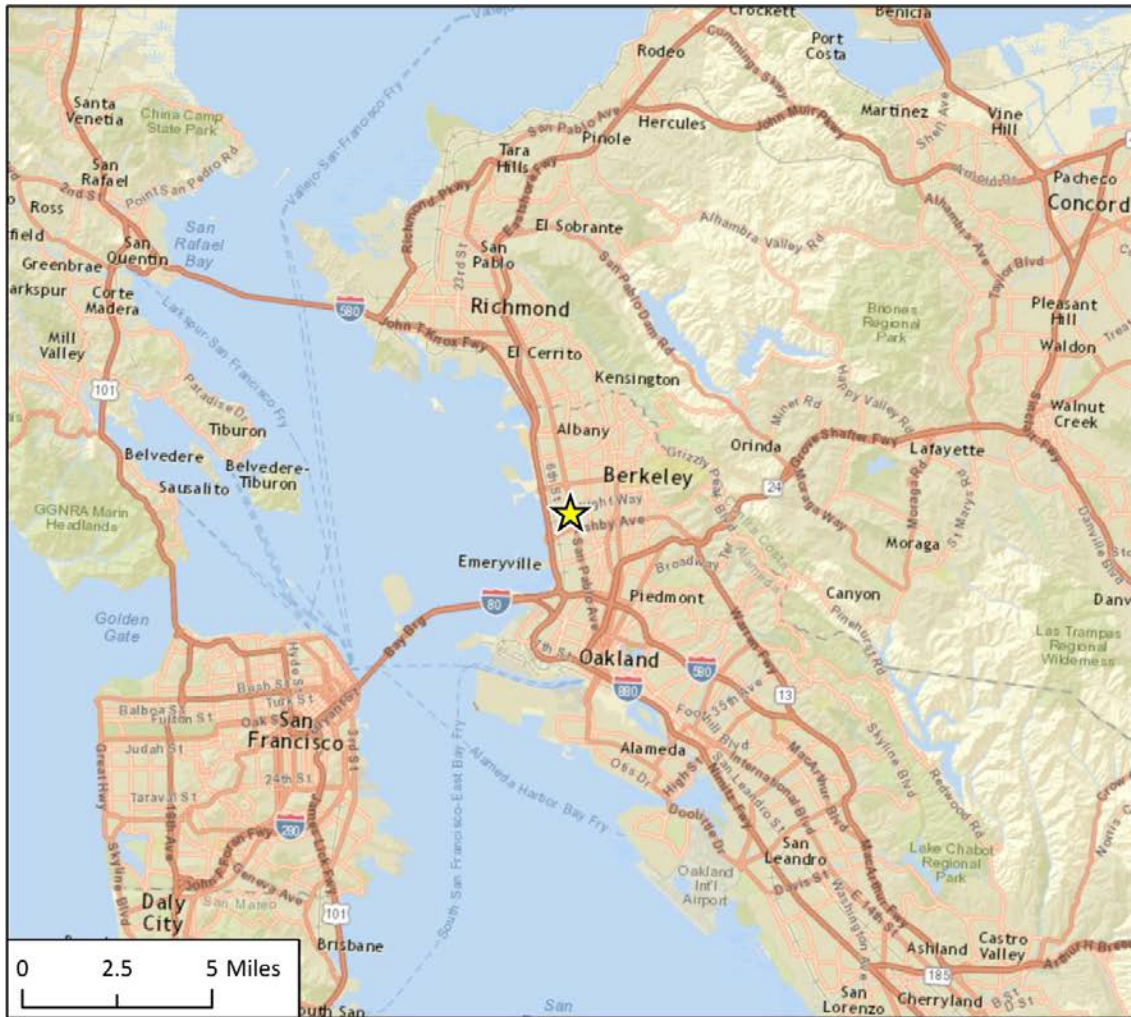
The proposed parking lot (Pardee Block parking lot), approximately 500 feet southwest of the medical office site, is bound by Carleton Street to the north, Pardee Street to the south, Ninth Street to the west, and Tenth Street to the east. The Pardee Block parking lot site would comprise of 1-acre out of the following 1.6-acre parcel:

- APN is 54-1745-18-4

The medical office property fronts Parker Street, Tenth Street, and San Pablo Avenue; a driveway on Parker Street provides vehicular access to the site currently. Future vehicular access would be from Tenth Street, supplemented by pedestrian access at San Pablo Avenue. The parking lot site has frontage on Ninth Street, Tenth Street, and Carleton Street; vehicle access would be from Ninth and Tenth Streets, with pedestrian gates located on Ninth, Tenth, and Carleton streets. The Pardee Block parking lot is occupied currently with multiple buildings, with vehicular access from a single driveway on Carleton Street. Figure 1 shows the location of the project site in the region. Figure 2 shows the project site in its neighborhood context. Figure 3 through Figure 6 show photographs of the existing project sites and immediate surroundings.

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Figure 1 Regional Location



Imagery provided by ESRI and its licensors © 2017.

★ Project Location



Fig 1 Regional Location

Figure 2 Project Location



Imagery provided by Google and its licensors © 2018.

Fig 2. Project Location

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Figure 3 Existing Conditions of Proposed Medical Office Building Site



Photo 1: Northeast view from Tenth Street.



Photo 2: Northwest view from San Pablo Avenue.

Figure 4 Existing Conditions of the Proposed Medical Office Building Site



Photo 3: Southeast view from Parker Street.



Photo 4: Southwest view from San Pablo Avenue.



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Figure 5 Existing Conditions of the Proposed Surface Parking Lot Site



**Photo 1:** 1000-1010 Carleton Street, looking southeast. Original repair shop is at left. Storage shed at right. (Shayne Watson, 2018)



**Photo 2:** 2710 Tenth Street, looking southwest. (Shayne Watson, 2018)

**Figure 6 Existing Conditions of the Proposed Surface Parking Lot Site**



**Photo 3:** Storage shed, looking east. (Shayne Watson, 2018)

## 5. Project Sponsor's Name and Address

2600 Tenth Street, LLC and Pardee I, LLC  
 Contact: Chris Barlow, Wareham Property Group  
 1120 Nye Street, Suite 400  
 San Rafael, California 94901

## 6. Existing Setting

The 68,331 square-foot (1.6-acre) medical office site is vacant, generally level, and irregular in shape. The northwest and largest parcel (1050 Parker Street, APN 54-1763-1-3) is paved and occasionally used as a surface parking lot. A smaller parcel along Tenth Street (2621 Tenth Street, APN 54-1763-10) and the parcel comprising the eastern portion of the site along San Pablo Avenue (2612 San Pablo Avenue, APN 54-1763-3-3) consist of mostly unpaved areas with non-native grasses and shrubs. There are two non-native trees on the site, one on the smaller parcel on Tenth Street and one on the parcel fronting San Pablo Avenue. Steel and chain-link fences surround the site. Figure 3 and Figure 4 shows existing conditions on the medical building site.

The 68,000 square-foot (1.56-acre) Pardee Block parking lot (APN 54-1745-18-4) is currently developed with seven existing warehouse, automobile repair, and storage structures, some of which are proposed for demolition. Figure 5 and Figure 6 shows the existing conditions of the parking lot site.

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## 7. Surrounding Land Uses and Setting

The project properties are located on separate sites, 500 feet apart, in an urbanized and developed area of West Berkeley.

Land uses near the medical office site, as seen in Figure 7, include the Missouri Lounge bar and three residential units above the bar on the southwest corner of San Pablo Avenue and Parker Street, and a Bank of America on the north side of Parker Street beyond; a mix of retail, restaurants, and automobile services to the east along San Pablo Avenue; retail spaces and a church (Covenant Worship Center) to the south along San Pablo Avenue; a commercial office development, including a recording studio (Fantasy Studios), on the west side of Tenth Street; and light industrial and automobile services to the south along Carleton Street. Surrounding building heights vary from one to seven stories, with the majority being one to two stories. There are two street trees along the site's San Pablo Avenue frontage and two on its Tenth Street frontage.

Land uses near the Pardee Block parking lot site, as seen in Figure 8, include an industrial/commercial building at the southeast corner of Pardee and Tenth streets; a mix of retail, commercial, and residential uses, including the Berkeley Humane Society and an apartment complex, south along Ninth Street; Juan's Place restaurant and a surface parking lot north along Carleton Street; and light industrial uses east along Tenth Street. The surrounding building heights vary from one to three stories.

The medical office site abuts San Pablo Avenue, a major transit corridor in Berkeley. There are a number of Alameda-Contra Costa (AC) Transit bus stops within 0.25 mile of the project site, with the closest one approximately 150 feet from the project site at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). Additional bus stops are situated at the intersection of Dwight Way and San Pablo Avenue, approximately one block north of the project site. There are three Bay Area Rapid Transit (BART) stations within 2.0 miles of the project site: North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east).

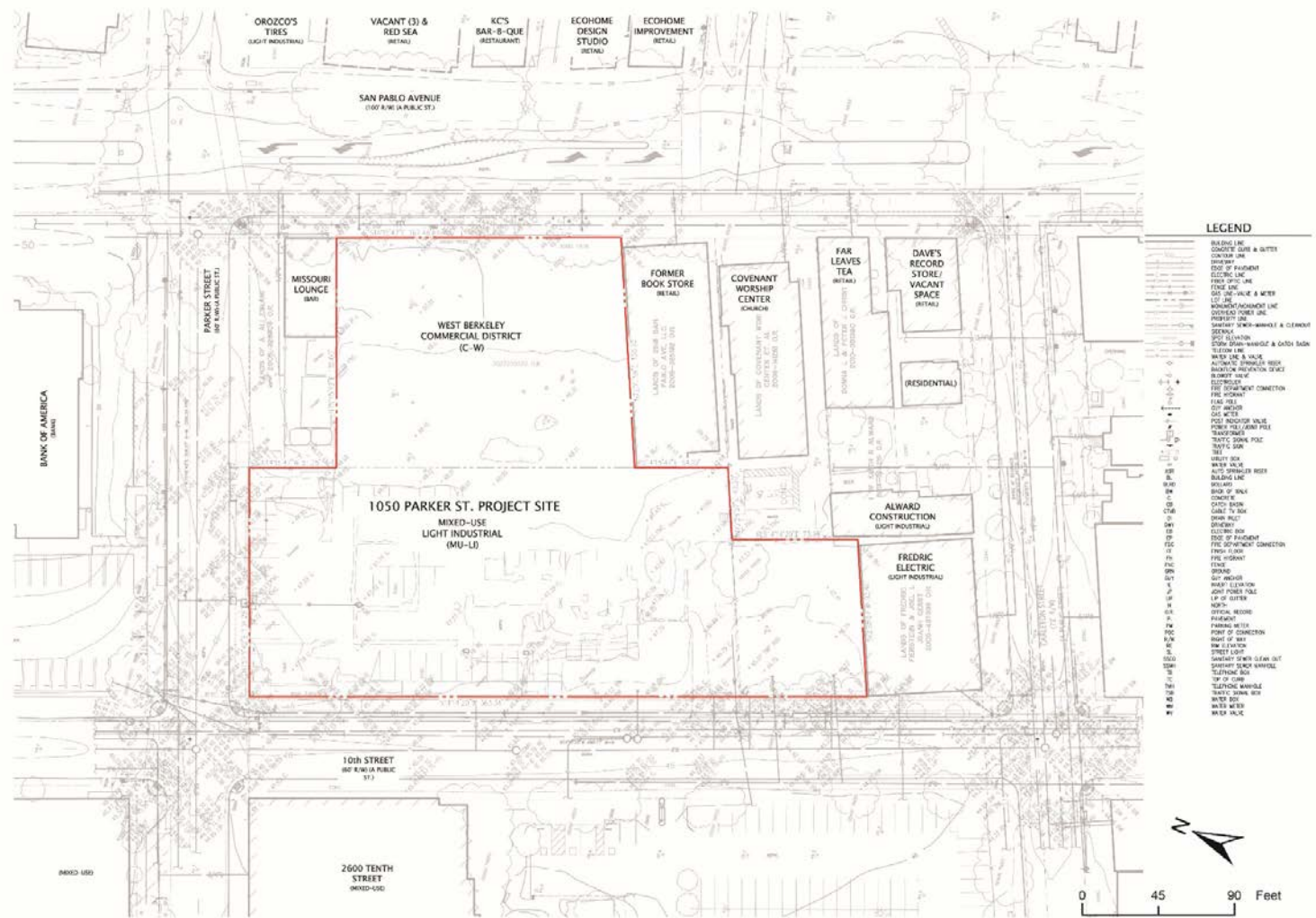
## 8. General Plan Designation

The project sites have three General Plan designations: APN 54-1763-1-3 (1050 Parker Street) and APN 54-1763-10 (2621 Tenth Street) are designated Manufacturing, while APN 54-1763-3-3 (2612 San Pablo Avenue) is designated Avenue Commercial. The proposed Pardee Block parking lot, APN 54-1745-18-4 (1000-1016 Carleton Street), is designated Manufacturing Mixed Use.

## 9. Zoning

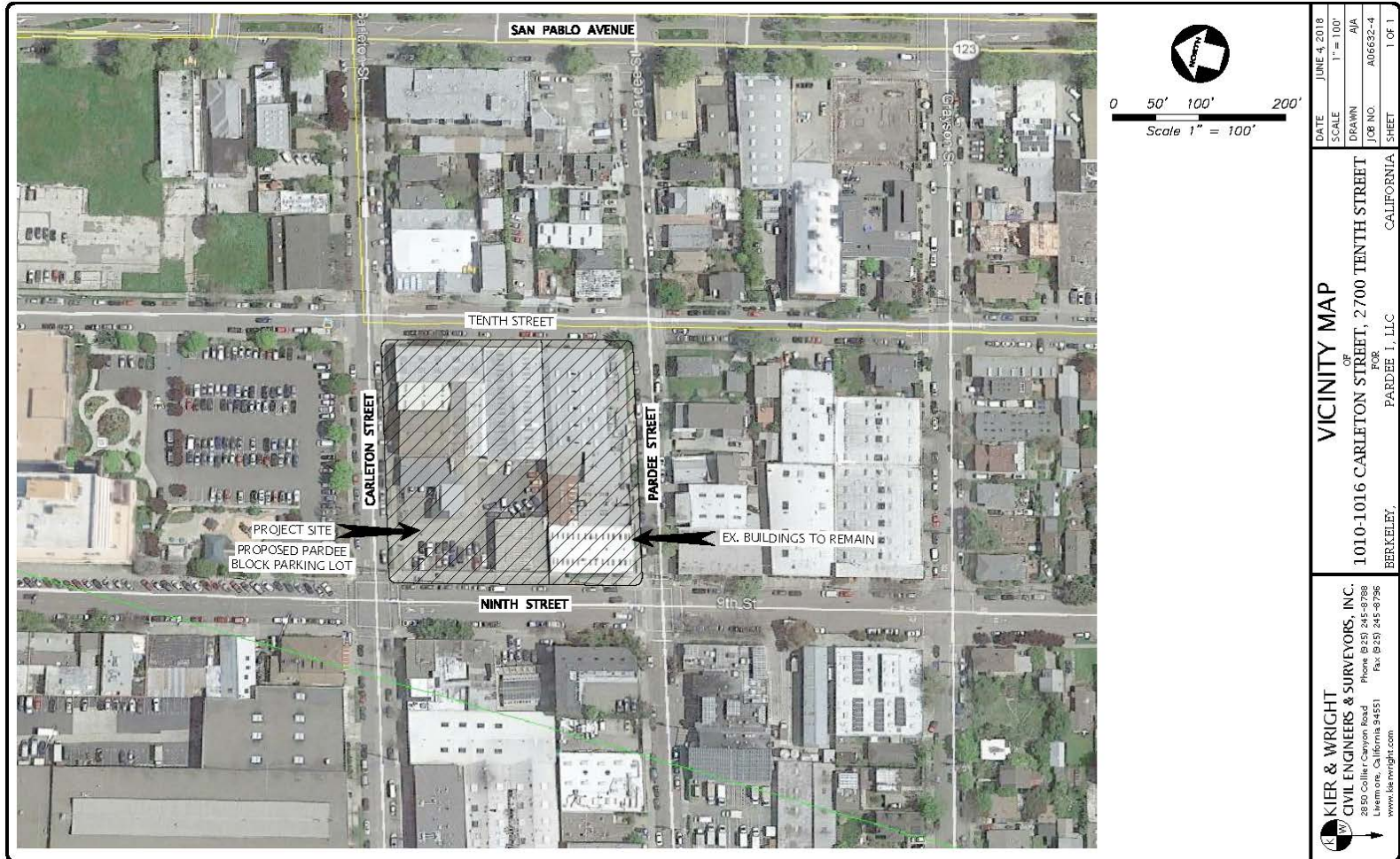
As described in the project setting, the project site comprises three parcels on one block and one parcel on an adjacent block. The medical office site includes APN 54-1763-1-3 (1050 Parker Street) and APN 54-1763-10 (2621 Tenth Street) which are zoned Mixed Use-Light Industrial (MU-LI), and APN 54-1763-3-3 (2612 San Pablo Avenue) which is zoned West Berkeley Commercial (C-W). The Pardee Block parking lot site at APN 54-1745-18-4 (1000-1016 Carleton Street) is zoned Mixed Use-Residential (MU-R). The applicant has requested that a rezoning be processed concurrently to change the zoning designation on the two MU-LI designated parcels to C-W in order to accommodate full medical office uses on that site.

Figure 7 Existing Surrounding Land Uses – Medical Office Site



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Figure 8 Existing Surrounding Land Uses – Pardee Block Parking Lot Site



## 10. Site Conditions

The proposed medical office site is mostly vacant with a large paved area along the western portion of the site that is used sometimes for temporary parking. The southern and central portion of the site was leased most recently for interim use as a community garden through November 2016.

The Pardee Block parking lot property currently consists of seven light industrial structures that total approximately 27,000 square feet and are greater than 40 years old. The structures consist of a contractor's repair shop, a wooden lean-to storage shed, a machine shop, and two warehouses, plus associated outbuilding structures. Historic evaluations were conducted for all structures proposed for demolition and are included as Appendix G. Further discussion of the historical evaluations are included in the Cultural Resources section of this report.

## 11. Project History

On December 14, 2017, the City of Berkeley Zoning Adjustments Board (ZAB) approved Use Permit #ZP2016-0170 to allow for the construction of a 60,670 square-foot, three-story building with 20,370 square feet of medical office and 40,300 square feet of research and development uses, and a 750 square-foot quick service restaurant, with 117 automobile parking spaces and 46 bicycle parking spaces.

An Initial Study-Mitigated Negative Declaration (IS-MND; State Clearinghouse #2017102038) was prepared for the original project, pursuant to the provisions of the California Environmental Quality Act (CEQA), and circulated for public review from October 12, 2017 to November 13, 2017. The IS-MND was adopted by ZAB on December 14, 2017 in conjunction with the approval of Use Permit #ZP2016-0170.

During the process of the approval of Use Permit #ZP2016-0170, a major health care organization approached the property owner seeking to lease the entire proposed 60,670 square-foot building for medical office uses. In order to accommodate medical office use through the portions of the building that are approved under Use Permit #ZP2016-0170 for research and development, the underlying zoning of approximately two thirds of the site must be modified from MU-LI to C-W and additional parking spaces need to be provided.

In December 2017, the Berkeley City Council requested that the Planning Commission consider, and make recommendations on, the necessary rezoning of the two MU-LI parcels on the site to allow expanded medical office use. The Planning Commission subsequently held two public meetings in February 2018 and April 2018 and directed City Staff to forward its recommendations for the rezone to the City Council. The final determination on the rezone is pending as of the publication of this IS-MND.

On June 4, 2018, the property owner submitted a request to the City of Berkeley for a modification to Use Permit #ZP2016-0170 to allow the 60,670 square-foot building to be used entirely for medical offices. Because of the need to increase the number of parking spaces provided, the project applicant has also applied for a new Use Permit to allow for off-site parking (Use Permit #ZP2018-0116, Pardee Block parking lot).

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## 12. Description of Project

Modification of Use Permit #ZP2016-0170 would allow for previously approved 60,670 square-foot building to be used entirely for medical offices, rather than medical office and research and development. The Berkeley Municipal Code (BMC) parking requirements for medical office uses are higher than for research and development uses; as such, the proposed Pardee Block parking lot would provide the required overflow parking to meet the full parking requirements of the medical office building. Specific changes to the previously approved building include the removal of an internal physical separation wall between the portions of the building with different underlying zoning designations and modifications to the required on-site accessible, accessible van, clean air/van pool, electric vehicle, and future electric vehicle parking spaces. This CEQA document analyzes the potential environmental impacts of both the medical office building and the additional Pardee Block parking lot.

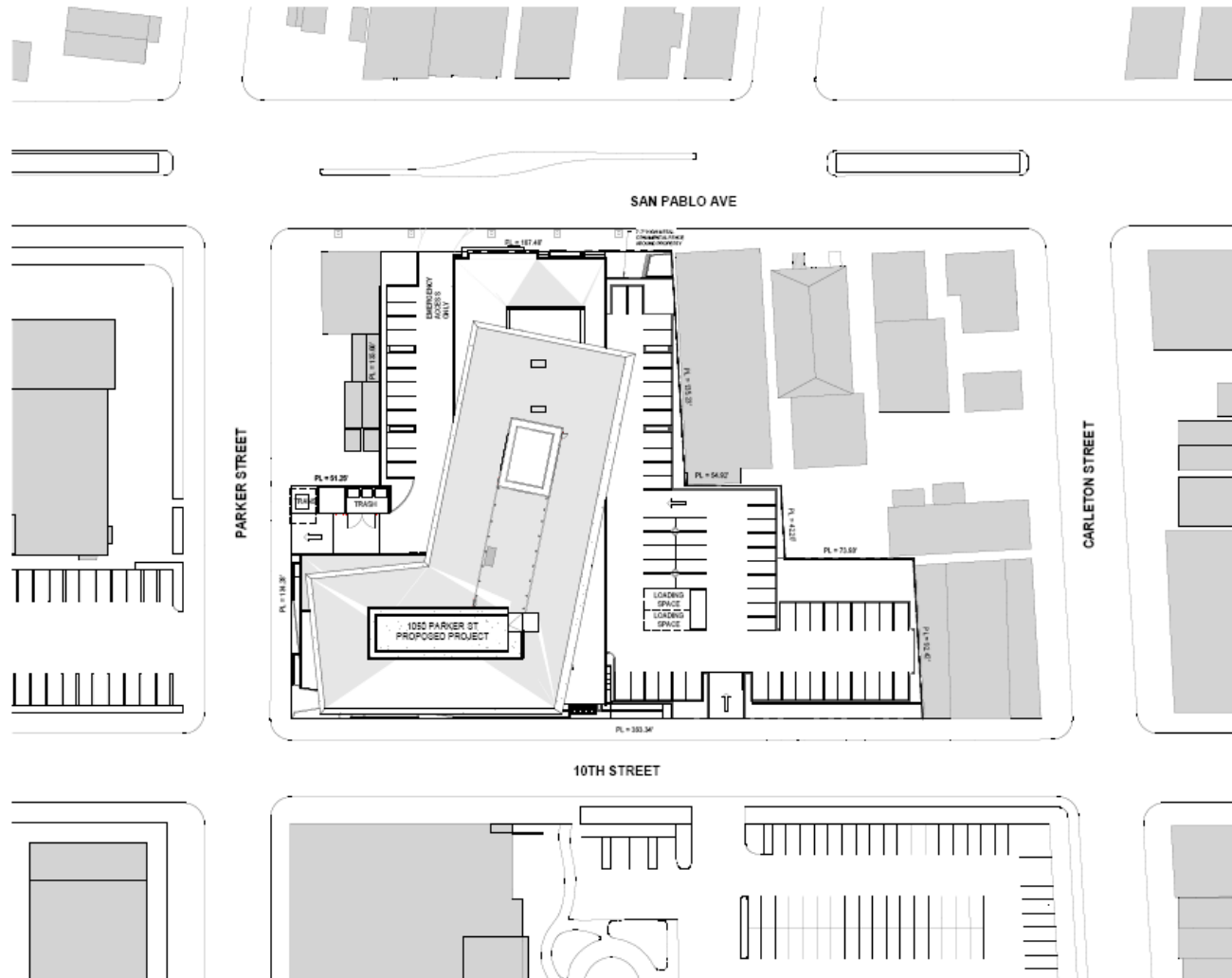
The medical office building project would combine three parcels into one 68,331 square-foot parcel to allow the construction of a 60,670 square-foot, three-story building. The general configuration of the building would be an "L" shape, with each floor staggered in arrangement such that the second floor would contain a green roof along San Pablo Avenue. The project would also include a 750-square-foot café/retail space located along San Pablo Avenue.

Building entryways for pedestrians would be located on the ground floor along San Pablo Avenue and Parker Street. Vehicular access would be provided on Parker Street and Tenth Street. On-site parking would be located under the building and on a surrounding surface lot. On-site parking accommodations would include a total of 115 automobile parking and 46 bicycle parking spaces.

The project would include nearly 10,000 square feet of landscaped area on the ground level, including 2,150 square feet of public open space comprising two small public plazas with seating and landscaping. A 650-square-foot plaza would be located at the corner of Parker and Tenth Street and a 1,200-square-foot plaza would be located along San Pablo Avenue, adjacent to the proposed café/retail space. Approximately 4,600 square feet of private open space would be provided on a second floor terrace accessed from the third floor.

Two mechanical penthouses and an elevator penthouse would be constructed on the roof of the proposed building. The two mechanical penthouses would be 14 feet above the roof level, and the elevator penthouse would be 16 feet above the roof level. Figure 9 and Figure 10 depict the proposed building and off-site parking lot site plans. Figure 11 through Figure 15 depict floor plans and elevations. Table 1 provides project details.

Figure 9 Proposed Medical Office Site Plan

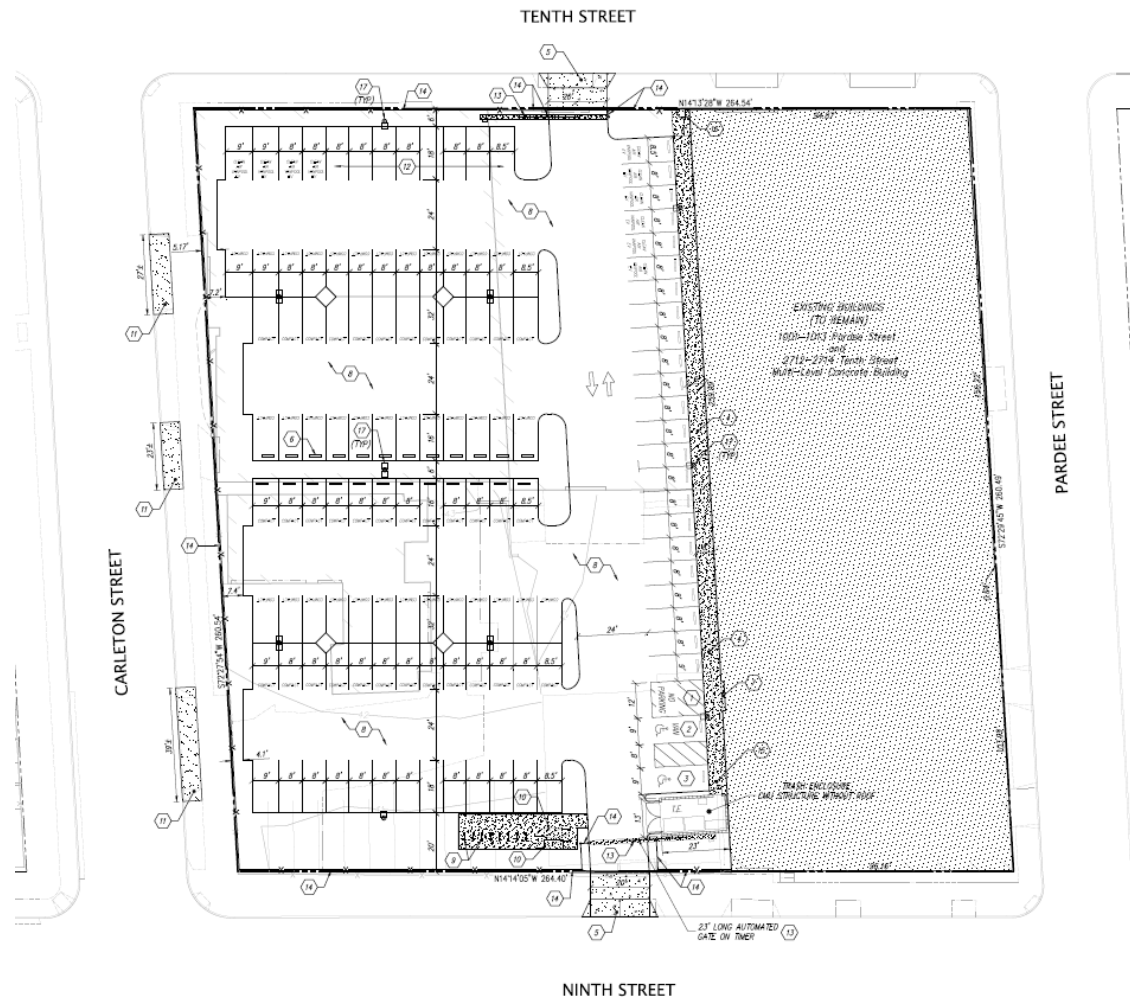


Source: Gould Evans, 2018



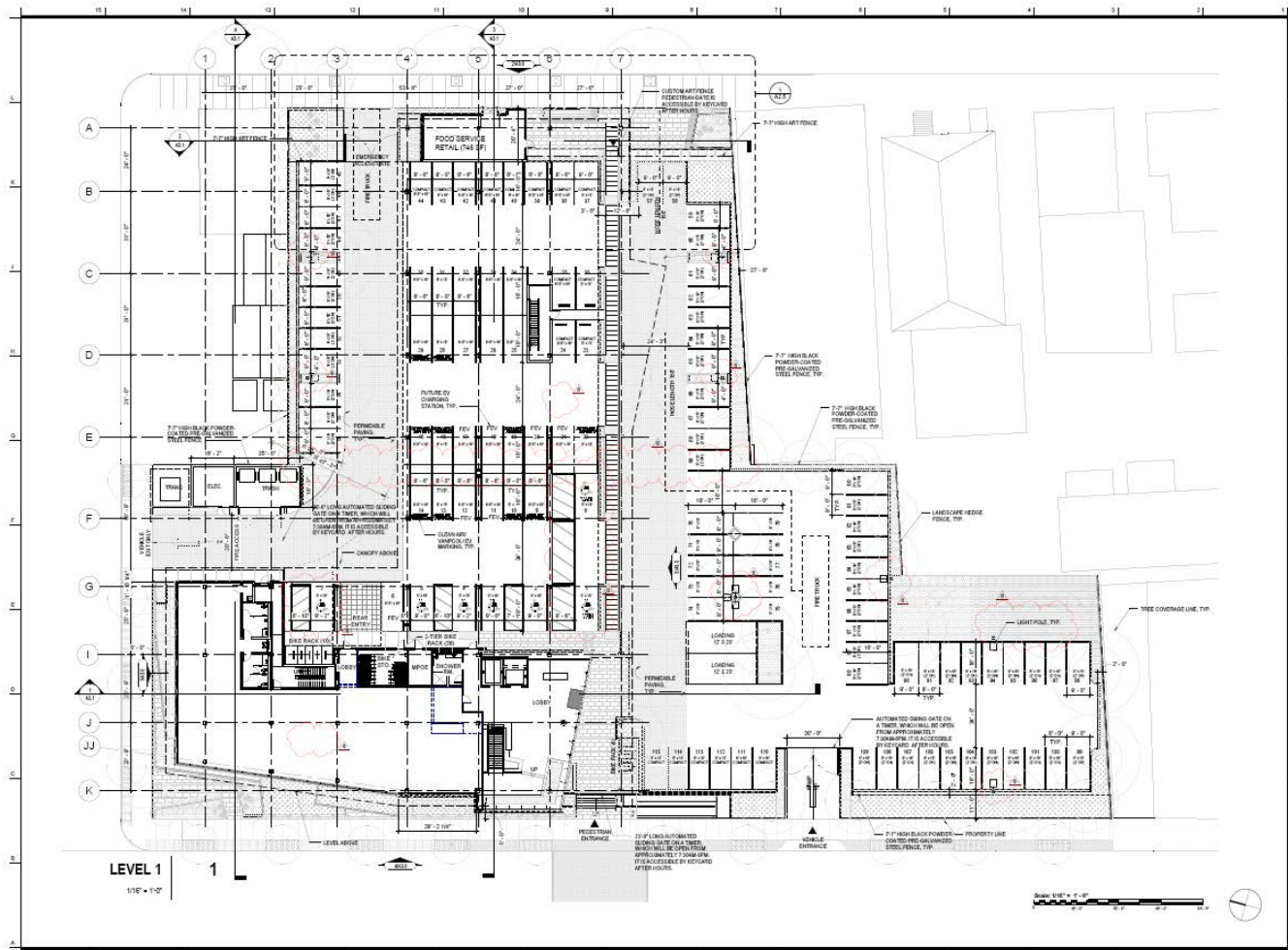
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Figure 10 Proposed Parking Lot Site Plan



Source: Gould Evans, 2018

Figure 11 Proposed Ground Floor Plan – Medical Office Building



Source: Gould Evans, 2018

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Figure 12 Proposed Second Floor Plan

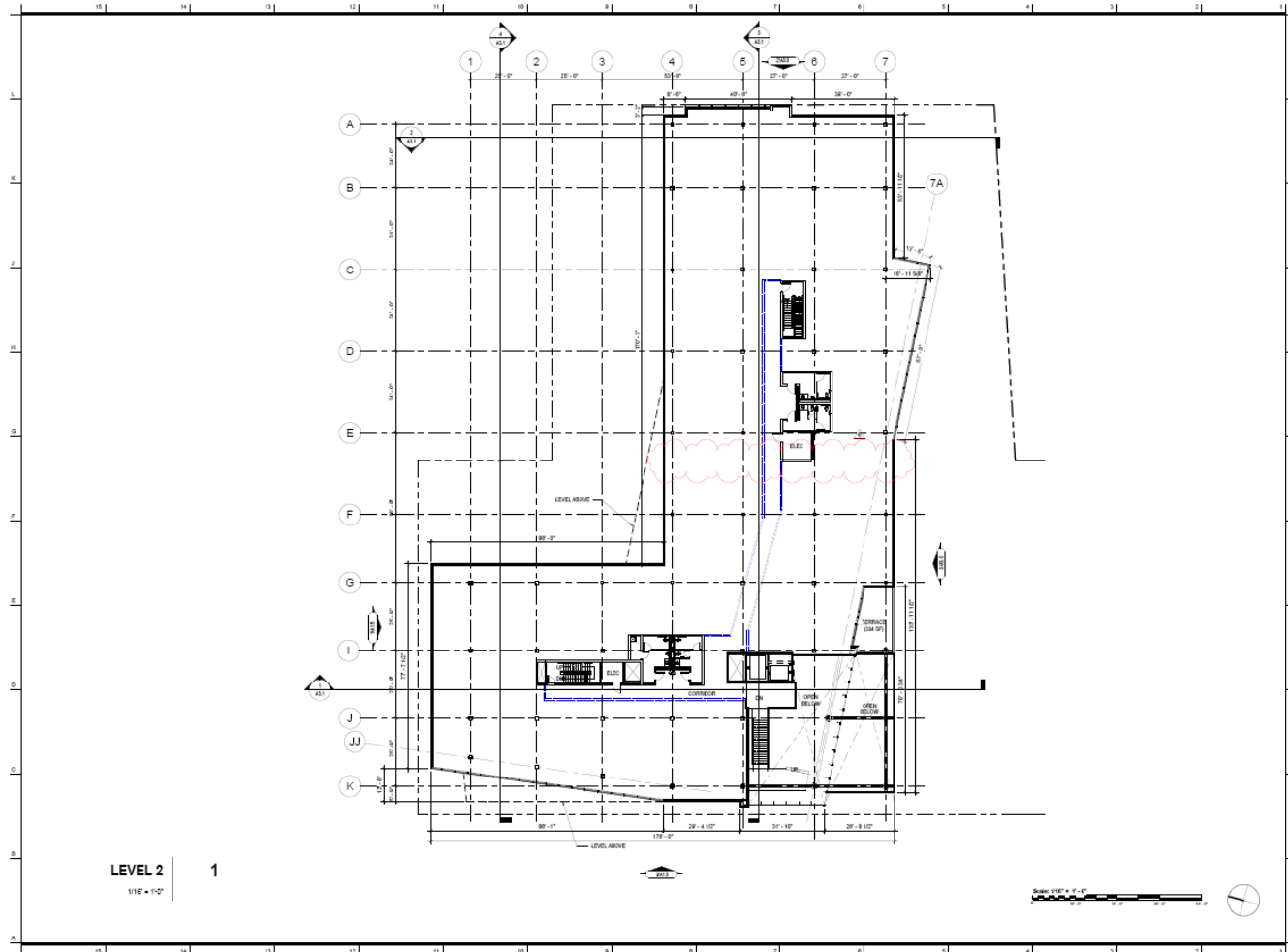
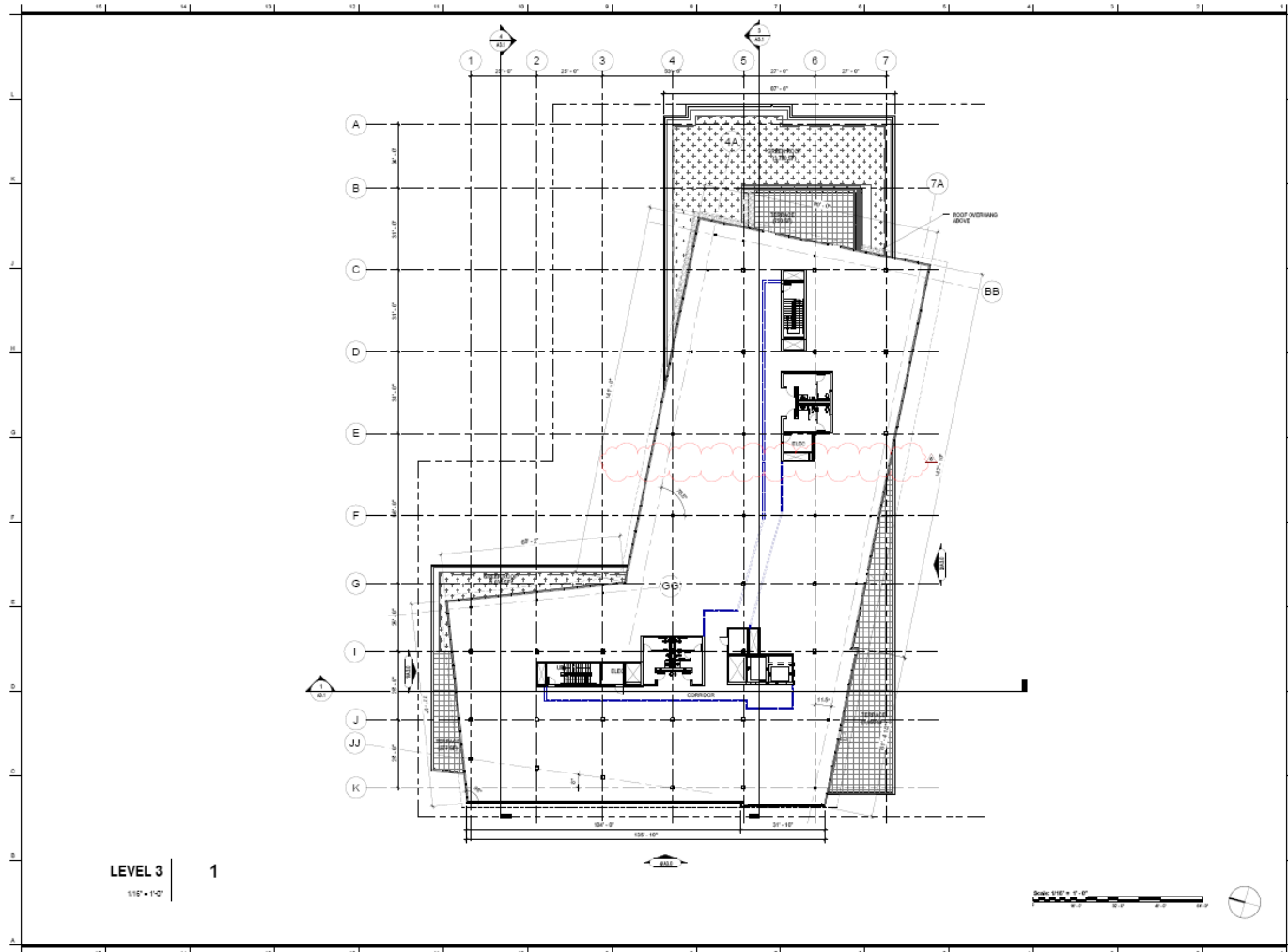


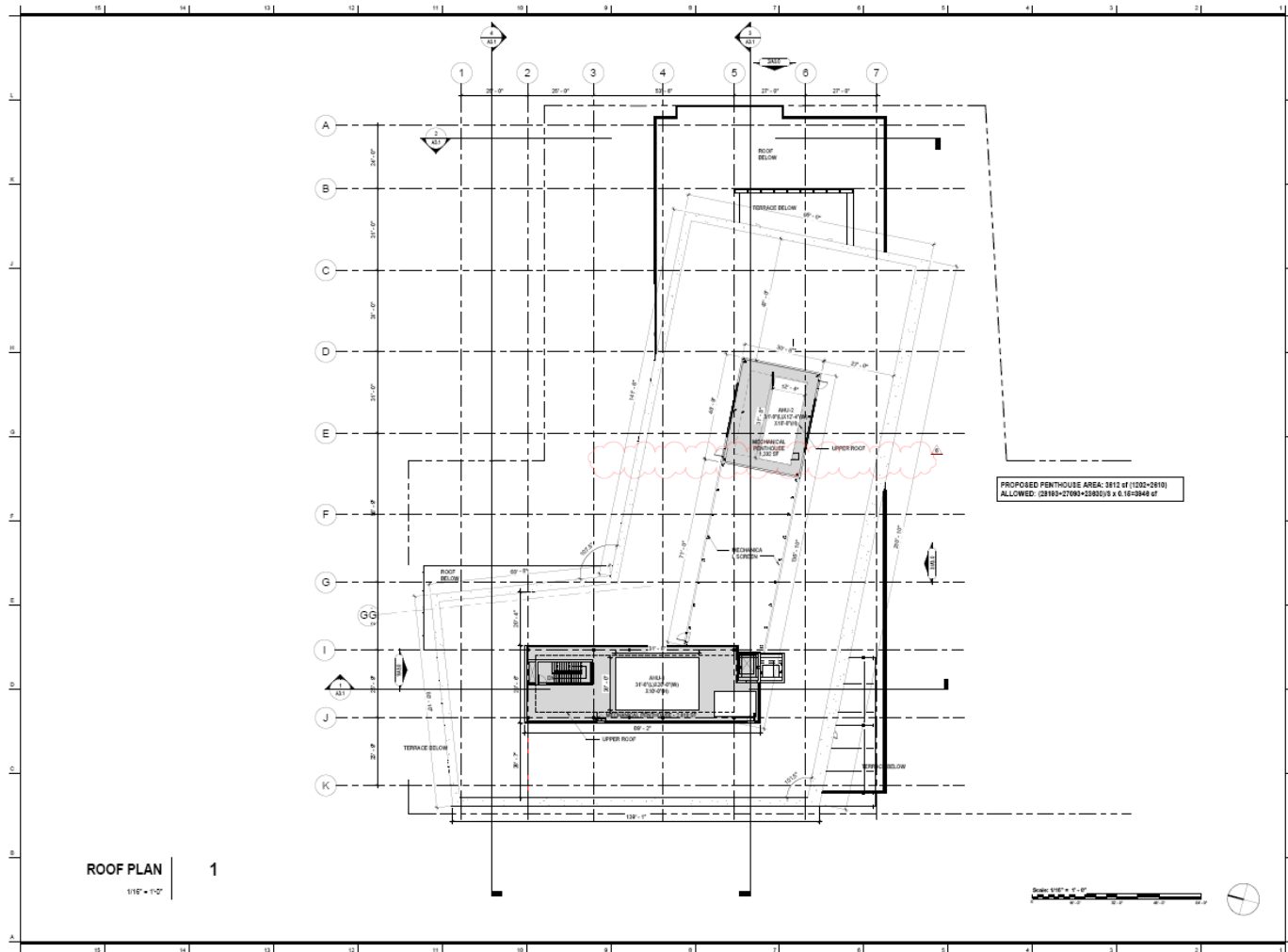
Figure 13 Proposed Third Floor Plan



Source: Gould Evans 2018

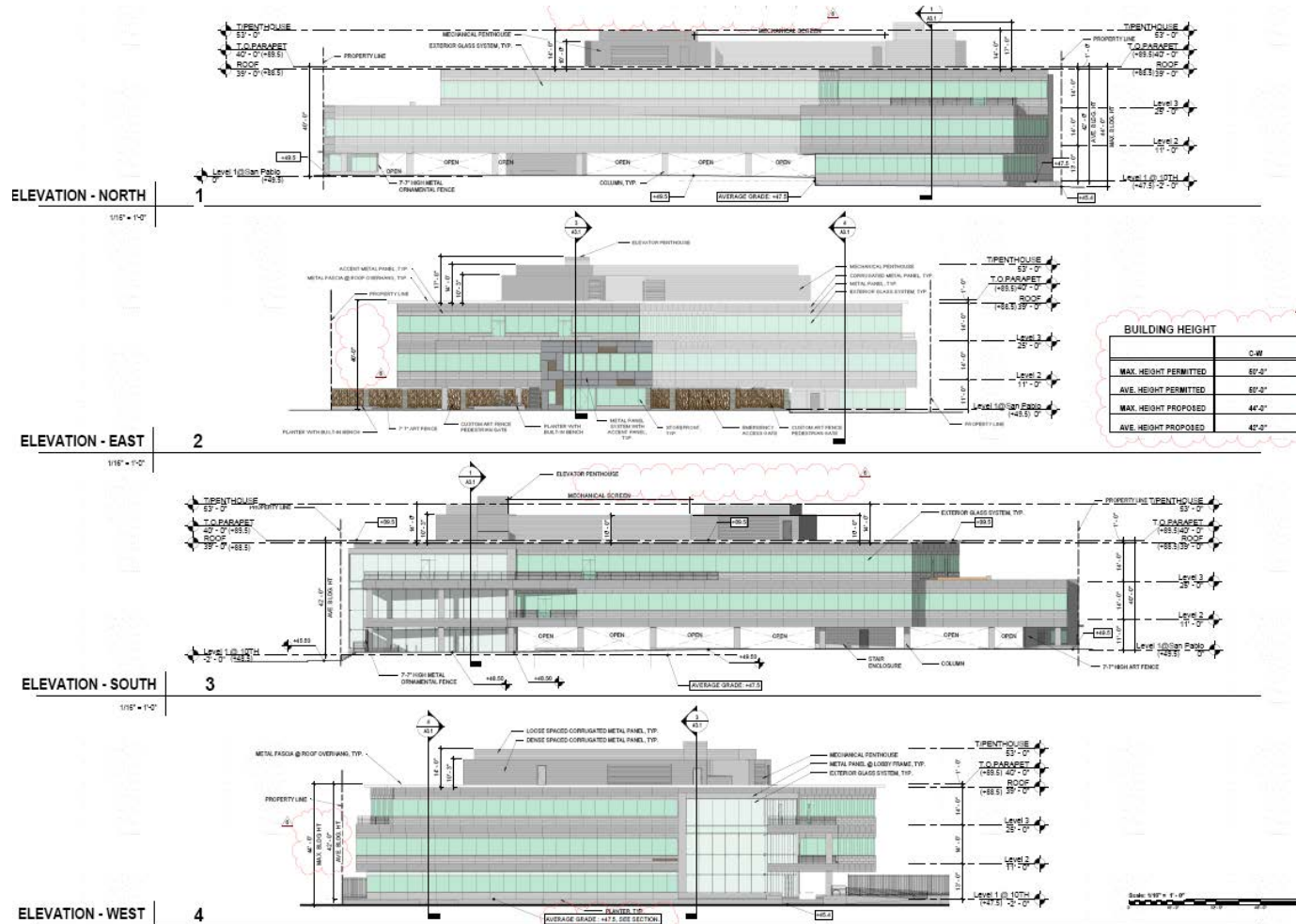
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Figure 14 Proposed Roof Plan



Source: Gould Evans 2018

Figure 15 Proposed Building Elevations



Source: Gould Evans 2018

City of Berkeley  
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 Use Permit ZP2018-0116 and Modification of Use Permit ZP2016-0170

**Table 1 Project Summary**

| Project Component             | Proposed per Block (square feet) |                     |               |
|-------------------------------|----------------------------------|---------------------|---------------|
|                               | Medical Office                   | Surface Parking Lot | Total         |
| Lot Area                      | 68,331                           | 68,000              | 136,331       |
| <b>Building Area</b>          |                                  |                     |               |
| First Floor                   | 9,920                            |                     | 9,920         |
| Second Floor                  | 27,100                           |                     | 27,100        |
| Third Floor                   | 23,650                           |                     | 23,650        |
| <b>Total Gross Floor Area</b> | <b>60,670 (0.88 FAR)</b>         |                     | <b>60,670</b> |
| Rooftop Equipment             | 3,812                            |                     | 3,812         |
| Vehicle Parking               | 115                              | 123                 | 238           |
| Bicycle Parking               | 46                               | 18                  | 64            |
| <b>Landscaping</b>            |                                  |                     |               |
| Total Landscape Area          | 9,968                            | 5,668               | n/a           |
| Total Hardscape Area          | ± 26,311                         | 38,179              | n/a           |

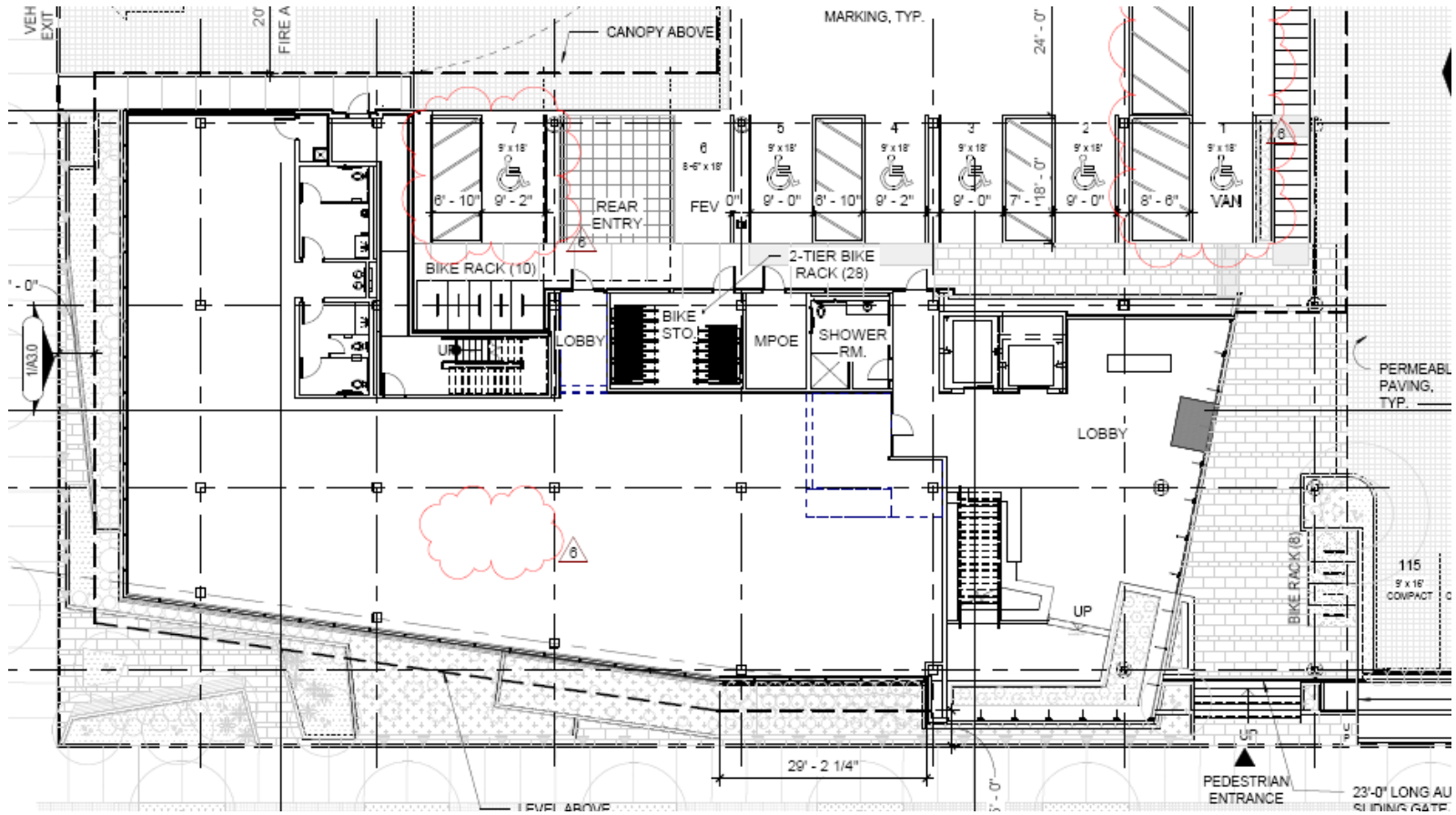
Use Permit ZP2018-0116 would allow for the construction of a new 43,847 square-foot surface parking lot on a 68,000 square-foot parcel located on an adjacent City block bounded by Carleton, Tenth, and Ninth streets. The construction of the surface parking lot would require the demolition of seven occupied structures that include warehouses, light industrial structures, auto repair and service buildings, and storage structures, plus associated outbuildings. The remainder of the Pardee Block parking lot site includes approximately 24,000 square feet of commercial buildings. These buildings, located along the southern portion of the site, would remain intact and operational.

Landscaping in the Pardee Block parking lot would include native and adaptive plantings that would incorporate trees, evergreen shrubs, perennials, and grasses to provide seasonal interest along the three street frontages. Pedestrian gates would be located along Carleton, Tenth, and Ninth Streets. Vehicular access would be gate-controlled and provided on Tenth and Ninth Streets. Pardee Block parking accommodations would include a total of 123 automobile parking and 18 bicycle parking spaces. The off-site parking lot would primarily provide employee parking to serve the project building as solely medical office use. The parking lot would include 88 parking spaces for use by the medical office staff and 35 parking spaces for use by the businesses that are to remain at the Pardee Block.

## Access and Parking

Building entryways for pedestrians at the proposed medical office building would be located on the ground floor along San Pablo Avenue and Parker Street. Parking for the entire project would total 238 vehicle parking spaces and 64 bicycle spaces. Vehicular access would be provided from driveways on Parker Street and Tenth Street for the medical office site and provided from driveways on Ninth Street and Tenth Street for the off-site parking lot. An emergency vehicle-only access driveway would be provided on San Pablo Avenue for the medical office building. See Table 2 for vehicle and bicycle parking details. Figure 16 provides a detail of the medical office site bicycle parking facilities, while Figure 17 provides a detail of the Pardee Block parking lot bicycle parking facilities.

Figure 16 Medical Office Site Bicycle Parking Facilities Detail

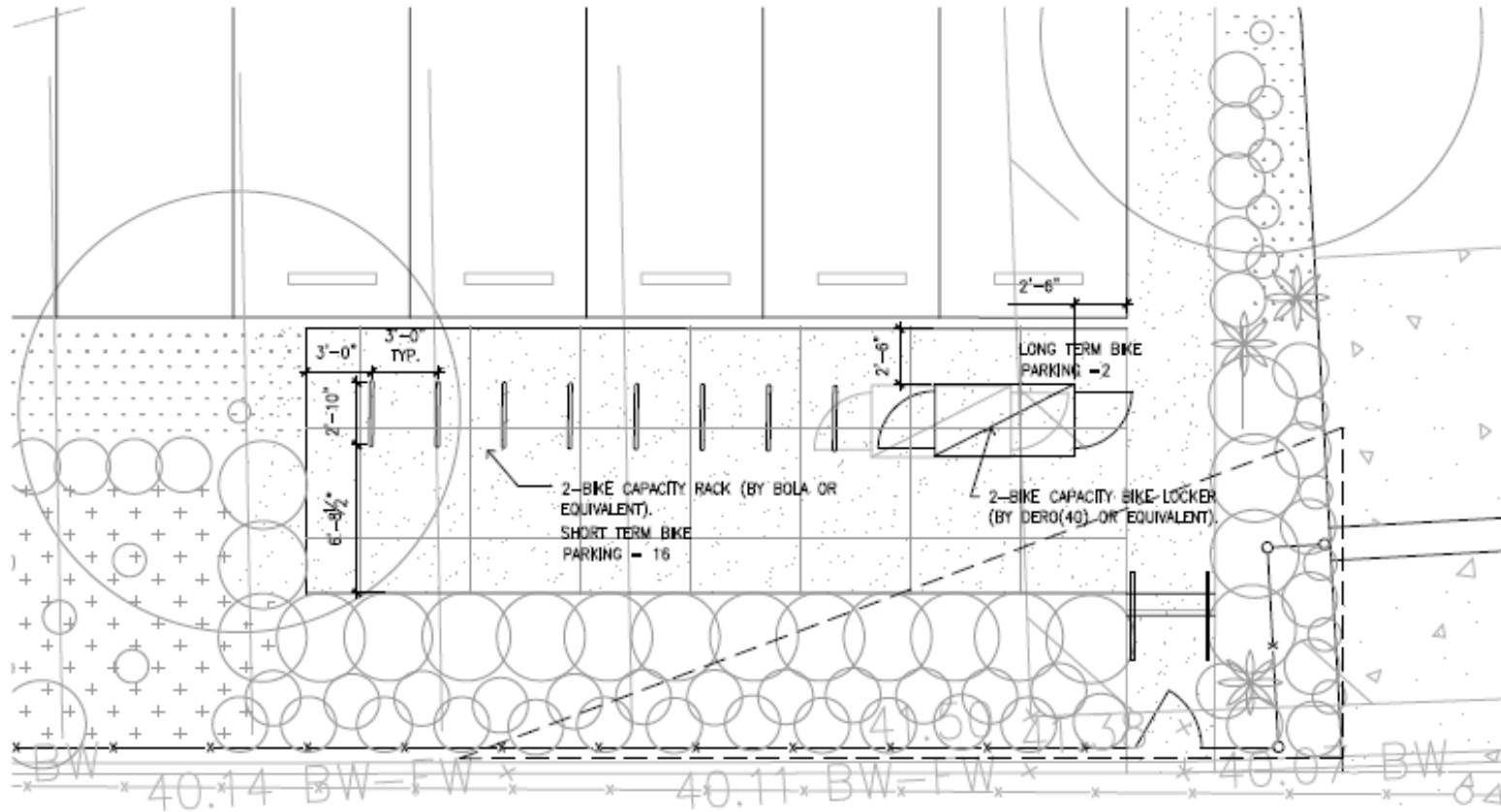


Source: Gould Evans, 2018



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Figure 17 Pardee Block Parking Lot Site Bicycle Parking Facilities Detail



Source: Gould Evans, 2018

Table 2 Project Vehicle and Bicycle Parking Details

| Project Component                          | Proposed per Site |                          |                            |
|--------------------------------------------|-------------------|--------------------------|----------------------------|
|                                            | Medical Office    | Pardee Block Parking Lot | Total                      |
| <b>Vehicle Parking</b>                     |                   |                          |                            |
| Standard (8'x18' to 9'x18')                | 71                | 72                       | 143                        |
| Compact (8'x16' to 9'x16')                 | 20                | 31                       | 51<br>(21% of all parking) |
| Clean Air/Vanpool/EV (8'x18' and 8'6"x18') | 10                | 10                       | 20                         |
| Fuel Efficient (8'x18' and 8'6"x18')       | 7                 | 7                        | 14                         |
| ADA Accessible (9'x18')                    | 7                 | 3                        | 10                         |
| <b>Total</b>                               | <b>115</b>        | <b>123</b>               | <b>238</b>                 |
| <b>Bicycle Parking</b>                     |                   |                          |                            |
| Short-Term                                 | 18                | 16                       | 34                         |
| Long-Term (secured/lockers)                | 28                | 2                        | 30                         |
| <b>Total</b>                               | <b>46</b>         | <b>18</b>                | <b>64</b>                  |

## Sustainability Features

The project proponent has indicated that the new building would be designed with a goal of LEED certification at a minimum Silver level. In addition to the bicycle parking as described above, sustainable features of the project would include shuttle service to the Ashby BART station, bioretention planting areas and permeable paving as part of the on-site storm water treatment, planted rooftops, energy recovery accommodations for future tenant improvement work, demand control laboratory exhaust system accommodations, and a drip irrigation system.

## Construction

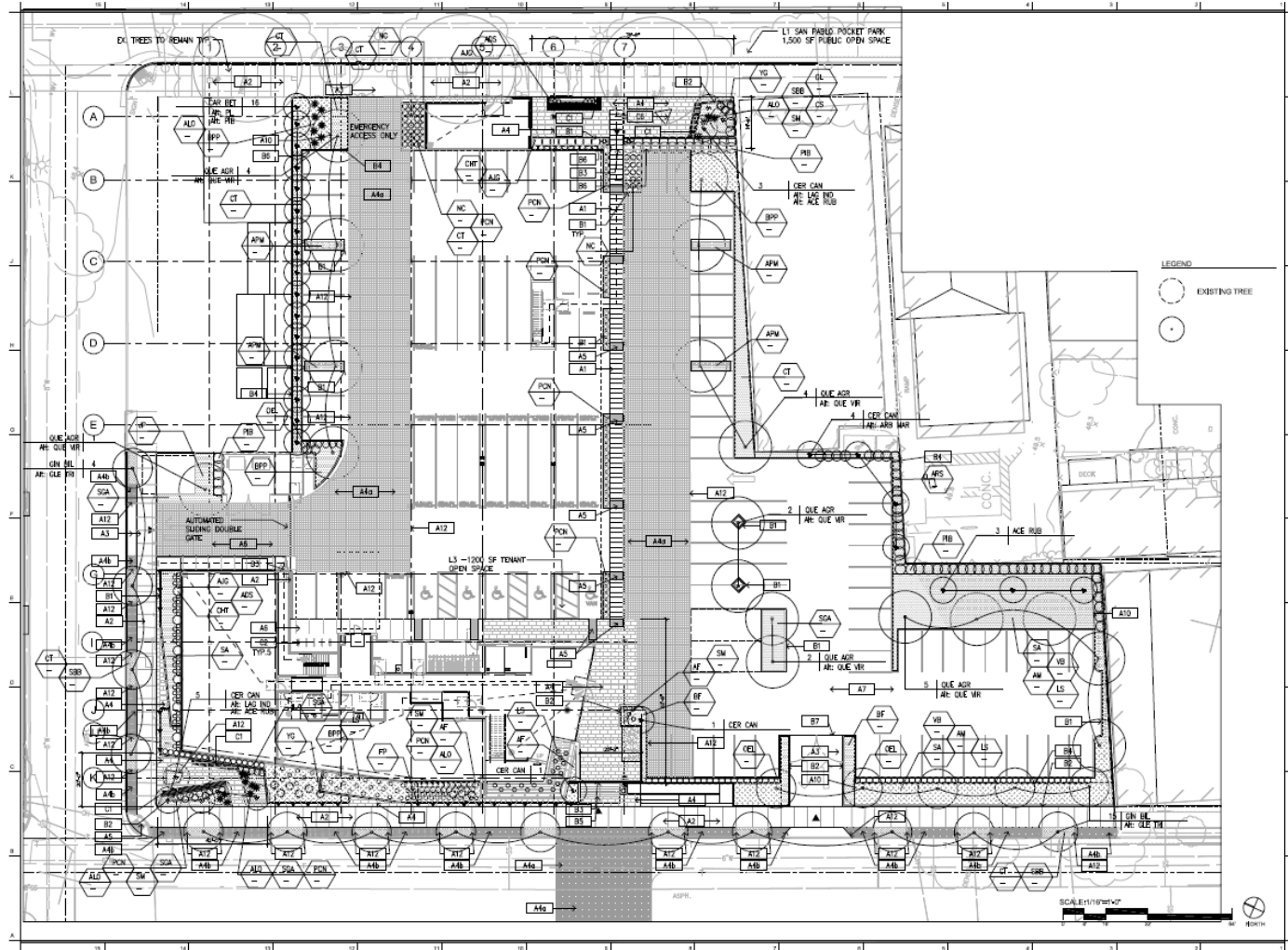
Construction of the proposed project is anticipated to start in 2019 and last approximately nine months. The entire 1.6-acre medical office site would be graded, which would include removing existing paving and plant material, excavating for foundations, utilities, and drainage, and importing approximately 2,100 cubic yards of fill from off site to level the grades. The proposed off-site surface parking lot would involve demolition of seven existing buildings as well as grading and paving typical of parking lot areas.

## Landscape and Open Space

Landscaping and open space would constitute approximately 15 percent of the medical office project site (see Figure 18). The Pardee Block parking lot would be enhanced with landscaping in the perimeter setback areas as well as in planted medians, tree diamonds, and along on-site pedestrian circulation pathways (see Figure 19). Table 3 provides details of the landscape and open space square footage allocation for the proposed project. The proposed landscape design for the project would meet or exceed the City of Berkeley water efficient landscape ordinance.

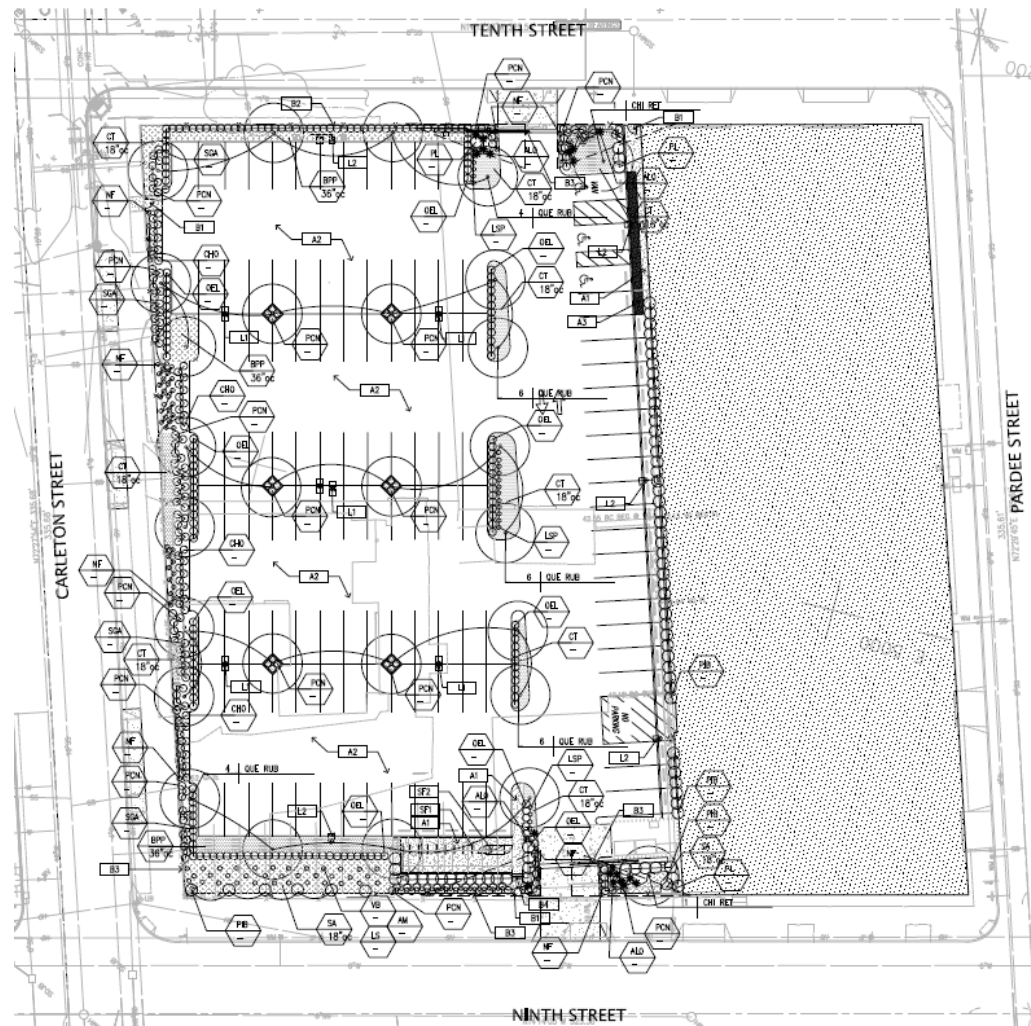
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Figure 18 Proposed Medical Office Site Landscape Plan



Source: Gould Evans, 2018

Figure 19 Proposed Pardee Block Parking Lot Landscape Plan



Source: Gould Evans 2018

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**Table 3 Landscape and Open Space Square Footage Allocation**

| Project Component              | Medical Office Site (sf)   | Pardee Block Parking Lot (sf) |
|--------------------------------|----------------------------|-------------------------------|
| <b>Landscaping</b>             |                            |                               |
| Green Roof Area                | 4,679                      |                               |
| Public Plazas                  | 2,150 (public open space)  |                               |
| Lobby Plaza/ Terrace/Balconies | 4,773 (private open space) |                               |
| Total Landscape Area           | 9,968                      | 6,213                         |
| Total Hardscape Area           | 26,311                     | 37,661                        |
| Parking Lot Shade              | 14,889                     | 18,630                        |
| Percent Shade                  | 56.5% of hardscape area    | 49.5% of hardscape area       |

## 13. Required Approvals

The following entitlements are required for the proposed project:

- Modification to Use Permit ZP#2016-0170 under BMC Section 23E.64.030 to establish medical office space of more than 5,000 square feet in the C-W District
- Modification to Use Permit ZP#2016-0170 under BMC Section 23E.64.050.B.1 to construct more than 5,000 square feet of new floor space in the C-W District
- Administrative Use Permit under BMC Section 23E.28.080.B to locate ground level parking space within 20 feet of street frontage
- Use Permit under BMC Section 23C.08.050.A to demolish a main building used for non-residential purposes
- Use Permit under BMC Section 25E.84.030 to construct a parking lot in the MU-R District that is not exclusively for uses located in the district

## 14. Other Public Agencies Whose Approval is Required

The City of Berkeley is the lead agency with responsibility for approving the proposed project. Approval from other public agencies is not required.

## Environmental Factors Potentially Affected

This project would potentially affect the environmental factors checked below, involving at least one impact that is “Potentially Significant” or “Potentially Significant Unless Mitigation Incorporated” as indicated by the checklist on the following pages.

- |                                                                        |                                                           |                                                             |
|------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics                                    | <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources                          | <input type="checkbox"/> Cultural Resources               | <input type="checkbox"/> Geology and Soils                  |
| <input type="checkbox"/> Greenhouse Gas Emissions                      | <input type="checkbox"/> Hazards and Hazardous Materials  | <input checked="" type="checkbox"/> Hydrology/Water Quality |
| <input checked="" type="checkbox"/> Land Use/Planning                  | <input type="checkbox"/> Mineral Resources                | <input checked="" type="checkbox"/> Noise                   |
| <input type="checkbox"/> Population/Housing                            | <input type="checkbox"/> Public Services                  | <input type="checkbox"/> Recreation                         |
| <input checked="" type="checkbox"/> Transportation/Traffic             | <input type="checkbox"/> Tribal Cultural Resources        | <input type="checkbox"/> Utilities/Service Systems          |
| <input checked="" type="checkbox"/> Mandatory Findings of Significance |                                                           |                                                             |

## Determination

Based on this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions to the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potential significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
\_\_\_\_\_  
Signature

Sally Schifman  
\_\_\_\_\_  
Printed Name

August 31, 2018  
\_\_\_\_\_  
Date

Senior Environmental Planner  
\_\_\_\_\_  
Title

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## Environmental Checklist

### 1 Aesthetics

|                                                                                                                                                             | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact        | No Impact                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|-------------------------------------|-------------------------------------|
| Would the project:                                                                                                                                          |                                |                                                    |                                     |                                     |
| a. Have substantial adverse effect on a scenic vista?                                                                                                       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Have substantial damage to scenic resources, including but not limited to trees, rock outcroppings, and historic buildings along a state scenic highway? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c. Substantially degrade the existing visual character or quality of the site and its surroundings?                                                         | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?                                    | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

*a. Would the project have a substantial adverse effect on a scenic vista?*

The City’s General Plan identifies significant views in the city, including those “toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island” (see Policy UD-31 in the Urban Design and Preservation Element). Public views of the San Francisco Bay and hills are available from University Avenue and other major east/west streets and sidewalks, as well as some parks. Views of the Bay, bridges, and islands are available from numerous public viewing locations in the Berkeley Hills. A substantial adverse impact would occur if a scenic vista were to be blocked significantly or unreasonably interfered with, or if an objectively unattractive or incompatible use or structure were to be approved, such as an unscreened wrecking yard.

The project sites are not located on a major east/west street. Views toward the Bay are not available from San Pablo Avenue or Tenth Street, adjacent to the sites or from other points east through the site due to the relatively level topography and intervening trees and buildings (see photos in Figure 3 through Figure 6, Existing Conditions). Partial views of the Berkeley Hills are available from the site looking east from Tenth Street. The views of the hills would be blocked mostly by the proposed medical office building structure. However, these views are obstructed partially by street trees on San Pablo Avenue and by existing buildings east of the site. In addition, views of the hills would still be available looking east on Parker, Carleton, and Pardee streets at Tenth Street directly to the north and south of the site. Some of these views may still be available

through the sites in the southern portion where the on-site surface parking lot for the medical office building is proposed, although it would be filtered through proposed parking lot trees. Finally, the proposed Pardee Block parking lot would improve views of the hillsides and surrounding area through the removal of seven light-industrial structures, though landscaping would also be introduced there. Thus, although the project would obscure views from a portion of Tenth Street adjacent to the proposed medical office building compared to current conditions, the impact would not be significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- b. Would the project have substantial damage to scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a state scenic highway?*

There are no rock outcroppings or historic buildings on the project sites. However, two trees would be removed to accommodate the proposed medical office building.

The project sites are not located in view of a state scenic highway nor does a state scenic highway exist on-site. According to the California Department of Transportation State Scenic Highway Mapping System website (accessed July 2018), Interstate 80 (I-80) is the closest eligible scenic highway and is located approximately 2.0 miles west of the project site. Parker Street, Carleton Street, Ninth Street, Tenth Street, and San Pablo Avenue are not identified as scenic highways in the City's General Plan. Although two trees would be removed from the medical office property, implementation of the project would not damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings along a state scenic highway; there would be no impact in this regard.

#### **NO IMPACT**

- c. Would the project substantially degrade the existing visual character or quality of the site and its surroundings?*

The project site consists of a partially paved, but otherwise generally vacant, lot for the medical office building, and a developed site with several industrial structures for the Pardee Block parking lot. Because there are no structures and little vegetation on the medical office site, it allows for a visual "break" in the otherwise almost fully developed neighborhood. However, because of the unmaintained landscaping and paving and occasional vehicle parking, the visual quality of the site is low.

The visual character of areas surrounding the project sites varies, but can generally be characterized by a mix of residential, commercial, and industrial buildings; surface parking lots; and two to four lane streets with intermittent street trees. Surrounding building heights vary from one to seven stories. The commercial buildings along San Pablo Avenue adjacent to, across the street from, and within one block of the project site are generally one and two stories. The building on the southwest corner of San Pablo Avenue and Carleton Street, one block south of the project site, is four stories. There is a four-story apartment building fronting San Pablo approximately 250 feet northeast of the project site. There is a seven-story commercial building at 2600 Tenth Street approximately 225 feet to the west of the project site. The buildings surrounding the Pardee Block surface parking lot are one to three stories.

Construction of the medical office building would result in a substantial change in the visual character of the site, from partially paved, but otherwise vacant, to fully developed with a new three-story building and surface parking. The height and massing would be greater than that of



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immediately adjacent buildings that are one or two stories lower, but within the range of heights found in the surrounding blocks. As detailed in Section 10, Land Use and Planning, the project would meet the height and setback standards of the underlying zoning districts. By maintaining three stories, a 44-foot maximum height, a zero-foot front setback (along San Pablo Avenue), and five-foot side and rear setbacks (along Parker Street and Tenth Street), the proposed building would be comparable in height and building setbacks to surrounding properties.

The second and third floors would be offset from each other such that the second floor roof would contain green space adjacent to San Pablo Avenue and Parker Street. The arrangement of each floor and the inclusion of second floor rooftop landscaping would soften the building mass visible from San Pablo Avenue, where the majority of buildings are two stories rather than three. The building façade of the proposed café/retail space along San Pablo Avenue would be two stories, while the third floor of medical office portion of the building would be setback nearly 50 feet from street. The 40-foot, three-story portions of the building would be situated primarily along Parker Street and Tenth Street, with the largest massing along Tenth Street. This would serve to enhance compatibility with the adjacent and surrounding development pattern on San Pablo Avenue (one- and two-story commercial buildings) and Tenth Street, where the seven-story building between Tenth and Ninth Streets is visually prominent.

Project implementation would also involve the demolition of seven light industrial-type structures on a single lot in order to construct the Pardee Block parking lot. Historical evaluations were conducted on all structures proposed for demolition. The evaluations determined that the structures were not eligible for listing on the Historical Registers nor were they eligible for consideration as a City landmark or structure (Watson 2018). As the structures are not considered architecturally significant and are not of high visual quality, their removal would not substantially degrade the visual quality of the area. The replacement of these structures with a surface parking lot would create a visual break in the developed area of the neighborhood. The proposed parking lot incorporates a six-foot aluminum rod fence and landscaping with native and adaptive plants with tree canopies, evergreen shrubs, perennials, and grasses that would provide some screening of the parking lot.

Finally, the project must obtain approval from the City's Design Review Committee. BMC §23E.08 states that the design review process is intended to ensure that new construction and alterations to existing buildings are compatible with the best elements of the existing character of the area to provide a pleasing urban environment for Berkeley residents, pedestrians, and building occupants, and to consider a project in relation to its urban context. This review would help to ensure the project would not substantially degrade the existing visual character or quality of the site and its surroundings. Impacts would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- d. Would the project create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?*

The project sites are in an urban area with relatively high levels of existing lighting. The adjacent buildings, roadway traffic, and streetlights generate light and glare at the edges of the project boundary. Primary sources of light adjacent to the project sites include those associated with the existing commercial and industrial buildings, including building-mounted lighting, and that coming from vehicle headlights on nearby streets. The primary source of glare adjacent to the project sites is the sun's reflection from metallic, glass, and light-colored surfaces on buildings and from vehicles on adjacent streets and parking areas.

The medical office building would include windows and building materials that would generate additional glare in the area. The artificial lighting on the site would also increase compared to existing conditions. However, in both cases the light and glare would be commercial in nature and similar to that already generated by surrounding buildings. The Pardee Block parking lot lighting would include ten LED light poles throughout the proposed parking area. The parking lot would also produce light from vehicles, but this impact would typically occur during times of the year which have work hours extending past sunset. The project would also remove the existing lighting and glare associated with the seven structures proposed for demolition. The City's standard conditions of approval require that exterior lighting be shielded and directed downward and away from property lines to minimize illumination and glare beyond the subject property. The project would not generate glare that would significantly affect day or nighttime views in the area. Impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

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## 2 Agriculture and Forest Resources

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                                          |                          |                          |                          |                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance (Farmland), as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Conflict with existing zoning for agricultural use or a Williamson Act contract?                                                                                                                                                                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Conflict with existing zoning for or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)); timberland (as defined by Public Resources Code Section 4526); or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Result in the loss of forest land or conversion of forest land to non-forest use?                                                                                                                                                                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?                                                                                                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

a. *Would the project convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

The Land Use Element of the City’s General Plan does not designate land for agricultural use in Berkeley. Neither the project sites nor adjacent properties are identified as farmland under the Farmland Mapping and Monitoring Program nor are they enrolled in Williamson Act contracts; the area does not support forest land or resources (Department of Conservation 2016). The proposed project would not involve development that would convert farmland to non-agricultural uses. For these reasons, the project would have no impact with respect to conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use; it would not conflict with existing agricultural zoning or a Williamson Act contract. It would not result in the loss of forest land or conversion of forest land to non-forest use; nor would it result in other conversion of farmland to non-agricultural use.

**NO IMPACT**

- b. *Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?*

Refer to discussion 2a.

**NO IMPACT**

- c. *Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*

Refer to discussion 2a.

**NO IMPACT**

- d. *Would the project result in the loss of forest land or conversion of forest land to non-forest use?*

Refer to discussion 2a.

**NO IMPACT**

- e. *Would the project involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?*

Refer to discussion 2a.

**NO IMPACT**

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### 3 Air Quality

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                                             |                          |                          |                                     |                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a. Conflict with or obstruct implementation of the applicable air quality plan?                                                                                                                                                                                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?                                                                                                                                                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d. Expose sensitive receptors to substantial pollutant concentrations?                                                                                                                                                                                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e. Create objectionable odors affecting a substantial number of people?                                                                                                                                                                                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

#### Air Quality Standards and Attainment

The project site is in the San Francisco Bay Area Air Basin (Basin), which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). As the local air quality management agency, the BAAQMD is required to monitor air pollutant levels to ensure that State and federal air quality standards are met and, if they are not met, to develop strategies to meet the standards.

Depending on whether or not the standards are met or exceeded, the Basin is classified as being in “attainment” or “non-attainment.” Under state law, air districts are required to prepare a plan for air quality improvement for pollutants for which the district is in non-compliance. The BAAQMD is in non-attainment for the federal and state ozone standards, the federal and state PM<sub>2.5</sub> (particulate matter up to 2.5 microns in size) standards, and the state PM<sub>10</sub> (particulate matter up to 10 microns in size) standards and is required to prepare a plan for improvement (BAAQMD 2017a). Table 4 summarizes the National Ambient Air Quality Standards and the California Ambient Air Quality Standards for each pollutant, as well as the attainment status of the Basin.

Table 4 Federal and State Ambient Air Quality Standards

| Pollutant                                      | Averaging Time            | California Standards    |                          | National Standards     |                   |
|------------------------------------------------|---------------------------|-------------------------|--------------------------|------------------------|-------------------|
|                                                |                           | Concentration           | Attainment Status        | Concentration          | Attainment Status |
| Ozone                                          | 8 Hour                    | 0.070 ppm               | N                        | 0.070 ppm              | N                 |
|                                                | 1 Hour                    | 0.09 ppm                | N                        |                        |                   |
| Carbon Monoxide                                | 8 Hour                    | 9.0 ppm                 | A                        | 9 ppm                  | A                 |
|                                                | 1 Hour                    | 20 ppm                  | A                        | 35 ppm                 | A                 |
| Nitrogen Dioxide                               | 1 Hour                    | 0.18 ppm                | A                        | 0.100 ppm              | U                 |
|                                                | Annual Arithmetic Mean    | 0.030 ppm               |                          | 0.053 ppm              | A                 |
| Sulfur Dioxide                                 | 24 Hour                   | 0.04 ppm                | A                        | 0.14 ppm               | A                 |
|                                                | 1 Hour                    | 0.25 ppm                | A                        | 0.075 ppm              | A                 |
|                                                | Annual Arithmetic Mean    |                         |                          | 0.030 ppm              | A                 |
| Particulate Matter (PM <sub>10</sub> )         | Annual Arithmetic Mean    | 20 µg/m <sup>3</sup>    | N                        |                        |                   |
|                                                | 24 Hour                   | 50 µg/m <sup>3</sup>    | N                        | 150 µg/m <sup>3</sup>  | U                 |
| Particulate Matter - Fine (PM <sub>2.5</sub> ) | Annual Arithmetic Mean    | 12 µg/m <sup>3</sup>    | N                        | 12 µg/m <sup>3</sup>   | U/A               |
|                                                | 24 Hour                   |                         |                          | 35 µg/m <sup>3</sup>   | N                 |
| Sulfates                                       | 24 Hour                   | 25 µg/m <sup>3</sup>    | A                        |                        |                   |
| Lead                                           | Calendar Quarter          |                         |                          | 1.5 µg/m <sup>3</sup>  | A                 |
|                                                | Rolling 3 Month Average   |                         |                          | 0.15 µg/m <sup>3</sup> |                   |
|                                                | 30 Day Average            | 1.5 µg/m <sup>3</sup> ) |                          |                        | A                 |
| Hydrogen Sulfide                               | 1 Hour                    | 0.03 ppm                | U                        |                        |                   |
| Vinyl Chloride (chloroethene)                  | 24 Hour                   | 0.010 ppm               | No information available |                        |                   |
| Visibility Reducing particles                  | 8 Hour(10:00 to18:00 PST) |                         | U                        |                        |                   |

A=Attainment; N=Nonattainment; U=Unclassified; mg/m<sup>3</sup>=milligrams per cubic meter; ppm=parts per million; µg/m<sup>3</sup>=micrograms per cubic meter

Source: BAAQMD 2017a

The health effects associated with criteria pollutants for which the Basin is in non-attainment are described in Table 5.

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**Table 5 Health Effects Associated with Non-Attainment Criteria Pollutants**

| Pollutant                                         | Adverse Effects                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ozone                                             | (1) Short-term exposures: (a) pulmonary function decrements and localized lung edema in humans and animals and (b) risk to public health implied by alterations in pulmonary morphology and host defense in animals; (2) long-term exposures: risk to public health implied by altered connective tissue metabolism and altered pulmonary morphology in animals after long-term exposures and pulmonary function decrements in chronically exposed humans; (3) vegetation damage; and (4) property damage. |
| Suspended particulate matter (PM <sub>10</sub> )  | (1) Excess deaths from short-term and long-term exposures; (2) excess seasonal declines in pulmonary function, especially in children; (3) asthma exacerbation and possibly induction; (4) adverse birth outcomes including low birth weight; (5) increased infant mortality; (6) increased respiratory symptoms in children such as cough and bronchitis; and (7) increased hospitalization for both cardiovascular and respiratory disease (including asthma). <sup>a</sup>                              |
| Suspended particulate matter (PM <sub>2.5</sub> ) | (1) Excess deaths from short- and long-term exposures; (2) excess seasonal declines in pulmonary function, especially in children; (3) asthma exacerbation and possibly induction; (4) adverse birth outcomes, including low birth weight; (5) increased infant mortality; (6) increased respiratory symptoms in children, such as cough and bronchitis; and (7) increased hospitalization for both cardiovascular and respiratory disease, including asthma. <sup>a</sup>                                 |

<sup>a</sup> More detailed discussions on the health effects associated with exposure to suspended particulate matter can be found in the following document: USEPA, Air Quality Criteria for Particulate Matter, October 2004.

Source: U.S. Environmental Protection Agency (USEPA) 2017a

## Air Quality Management

The BAAQMD is primarily responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. The BAAQMD is also responsible for adopting and enforcing rules and regulations concerning air pollutant sources, issuing permits for stationary sources of air pollutants, inspecting stationary sources of air pollutants, responding to citizen complaints, monitoring ambient air quality and meteorological conditions, awarding grants to reduce motor vehicle emissions, conducting public education campaigns, as well as many other activities. The BAAQMD has jurisdiction over much of the nine-county Bay Area, including Alameda County.

The BAAQMD adopted the 2017 Clean Air Plan (2017 Plan) as an update to the 2010 Clean Air Plan. The 2017 Plan provides a regional strategy to protect public health and protect the climate. Consistent with the greenhouse gas (GHG) reduction targets adopted by the state, the 2017 Plan lays the groundwork for a long-term effort to reduce Bay Area GHG emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050 (BAAQMD 2017b). To fulfill state ozone planning requirements, the 2017 control strategy includes all feasible measures to reduce emissions of ozone precursors - reactive organic gases (ROG) and nitrogen oxides (NO<sub>x</sub>) - and reduce transport of ozone and its precursors to neighboring air basins. In addition, the 2017 Plan builds upon and enhances the BAAQMD's efforts to reduce emissions of fine particulate matter and toxic air contaminants (BAAQMD 2017b).

## Air Emission Thresholds

This analysis uses BAAQMD's May 2017 CEQA Air Quality Guidelines to evaluate air quality. This update includes revisions made to the 2010 CEQA Air Quality Guidelines that address the California

Supreme Court's 2015 opinion in the *Cal. Bldg. Indus. Ass'n vs. Bay Area Air Quality Mgmt. Dist.*, 62 Cal. 4<sup>th</sup> 369 (BAAQMD 2017c).

Table 6 shows the significance thresholds for construction and operational-related criteria air pollutant and precursor emissions used for this analysis. These thresholds represent the levels at which a project's individual emissions of criteria air pollutants or precursors would result in a cumulatively considerable contribution to the Basin's existing air quality conditions. For this analysis, the proposed project would result in a significant impact if construction or operational emissions would exceed thresholds shown in Table 6.<sup>1</sup>

**Table 6 Air Quality Thresholds of Significance**

| Pollutant/Precursor | Construction Emissions (lbs/day) | Operational Emissions (lbs/day) |
|---------------------|----------------------------------|---------------------------------|
| ROG                 | 54                               | 54                              |
| NO <sub>x</sub>     | 54                               | 54                              |
| PM <sub>10</sub>    | 82 (exhaust only)                | 82                              |
| PM <sub>2.5</sub>   | 54 (exhaust only)                | 54                              |

Source: BAAQMD 2017b.

In addition, a significant air quality impact would occur if the project design or project construction does not incorporate control measures recommended by the BAAQMD to control emissions during construction (listed in Table 8-1 of the BAAQMD CEQA Guidelines).

*a. Would the project conflict with or obstruct implementation of the applicable air quality plan?*

The California Clean Air Act requires air districts to create a Clean Air Plan (CAP) that describes how the jurisdiction will meet air quality standards. These plans must be updated every three years. The BAAQMD 2017 Plan is the most recently adopted air quality plan for the district. The 2017 Plan updates the most recent Bay Area ozone plan, the 2010 CAP, pursuant to air quality planning requirements defined in the California Health & Safety Code. To fulfill state ozone planning requirements, the 2017 control strategy includes all feasible measures to reduce emissions of ozone precursors - ROGs and NO<sub>x</sub> - and reduce transport of ozone and its precursors to neighboring air basins. In addition, the CAP builds upon and enhances the District's efforts to reduce emissions of fine particulate matter and toxic air contaminants. The 2017 Plan does not include control measures that apply directly to individual development projects. Instead, the strategy includes control measures related to stationary sources, transportation, energy, buildings, agriculture, natural and working lands, waste management, water, and super-GHG pollutants.

The 2017 CAP focuses on two paramount goals:

- Protect air quality and health and the regional and local scale by attaining all state and national air quality standards and eliminating disparities among Bay Area communities in cancer health risk from toxic air contaminants
- Protect the climate by reducing Bay Area GHG emissions to 40 percent below 1990 levels by 2030, and 80 percent below 1990 levels by 2050

<sup>1</sup> Note the thresholds for PM<sub>10</sub> and PM<sub>2.5</sub> apply to construction exhaust emissions only.



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Under BAAQMD’s methodology, a determination of consistency with the most recently adopted clean air plan (2017 Plan) should demonstrate that a project:

- Supports the primary goals of the air quality plan
- Includes applicable control measures from the air quality plan
- Does not disrupt or hinder implementation of any air quality plan control measures

Any project that would not support the 2017 Plan’s goals would not be considered consistent with the 2017 Plan. On an individual project basis, consistency with the clean air plan’s goals is demonstrated through meeting the BAAQMD quantitative thresholds. As shown in the response to checklist items b and c (see below), the project would not result in exceedances of BAAQMD 2017 thresholds for criteria air pollutants and thus would not conflict with the 2017 Plan’s goal to attain air quality standards. Therefore, consistent with the City’s CEQA thresholds, the proposed project would result in a less than significant impact.

**LESS THAN SIGNIFICANT IMPACT**

*b. Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

**Construction Emissions**

Construction of the project would include demolition of existing structures, site preparation, grading, excavation, building construction, and other construction-related activities that have the potential to generate air pollutant emissions. California Emissions Estimator Model (CalEEMod) version 2016.3.2 was used to estimate temporary construction emissions from these activities, based on parameters that include the duration of construction activity and area of disturbance. CalEEMod defaults were used for the type and number of construction equipment for each phase of project construction. Based on the applicant’s proposed schedule, construction is anticipated to take approximately nine months. In addition, watering of exposed surfaces twice daily was included in construction modeling, as recommended by BAAQMD (BAAQMD 2017c). Table 7 shows the emissions associated with construction. Appendix A provides complete results from CalEEMod.

**Table 7 Construction Emissions (pounds/day)**

|                         | ROG  | NO <sub>x</sub> | PM <sub>10</sub> (exhaust) | PM <sub>2.5</sub> (exhaust) |
|-------------------------|------|-----------------|----------------------------|-----------------------------|
| 2019 maximum pounds/day | 2.9  | 39.8            | 7.1                        | 3.1                         |
| 2020 maximum pounds/day | 10.9 | 22.4            | 1.8                        | 1.2                         |
| Maximum pounds/day      | 10.9 | 39.8            | 7.1                        | 3.1                         |
| Significance Threshold  | 54   | 54              | 82                         | 54                          |
| Exceed Thresholds?      | No   | No              | No                         | No                          |

Source: CalEEMod 2016.3.2

Note: Please see Appendix A for complete modeling results. Winter emissions were used for a conservative estimate.

Table 7 shows the emissions generated during construction of the project would not exceed the BAAQMD’s daily construction thresholds for criteria pollutants. Therefore, the project’s construction emissions would not significantly affect regional air quality, and this impact would be less than significant.

## Operational Emissions

Long-term operational emissions associated with the proposed project would result from vehicle trips (mobile emissions) and the use of natural gas and electricity (energy emissions), as well as consumer products, and architectural coatings (area source emissions) upon buildout of the project.

CalEEMod was used to quantify pollutant emissions associated with the project, based on the proposed uses and the number of associated vehicle trips generated by the project. The Fehr & Peers Transportation Impact Analysis (TIA) provided daily trip generation rates, adjusted by 16 percent to comply with the West Berkeley Circulation Master Plan (WBCMP), discussed in the Transportation Section of this IS-MND (Fehr & Peers 2018). Furthermore, daily trips to the café were reduced by 70 percent below ITE rates due to pass-by trips and the trip length was reduced to 2.0 miles.

The proposed project would replace existing development, which includes an automobile care facility, storage facility,<sup>2</sup> and parking lot. Because the proposed development would replace existing uses, the operational emissions of the current development were also estimated in CalEEMod and then subtracted from the estimated emissions associated with the proposed project in order to understand the expected net change in GHG emissions associated with the project. Table 8 summarizes the estimated net increase in operational emissions from the proposed project. Appendix A provides complete results from CalEEMod.

**Table 8 Operational Emissions (pounds/day)**

|                                                | ROG        | NO <sub>x</sub> | PM <sub>10</sub> | PM <sub>2.5</sub> |
|------------------------------------------------|------------|-----------------|------------------|-------------------|
| Proposed Project Maximum Operational Emissions | 5.4        | 21.9            | 9.1              | 2.5               |
| Existing Operation                             | 0.6        | 1.7             | 0.5              | 0.1               |
| <b>Net Change</b>                              | <b>4.8</b> | <b>20.1</b>     | <b>8.7</b>       | <b>2.4</b>        |
| Significance Threshold                         | 54         | 54              | 82               | 54                |
| Exceed Thresholds?                             | No         | No              | No               | No                |

Note: Please see Appendix A for complete modeling results. Winter emissions were used for a conservative estimate.

Source: CalEEMod 2016.3.2

Table 8 shows that the emissions generated during operation of the proposed project would not exceed the BAAQMD's daily operational thresholds for criteria pollutants. Therefore, operation of the project would not significantly affect regional air quality.

### LESS THAN SIGNIFICANT IMPACT

<sup>2</sup> Because the storage facility is exclusively accessible to the automobile facility, it was modeled in CalEEMod as an enclosed parking structure without an elevator to conservatively reflect the emissions.

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- c. *Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?*

Refer to discussion 3b.

**LESS THAN SIGNIFICANT IMPACT**

- d. *Would the project expose sensitive receptors to substantial pollutant concentrations?*

Certain population groups are particularly sensitive to air pollution, such as children, the elderly, and people with health problems. Sensitive receptors are defined as land uses that are more likely to be used by these population groups and include health care facilities, retirement homes, schools and playground facilities, and residential areas. The sensitive receptors nearest the medical office project site include three residential units on the second floor of the Missouri Lounge, adjacent to the northeast property line at the corner of San Pablo Avenue and Parker Street; residential properties approximately 200 feet to the east; and a church approximately 100 feet to the south along San Pablo Avenue. The rear property line of the church is adjacent to the southernmost portion of the proposed surface parking lot. The sensitive receptors nearest the proposed Pardee Block parking lot include multi-family and single-family residential units located 75 and 115 feet southeast across Tenth Street, multi-family and single family residential units located approximately 140 feet south across Pardee Street, and Global Montessori International School located approximately 950 feet south.

The proposed project would not exceed BAAQMD thresholds for pollutants, but heavily congested intersections can lead to long-term mobile emissions that exceed carbon monoxide (CO) standards and lead to CO hotspots, locations where the federal or state ambient air quality standards could be exceeded because of the concentration of idling motor vehicles. Other factors contributing to a CO hotspot include the configuration of the intersection, distance to sensitive receptors, and patterns of air circulation. The BAAQMD recommends CO "hotspot" analysis for a project if the addition of traffic would increase traffic volumes at affected intersections to more than 44,000 vehicles per hour. According to the June 2017 TIA and the 2018 TIA Addendum, no intersections affected by the project would be required to accommodate more than 44,000 vehicles per hour even during peak hours under future cumulative conditions. Therefore, no intersection-specific CO modeling is required. No substantial pollutant concentrations would be expected because of the project.

**LESS THAN SIGNIFICANT IMPACT**

- e. *Would the project create objectionable odors affecting a substantial number of people?*

Medical office and surface parking lot land uses do not typically involve activities that create objectionable odors during operation. Objectionable odors, specifically that generated by diesel exhaust, may result from the operation of diesel-fueled heavy equipment during construction of the project that can include the smells of oil or diesel fuels. Objectionable odors would be sporadic and limited primarily to the time construction equipment operates. As discussed in the project description, project construction is expected to last approximately nine months and related odor impacts would be temporary. In addition, odors emitted from construction equipment would be expected to dissipate quickly as the distance from the equipment source grows. Any odors that

would impact people off-site would be limited in duration and frequency. Therefore, this impact would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

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## 4 Biological Resources

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                                                                      |                          |                          |                                     |                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?                                                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?                                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?                                                                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?                                                                                                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?                                                                                                                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

- a. *Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?*

The project is in an urbanized area of Berkeley. The medical office site consists of a partially paved but otherwise generally vacant lot at the medical office building site, and a fully developed and paved site consisting of several industrial structures at the Pardee Block parking lot site. There are two trees on the medical office building site with scattered, generally non-native vegetation in the unpaved areas. The project sites do not contain substantial areas of native vegetation or biological resources suitable to provide habitat for sensitive or special status species, such as riparian habitat or other sensitive natural communities. No impact would occur.

**NO IMPACT**

- b. *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Refer to discussion 4a.

**NO IMPACT**

- c. *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No federally protected wetlands or waters as defined by Section 404 of the Clean Water Act (e.g., marsh, vernal pool, coastal) occur on either project sites. As a result, no impact would occur.

**NO IMPACT**

- d. *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The project is in an urbanized area of Berkeley. It is not located in a known regional wildlife movement corridor or other sensitive biological area as indicated by the U.S. Fish and Wildlife Service Critical Habitat portal online mapping tool (accessed April 2017). However, the removal of two trees and construction adjacent to street trees along San Pablo Avenue for the medical office building may affect nesting birds protected under the Migratory Bird Treaty Act. However, according to Policy EM-31 of the City's General Plan, new development should contribute to the urban forest through preservation of existing on-site trees, whenever feasible, replacement of trees on-site, and the addition of new trees in the public right-of-way (ROW). The proposed project would include replacing the street trees and adding more trees on the project site. The replacement and addition of trees on and near the project sites would provide habitat for potential nesting birds.

With implementation of a standard condition of approval that ensure project construction activities avoid disturbance of nesting birds, the project would not substantially interfere with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, and would not impede the use of native wildlife nursery sites. 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

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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. Therefore, impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

- e. *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Coast live oak (*Quercus agrifolia*) is the only protected tree species in Berkeley. City Ordinance No. 6,905-N.S. protects coast live oaks and prohibits any pruning that would be “excessive and injurious” to the tree. The two trees that would be removed as part of project implementation are not oak trees. Therefore, no conflict with local policies or ordinances protecting biological resources including trees would occur.

**NO IMPACT**

- f. *Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

The project is in an urbanized area of Berkeley. No adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved state, regional, or local habitat conservation plan apply to the project sites. Therefore, no impact would occur.

**NO IMPACT**

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## 5 Cultural Resources

|                                                                                                                 | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact        | No Impact                           |
|-----------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|-------------------------------------|-------------------------------------|
| Would the project:                                                                                              |                                |                                                    |                                     |                                     |
| a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?      | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c. Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Disturb any human remains, including those interred outside of formal cemeteries?                            | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

a. *Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?*

The proposed medical office site is undeveloped on the southern and central portions of the site and developed with a paved surface parking lot on the northwest portion of the site. The Pardee Block parking lot site is developed with seven structures that total 27,000 square feet and include a contractor’s repair shop and wooden lean-to storage shed constructed in 1943, a machine shop constructed in 1951, a welding shop constructed in 1959, and two warehouses constructed in 1962 and 1967, respectively. Historical evaluations were conducted for all structures proposed for demolition to determine their potential historical significance and relationship to the City of Berkeley’s Landmarks Preservation Ordinance. The reports concluded that none of the structures are eligible for listing on the National Register of Historic Places, California Register of Historical Resources, and the City’s Landmarks Preservation Ordinance (Appendix G).

The City of Berkeley’s Historic Resources Map (2016) does not identify historic resources on the project site, but it does show three mapped landmarks/structures of merit near the project. The Pardee Block parking lot would be located just east, across Ninth Street, from Standard Die and Specialty Company, two blocks southeast of Kawneer Manufacturing Company, and three blocks north of H.S. Heinz Company Plant, all recognized by the City as landmarks. The proposed medical office building and Pardee Block parking lot do not have identified historical resources on site as detailed in Appendix G and would not cause a substantial change in the significance of the surrounding historical resources in the City due to the location and design of the project.

Two dwelling units were located previously in the southern portion of the medical office site (2621 Tenth Street). The potential historic value of the units was assessed under a 2004 Environmental Assessment processed by the City of Berkeley Housing Department for a proposed affordable housing development that never proceeded. At that time, the City found that the development of

that project would affect no historic properties, including the two units proposed to be demolished (City of Berkeley 2004). In the 2004 report, the dwelling units were described as vacant. The homes were demolished in January 2011, before the property was leased to Urban Adamah for use as an urban farm.

There are no structures of historical merit on the project sites, so no impact to historical resources would occur.

#### **NO IMPACT**

- b. Would the project cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?*

The project would entail grading the entire 1.6-acre site of the medical office building and demolishing and grading 43,847 square feet for the Pardee Block parking lot. The depth of ground disturbance would generally be less than 4.0 feet, although trenching for utilities and limited foundation elements may extend up to several feet deeper for the medical office building. No archaeological resources are known to exist on the project sites. Nevertheless, impacts to unrecorded subsurface archaeological resources would be potentially significant unless mitigated, as site grading activities could uncover previously undisturbed resources if they are located on the site.

The City has a standard condition of approval that addresses the potential discovery of archaeological resources during demolition, grading, and/or construction. 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. 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. 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. 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 for cultural resources is carried out. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center. With the adoption of the standard conditions of approval, the proposed project would not have a significant impact on archaeological resources.

#### **LESS THAN SIGNIFICANT IMPACT**

- c. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?*

No paleontological resources are known to exist on the project sites. Nevertheless, as excavation for the project may exceed the depths of excavation for prior development, impacts to unrecorded subsurface paleontological resources would be potentially significant unless mitigated as site grading activities could uncover previously undisturbed resources, if they are located on the sites. However, the City has a standard condition of approval to address the potential discovery of paleontological resources during demolition, grading, and/or construction. In the event of an

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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. With the adoption of the standard conditions of approval, the proposed project would not have a significant impact on paleontological resources.

**LESS THAN SIGNIFICANT IMPACT**

*d. Disturb any human remains, including those interred outside of formal cemeteries?*

It is unknown whether or not any human remains may be interred on the project sites. As excavation for the project may exceed the depths of excavation for prior development, impacts to unrecorded subsurface human remains would be potentially significant unless mitigated, as site grading activities could uncover previously undisturbed resources, if they are located on the sites. The City has a standard condition of approval to address the potential discovery of human remains during 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. With the adoption of the standard conditions of approval, the proposed project would not have a significant impact on unknown human remains.

**LESS THAN SIGNIFICANT IMPACT**

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## 6 Geology and Soils

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                         |                          |                          |                                     |                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Expose people or structures to potentially substantial adverse effects, including the risk of loss, injury, or death involving:                                                                                      |                          |                          |                                     |                                     |
| 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 2. Strong seismic ground shaking?                                                                                                                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 3. Seismic-related ground failure, including liquefaction?                                                                                                                                                              | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 4. Landslides?                                                                                                                                                                                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b. Result in substantial soil erosion or the loss of topsoil?                                                                                                                                                           | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c. Be located on a geologic unit or soil that is made unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?                | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Be located on expansive soil, as defined in Table 1-B of the Uniform Building Code, creating substantial risks to life or property?                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

- a.1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?*

The project sites are not located in an identified earthquake fault zone delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map (CGS 2003), nor are any other known fault lines located on the sites. The closest active fault is the Hayward fault, approximately 2.3 miles east. Implementation of the proposed project would not expose people or structures to potentially substantial adverse effects involving rupture of a known earthquake fault. No impact would occur.

**NO IMPACT**

- a.2. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?*

The project sites are susceptible to strong seismic ground shaking in the event of a major earthquake. Nearby active faults include the San Andreas Fault, the Calaveras Fault, and the Hayward Fault. These faults are capable of producing strong seismic ground shaking at the project site. However, the 2016 California Building Code (CBC), as adopted in BMC Chapter 19.28, contains requirements for structural design, including seismic design specifications. Compliance with the mandatory building code structural specifications would result in a building that resists adverse effects from seismic ground shaking. The Pardee Block parking lot project site does not propose any structures that would expose people to impacts of strong seismic ground shaking. Therefore, impacts associated with strong seismic ground shaking would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

- a.3. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?*

Liquefaction is a condition that occurs when unconsolidated, saturated soils change to a near-liquid state during ground shaking. The project sites are located in a mapped Liquefaction Zone as shown on the Earthquake Zones of Required Investigation – Oakland West Quadrangle (CGS 2003). Langan Treadwell Rollo completed a geotechnical investigation for the medical office site in 2016 (Appendix C). It found that the soils encountered at or below the groundwater depth were medium dense silty and clayey sands that could be susceptible to pore-pressure buildup, liquefaction, and strength loss during a major earthquake. However, the report also found that the potentially liquefiable layers appear discontinuous, and estimates that up to 0.75 inch of differential settlement at the ground surface may occur during an earthquake. The report concludes that the likelihood of lateral spreading and the potential for seismic densification during an earthquake is low. Moreover, the report found that the project is feasible from a geotechnical standpoint. The 2016 CBC, as adopted in BMC Chapter 19.28, contains requirements for structural design, including seismic design specifications. Compliance with the mandatory building code structural specifications would result in a building that resists adverse effects related to liquefaction, lateral spreading, and seismic densification. Implementation of the proposed project would not expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design and seismic safety techniques in accordance with the requirements of the BMC. The Pardee Block

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parking lot project site is not proposed to be developed with any structures. Therefore, impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

*a.4. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?*

Earthquakes can trigger landslides that may cause injuries and damage to structures. Landslides are typically a hazard on or near slopes or hillside areas, rather than generally level areas like the project site and vicinity. The project sites are not located in a mapped Earthquake-Induced Landslide Zone as shown on the Earthquake Zones of Required Investigation – Oakland West Quadrangle (CGS 2003). There would be no impacts associated with landslides.

**NO IMPACT**

*b. Would the project result in substantial soil erosion or the loss of topsoil?*

The development of a medical office building and surface parking lots on these flat urban sites would change the drainage patterns on the project sites. However, runoff associated with the proposed project would be directed either to landscaped areas and/or pre-manufactured storm water quality best management practices (BMPs) for infiltration and water quality purposes or directed to an impervious drainage system. As such, the alteration of the existing drainage pattern would not result in substantial erosion or siltation on-site or off-site. In accordance with BMC § 17.20.050, the City of Berkeley would require use of the applicable portions of the state storm water BMP manual for construction activity, to the maximum extent practicable, as a condition of the required grading permit.

Because the proposed project would disturb more than one acre of land surface, the applicant would be regulated under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (the Construction General Permit). One requirements of the Construction General Permit is development of a Storm Water Pollution Prevention Plan (SWPPP) that would identify the sources of sediment and other pollutants that affect the quality of storm water discharges and would describe and ensure implementation of BMPs to reduce or eliminate sediment and other pollutants in storm water as well as non-storm water discharges. BMC §17.20.050 requires that the applicant provide evidence of submittal of a notice of intent to the State Water Resources Control Board (SWRCB) per Construction General Permit requirements as a condition of the grading permit. Compliance with the NPDES and City of Berkeley permit requirements would minimize erosion from exposed surfaces and reduce soil erosion impacts to a less than significant level.

**LESS THAN SIGNIFICANT IMPACT**

*c. Would the project be located on a geologic unit or soil that is made unstable as a result of the project, and potentially result in on or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?*

The Geotechnical Investigation found that the medical office site soil between 19 to 37 feet below ground service could be susceptible to pore-pressure buildup, liquefaction, and strength loss during a major earthquake (Langan Treadwell Rollo 2016). However, the report concludes that both the likelihood of lateral spreading and the potential for seismic densification during an earthquake is low. The 2016 CBC, as adopted in BMC Chapter 19.28, contains requirements for structural design,

including seismic design specifications. Compliance with the mandatory building code structural specifications would result in a building that resists adverse effects related to unstable soils. The proposed project would not expose people or property to major geologic hazards that cannot be mitigated by standard engineering design and seismic safety techniques. The Pardee Block parking lot project site is not proposed to be developed with any structures. Therefore, impacts would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- d. Would the project be located on expansive soil, as defined in Table 1-B of the Uniform Building Code, creating substantial risks to life or property?*

Although expansive soils are present at the project sites, the Geotechnical Investigation concluded that the use of standard engineering design and seismic safety techniques reduce the effects of the expansive soils to less than significant levels (Langan Treadwell Rollo 2016). The report included recommendations such as moisture conditioning the expansive soil and providing non-expansive fill material. The 2016 CBC, as adopted in BMC Chapter 19.28, contains requirements for structural design, including seismic design specifications. Compliance with the mandatory building code structural specifications would result in a building that resists adverse effects related to expansive soils. Final designs prepared in compliance with the 2016 CBC would include measures to excavate the existing fill materials that are susceptible to expansion and either replace the materials with engineered fill or further evaluate the possible reuse of the materials as engineered fill. Incorporation of the recommendations of the Geotechnical Investigation into the final geotechnical report (required by 2016 CBC 1803.5.5) would ensure that the potential impacts associated with expansive soils would be less than significant. The Pardee Block parking lot project site is not proposed to be developed with any structures. Therefore, risks to life and property from expansive soils would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- e. Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

A sanitary sewer system maintained by the City of Berkeley serves the project sites for the collection system and East Bay Municipal Utility District (EBMUD) provides interceptor lines to a central treatment plant. The proposed project would have access to these systems, and septic systems would neither be required nor permitted. The proposed project would therefore have no impact in this regard.

#### **NO IMPACT**



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## 7 Greenhouse Gas Emissions

|                                                                                                                             | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact        | No Impact                |
|-----------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|-------------------------------------|--------------------------|
| Would the project:                                                                                                          |                                |                                                    |                                     |                          |
| a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Conflict with any applicable plan, policy, or regulation adopted to reduce the emissions of greenhouse gases?            | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

The accumulation of greenhouse gases (GHG) in the atmosphere regulates the earth’s temperature. Without the natural heat-trapping effect of GHGs, Earth’s surface would be about 93.2°F cooler (California Environmental Protection Agency [CalEPA] 2006). However, emissions from human activities, particularly the consumption of fossil fuels for electricity production and transportation, have elevated the concentration of these gases in the atmosphere beyond the level of naturally occurring concentrations. Carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and nitrous oxide (N<sub>2</sub>O) are the GHGs emitted in the greatest quantities from human activities. Emissions of CO<sub>2</sub> are largely by-products of fossil fuel combustion. CH<sub>4</sub> results from fossil fuel combustion and off-gassing associated with agricultural practices and landfills. Microbial processes in soil and water produce N<sub>2</sub>O, and include reactions that occur in fertilizers that contain nitrogen, fossil fuel combustion, and other chemical processes.

Scientific modeling predicts that continued GHG emissions at or above current rates would induce more extreme climate changes during the 21st century than were observed during the 20th century. According to CalEPA’s 2010 Climate Action Team Biennial Report, potential impacts of climate change in California may include loss in snow pack, sea level rise, more extreme heat days per year, more high ozone days, more large forest fires, and more drought years (CalEPA 2010). While these potential impacts identify the possible effects of climate change at a global and potentially statewide level, in general scientific modeling tools are currently unable to predict what impacts would occur locally with a similar degree of accuracy.

### California Regulations

California Air Resources Board (CARB) is responsible for the coordination and oversight of state and local air pollution control programs in California. California has numerous regulations aimed at reducing the state’s GHG emissions. These initiatives are summarized below.

Assembly Bill (AB) 1493 (2002), California’s Advanced Clean Cars program (referred to as “Pavley”), requires CARB to develop and adopt regulations to achieve “the maximum feasible and cost-effective reduction of GHG emissions from motor vehicles.” On June 30, 2009, the USEPA granted the waiver of Clean Air Act preemption to California for its GHG emission standards for motor vehicles beginning with the 2009 model year. Pavley I took effect for model years starting in 2009 to 2016 and Pavley II, now referred to as “LEV (Low Emission Vehicle) III GHG,” will cover 2017 to 2025.

Fleet average emission standards would achieve 22 percent reduction from 2009 levels by 2012 and 30 percent by 2016. The Advanced Clean Cars program coordinates the goals of the Low Emissions Vehicles, Zero Emissions Vehicles, and Clean Fuels Outlet programs and would provide major reductions in GHG emissions. By 2025, when the rules will be fully implemented, new automobiles will emit 34 percent fewer GHGs and 75 percent fewer smog-forming emissions from their model year 2016 levels (CARB 2011).

In 2005, Executive Order (EO) S-3-05 established statewide GHG emissions reduction targets, providing that by 2010, emissions shall be reduced to 2000 levels; by 2020, emissions shall be reduced to 1990 levels; and by 2050, emissions shall be reduced to 80 percent below 1990 levels (CalEPA 2006). In response to EO S-3-05, CalEPA created the Climate Action Team (CAT), which published the Climate Action Team Report (the "2006 CAT Report") in March 2006 (CalEPA 2006). The 2006 CAT Report identified a recommended list of strategies that the state could pursue to reduce GHG emissions. These strategies could be implemented by various state agencies to ensure that the emission reduction targets in EO S-3-05 can be met with existing authority of the state agencies. The strategies include the reduction of passenger and light duty truck emissions, the reduction of idling times for diesel trucks, an overhaul of shipping technology/infrastructure, increased use of alternative fuels, increased recycling, and landfill methane capture, to name a few. In April 2015, EO B-30-15 was issued, calling for a new target of 40 percent below 1990 levels by 2030.

Assembly Bill 32 (AB 32) outlines California's major initiative for reducing GHG emissions; called the "California Global Warming Solutions Act of 2006," it was signed into law in 2006 and codifies the statewide goal of reducing GHG emissions to 1990 levels by 2020 (essentially a 15 percent reduction below 2005 emission levels, the same requirement as under S-3-05). It also requires CARB to prepare a Scoping Plan that outlines the main strategies for reducing GHGs to meet the 2020 deadline. AB 32 requires CARB to adopt regulations to require reporting and verification of statewide GHG emissions.

After completing a comprehensive review and update process, CARB approved a 1990 statewide GHG level and 2020 limit of 427 MMT CO<sub>2</sub>e. CARB approved the Scoping Plan on December 11, 2008, and included measures to address GHG emission reduction strategies related to energy efficiency, water use, and recycling and solid waste, among other measures. Many of the GHG reduction measures included in the Scoping Plan (e.g., Low Carbon Fuel Standard, Advanced Clean Car standards, and Cap-and-Trade) have been adopted since approval of the Scoping Plan. Implementation activities are ongoing and CARB is currently the process of updating the Scoping Plan.

In May 2014, CARB approved the first update to the AB 32 Scoping Plan. The 2013 Scoping Plan update defines CARB's climate change priorities for the next five years and sets the groundwork to reach post-2020 goals set forth in EO S-3-05. The update highlights California's progress toward meeting the "near-term" 2020 GHG emission reduction goals defined in the original Scoping Plan. It also evaluates how to align the state's longer-term GHG reduction strategies with other state policy priorities, such as for water, waste, natural resources, clean energy, and transportation, and land use (CARB 2014).

Senate Bill (SB) 97, signed in August 2007, acknowledges that climate change is an environmental issue that requires analysis in CEQA documents. In March 2010, the California Resources Agency (Resources Agency) adopted amendments to the state CEQA Guidelines for the feasible mitigation of GHG emissions or the effects thereof. The adopted guidelines give lead agencies the discretion to

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set quantitative or qualitative thresholds for the assessment and mitigation of GHGs and climate change impacts.

CARB Resolution 07-54 establishes 25,000 MT of GHG emissions as the threshold for identifying the largest stationary emission sources in California for purposes of requiring the annual reporting of emissions. This threshold is just over 0.005 percent of California's total inventory of GHG emissions for 2004.

Senate Bill (SB) 375, signed in August 2008, enhances the state's ability to reach AB 32 goals by directing CARB to develop regional GHG emission reduction targets to be achieved from passenger vehicles for 2020 and 2035. In addition, SB 375 directs each of the state's 18 major Metropolitan Planning Organizations to prepare a "sustainable communities strategy" for their districts, including a growth strategy to meet these emission targets for inclusion in their regional transportation plans. On September 23, 2010, CARB adopted final regional targets for reducing GHG emissions from 2005 levels by 2020 and 2035.

In April 2011, the governor signed SB 2X, requiring California to generate 33 percent of its electricity from renewable energy by 2020.

In September 2016, SB 32 was signed into law, codifying the 40 percent GHG emission reduction target adopted by Governor Brown in April 2015 through an executive order (B-30-15). SB 32 became effective on January 1, 2017 and requires the CARB to develop technologically feasible and cost effective regulations to achieve the targeted 40 percent GHG emission reduction. CARB adopted an second update to the Scoping Plan in November 2017 to provide a framework for achieving the 2030 target.

### **BAAQMD Clean Air Plan**

As detailed in the Air Quality section of this IS-MND, the Bay Area 2017 Clean Air Plan (2017 Plan) provides a regional strategy to protect public health and protect the climate. Consistent with the GHG reduction targets adopted by the state, the 2017 Plan lays the groundwork for a long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050 (BAAQMD 2017b).

### **Climate Action Plan**

Adopted in June 2009, the City of Berkeley's Climate Action Plan (CAP) (Berkeley 2009) sets a 2020 year target to achieve a 33 percent absolute reduction below year 2000 community-wide emissions and identifies actions to achieve the target with the ultimate goal of 80 percent emission reductions. The Berkeley CAP contains GHG reduction policies for transportation and land use, building energy use, and waste reduction and recycling.

### **General Plan**

The City of Berkeley also addresses GHG emissions in its General Plan, primarily in the Environmental Management Element. Policies in the General Plan that would reduce GHG emissions include developing a green building certification program and encouraging compliance with green building standards (Policy EM-4, Policy EM-5), increasing waste diversion (Policy EM-7), recycling construction and demolition material (Policy EM-8), supporting and implementing local emission reduction programs (Policy EM-19), promoting energy-efficient design techniques (Policy EM-35), and implementing energy conservation techniques (Policy EM-36).

## Methodology

The majority of individual projects do not generate sufficient GHG emissions to create a project-specific impact through a direct influence to climate change. Therefore, the issue of climate change typically involves an analysis of whether a project's contribution towards an impact is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects (CEQA Guidelines, §15355).

CalEEMod version 2016.3.2 was used to calculate total annual project emissions that include construction and operational emissions (Appendix A). To combine short-term construction emissions with annual operational emissions, the project's construction emissions are amortized over a 30-year period, consistent with BAAQMD guidance. The analysis focuses on CO<sub>2</sub>, N<sub>2</sub>O, and CH<sub>4</sub> because these make up 98.9 percent of all GHG emissions by volume (IPCC 2007). Fluorinated gases, such as HFCs, PFCs, and SF<sub>6</sub>, were considered for the analysis. However, the project would not generate a significant amount of fluorinated gases because these compounds are primarily associated with industrial processes.

The proposed project would replace existing development, which includes an automobile care facility, storage facility<sup>3</sup>, and parking lot. Construction emissions would be directly due to the proposed project and thus are 100 percent attributed to new emissions. Because the proposed development would replace existing uses, the operational emissions of the current development were also estimated in CalEEMod and then subtracted from the estimated emissions associated with the proposed project in order to understand the expected net change in GHG emissions associated with the project.

The project's total net annual emissions were compared to BAAQMD's GHG significance thresholds, shown in Table 9 (BAAQMD 2017c). If annual emissions of operational-related GHGs exceed these levels, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change.

**Table 9 BAAQMD's GHG Significance Thresholds**

| GHG Emission Source Category                           | Operational Emissions                                                                                                                                        |
|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-stationary Sources                                 | Compliance with a Qualified GHG Reduction Strategy; or<br>1,100 MT of CO <sub>2</sub> e/year; or<br>4.6 MT CO <sub>2</sub> e/SP/year (residents + employees) |
| Stationary Sources                                     | 10,000 MT/year                                                                                                                                               |
| Plan-Level                                             | Compliance with a Qualified GHG Reduction Strategy; or<br>6.6 MT of CO <sub>2</sub> e/SP/year (residents + employees)                                        |
| Notes: SP = Service Population<br>Source: BAAQMD 2017c |                                                                                                                                                              |

<sup>3</sup> Because the storage facility is exclusively accessible to the automobile facility, it was modeled in CalEEMod as an enclosed parking structure without an elevator to conservatively reflect the emissions.

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- a. *Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?*

**Construction Emissions**

Construction of the project would generate temporary GHG emissions primarily due to the operation of construction equipment and truck trips. Site preparation and grading typically generate the greatest amount of emissions due to the use of grading equipment and soil hauling. CalEEMod was used to estimate emissions associated with the construction period, based on parameters such as the duration of construction activity, area of disturbance, and anticipated equipment used during construction.

Although construction activity is addressed in this analysis, CAPCOA does not discuss whether any of the suggested threshold approaches adequately address impacts from temporary construction activity. As stated in the CEQA and Climate Change whitepaper, “more study is needed to make this assessment or to develop separate thresholds for construction activity” (CAPCOA 2008). Additionally, the BAAQMD does not have specific quantitative thresholds for construction activity. Therefore, although discussed in this analysis, construction activity is not included in the total emissions calculations.

Based on the preliminary construction schedule, this analysis assumes an overall construction period of nine months. Table 10 shows that construction activity associated with the project would generate an estimated 255 metric tons of CO<sub>2</sub>e.

**Table 10 Estimated Construction Emissions of Greenhouse Gases**

| Year                                   | Annual Emissions (MT of CO <sub>2</sub> e) |
|----------------------------------------|--------------------------------------------|
| 2019                                   | 177.4                                      |
| 2020                                   | 249.7                                      |
| Total Estimated Construction Emissions | 427.1                                      |

See Appendix A for CalEEMod Results.

**Operational Emissions**

CalEEMod was used to estimate emissions from the long-term operation of the new commercial building. On-site operational emissions included energy use, area sources, solid waste, and water use.

*Energy Sources*

Operation of the proposed medical office building would consume natural gas and electricity. Operational emissions from energy use for the project were estimated using CalEEMod (see Appendix A for calculations). The default values on which CalEEMod is based include the California Energy Commission-sponsored California Commercial End Use Survey and the statewide 2016 Title 24 standards. A Preliminary Energy Analysis (PEA) of the project was conducted by Interface Engineering (August 2016, see Appendix B). Energy efficient enhancements incorporated into the building design would include features such as a variable refrigerant flow heat-recovery system, roof overhang and shading devices, and daylight harvesting. The PEA concluded that the building, as

designed, would result in a 17 percent energy saving beyond that achieved through 2016 Title 24 standards; this was accounted for in the CalEEMod modeling.

### *Area Sources*

Emissions associated with area sources, including consumer products, landscape maintenance, and architectural coatings, were calculated in CalEEMod based on standard emission rates from the USEPA, CARB, and district-supplied emission factor values (CalEEMod User's Guide 2016).

### *Solid Waste Generation*

Emissions from waste generation were calculated in CalEEMod, based on the Intergovernmental Panel on Climate Change's methods for quantifying GHG emissions from solid waste using the degradable organic content of waste (CalEEMod User's Guide 2016). Waste disposal rates by land use and overall composition of municipal solid waste in California were primarily based on data provided by the California Department of Resources Recycling and Recovery (CalRecycle). The City of Berkeley is responsible for complying with AB 939, which mandates 50 percent of solid waste diverted from landfills. Between 1995 and 2010, the City diverted 76 percent of waste, meeting the City's goal of 75 percent waste diversion by 2010. The proposed project would participate in the City's waste diversion programs and would continue diverting a minimum of 75 percent of its solid waste, which was included in the CalEEMod estimations.

### *Water and Wastewater*

Emissions from water and wastewater usage calculated in CalEEMod were based on the default electricity intensity from the California Energy Commission's 2006 Refining Estimates of Water-Related Energy Use in California using the average values for Northern and Southern California (CalEEMod User's Guide 2016). The proposed building would be designed to achieve a LEED Silver (or equivalent) rating, but the exact design features are not known and thus excluded for a conservative analysis.

### **Mobile Emissions**

GHG emissions from transportation sources were based on trip generation rates from the Transportation Impact Analysis prepared by Fehr & Peers for the project, updated in June 2018 (see Appendix F). The WBCMP developed a trip generation methodology specific to development projects in the West Berkeley planning area. The methodology reduces national trip generation rates of the Institute of Transportation Engineers (ITE) *Trip Generation Manual* to better reflect local conditions. ITE trip generation rates are based on national data, often collected in suburban locations with low rates of non-auto travel. The WBCMP adjustments reflect the high density of uses, proximity to transit, and propensity to walk in West Berkeley. Based on the application of the WBCMP, the a.m. and p.m. peak hour trips generation for the project were reduced by approximately 16 percent. Furthermore, daily trips to the café were reduced by 70 percent below ITE rates due to pass-by trips (Fehr & Peers 2018) and the trip length was reduced to 2.0 miles.

For mobile sources, CalEEMod was used to quantify CO<sub>2</sub> and CH<sub>4</sub> emissions from vehicle trips to and from the project sites. Because CalEEMod does not calculate N<sub>2</sub>O emissions from mobile sources, California Climate Action Registry General Reporting Protocol (January 2009) was used to quantify direct emissions factors for mobile combustion (Appendix A). Emission rates for N<sub>2</sub>O emissions were based on CalEEMod's default vehicle fleet mix output and the emission factors found in the California Climate Action Registry General Reporting Protocol.

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### Combined Annual Operational and Mobile GHG Emissions

Table 11 summarizes the net increase in GHG emissions associated with the proposed project.

Table 11 Combined Annual Emissions of Greenhouse Gases

| Emission Source                     | Annual Emissions (MT of CO <sub>2</sub> e) |                                                  |
|-------------------------------------|--------------------------------------------|--------------------------------------------------|
|                                     | Proposed Project                           | Existing Pardee Block Buildings to be Demolished |
| <b>Operational</b>                  |                                            |                                                  |
| Area                                | <0.1                                       | <0.1                                             |
| Energy                              | 282.2                                      | 55.3                                             |
| Solid Waste                         | 82.9                                       | 17.3                                             |
| Water                               | 24.4                                       | 3.0                                              |
| <b>Mobile</b>                       |                                            |                                                  |
| CO <sub>2</sub> and CH <sub>4</sub> | 827.6                                      | 104.3                                            |
| N <sub>2</sub> O                    | 33.0                                       | 4.1                                              |
| <b>Project Emission Total</b>       | <b>1,250.1</b>                             | <b>184.0</b>                                     |
| <b>Net Change<sup>1</sup></b>       |                                            | 1,066.1                                          |
| BAAQMD Threshold                    |                                            | 1,100                                            |
| Threshold Exceeded?                 |                                            | No                                               |

Sources: See Appendix A for calculations and for GHG emission factor assumptions for the Proposed Project and Existing Use.  
<sup>1</sup> Project Emissions minus Existing Pardee Block Buildings to be Demolished

Table 11 shows the combined net increase in annual emissions from new development on the project sites would total approximately 1,066.1 metric tons of CO<sub>2</sub>e per year. This is a conservative estimate because, as discussed in the Project Description, the proposed project is designed to achieve LEED Silver status and some of the specific project features that would allow the project to attain this certification are not included in the analysis, such as: high efficiency lighting, water, and HVAC systems, efficient glazing on the glass exterior, green roof design features, and shade trees in the parking lots. Further, the existing buildings to be demolished were constructed prior to the implementation of Title 24 green building standards, which are used in the CalEEMod calculations and therefore, the calculated existing emissions represent a conservative estimate.

In addition, the applicant would be required to comply with standard conditions of approval related to transportation demand management. A Transportation Demand Management compliance report shall be submitted to the Transportation Division Manager, on a form acceptable to the City, prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is in compliance with the applicable requirements and the following:

- a. Consistent with BMC 23E.68.080.H, and subject to the review and oversight of the Transportation Division Manager, the cost equivalent to an unlimited local bus pass shall be provided on a Clipper Card, or equivalent card that can be used by major Bay Area transit systems, shall be provided, at no cost, to every employee.
- b. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.

- c. Transit information shall be provided in the residential lobby, updated at a minimum once a year. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.
- d. Transportation Information Officer will gather and provide information regarding transit and other alternative transportation to residents and commercial tenants and their employees. Information may pertain to the City, regional transit agencies, car sharing, Spare the Air, 511 and other relevant programs. This information package shall be provided to all residents/employees on arrival plus once a year.
- e. The food service operation, if qualifying for participation in the Alameda County Guaranteed Ride Home program (or successor program), shall participate in the "Guarantee Ride Home" program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency. Enrollment shall be encouraged by providing Guarantee Ride Home information to all employees. An affidavit/statement indicating number of participating employees shall be provided annually to the Transportation Division Manager.

Some traffic reduction measures that are already designed into the project include participation in the West Berkeley shuttle service and the provision of 20 fuel efficient vehicle parking spaces, plus 27 parking spaces designated for clean air/van pool/electric vehicles. Based on the information above, and with the implementation of standard conditions of approval regarding traffic reduction measures, the proposed project would be consistent with BAAQMD's GHG significance thresholds. Therefore, this impact would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- b. Would the project conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

The City of Berkeley adopted a CAP in 2009 that includes goals, policies, and implementing actions that are applicable to the project, including the following:

- The Transportation and Land Use Chapter includes policies designed to reduce vehicle miles traveled in Berkeley by making cycling, walking, public transit, and other sustainable mobility modes the mainstream and to increase vehicle fuel efficiency and the utilization of low carbon fuels.
- The Building Energy chapter includes policies that would reduce conventional energy use in existing Berkeley homes, businesses, and institutions through energy efficiency retrofits and a greater reliance on renewable energy, such as solar.
- The Waste Reduction and Recycling chapter includes policies that would eliminate solid waste at the point of production, and to maximize reuse and recycling throughout the community.

City of Berkeley General Plan Environmental Management Element contains policies and actions expected to reduce GHG emissions. As discussed in the Land Use and Planning section of this IS-MND, the proposed project would be consistent with the City's General Plan and zoning requirements assuming the rezone is granted. Table 12 summarizes the proposed project's consistency with the applicable implementation measures in the CAP and General Plan Environmental Management Element.



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Table 12 Consistency with Applicable CAP and General Plan Strategies

| Goals, Policies, and Actions                                                                                                                                                                                                                | Project Consistency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>City of Berkeley CAP: Applicable Sustainable Transportation &amp; Land Use Actions</b>                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>1. Goal: Increase density along transit corridors</b>                                                                                                                                                                                    | <b>Consistent.</b> The medical office building is located along San Pablo Avenue, which is a major transit corridor in Berkeley, and there are several existing alternative transportation opportunities for reducing project-generated vehicle trips. There are more than ten AC Transit bus stops within 0.25 mile of the project sites, with the closest stop approximately 150 feet from the project sites at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). There are three BART stations within two miles of the project sites: North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east). |
| a. Policy: Encourage the development of housing (including affordable housing) retail services, and employment centers in areas of Berkeley best served by transit                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>2. Goal: Increase and enhance urban green and open space, including local food production, to improve the health and quality of life for residents, protect biodiversity, conserve natural resources, and foster walking and cycling</b> | <b>Consistent.</b> The medical office building would include 2,150 square feet of public open space comprising two public plazas. One 650 square foot area would be located at the corner of Parker and Tenth Street and a 1,200 square foot plaza would be located along San Pablo Avenue, adjacent to the proposed café/retail space. In addition, although two trees would be removed from the medical office site for construction, approximately 26 trees would be planted, increasing tree cover on the site. Approximately 28 trees would be planted on the Pardee Block parking lot site.                                                                                        |
| a. Policy: Require new developments in specified areas to contribute to street level open space on-site or in the public realm.                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| b. Policy: Promote tree planting, landscaping, and the creation of green and open space that is safe and attractive and that helps to restore natural processes.                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>3. Goal: Manage parking more effectively to minimize driving demand and to encourage and support alternatives to driving</b>                                                                                                             | <b>Consistent.</b> The project includes a request for reduced vehicle parking spaces by providing bicycle parking spaces. In addition, there are multiple existing alternative transportation opportunities for reduced project-generated vehicle trips including nearby AC transit stops and three BART stations within two miles. The new facility operator would also provide shuttle service to one or more of the nearby BART stations.                                                                                                                                                                                                                                             |
| a. Policy: Design and implement parking strategies to create disincentives for driving – especially for single-occupancy commuting – and, where possible, to build revenue for transportation services.                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>5. Goal: Accelerate Implementation of the City's Bicycle &amp; Pedestrian Plans</b>                                                                                                                                                      | <b>Consistent.</b> The proposed project would include bicycle parking spaces and pedestrian paths between the off-site parking lot and the medical office site. In addition, pedestrian access points would be established from San Pablo Avenue, Parker Street, and Tenth Street for convenient access to the medical office site.                                                                                                                                                                                                                                                                                                                                                      |
| a. Policy: Continue to expand and improve Berkeley's bicycle and pedestrian infrastructure                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>6. Goal: Make public transit more frequent, reliable, integrated and accessible</b>                                                                                                                                                      | <b>Consistent.</b> There are multiple existing alternative transportation opportunities for reduced project-generated vehicle trips including nearby AC transit stops and three BART stations within two miles. The new facility operator would also provide shuttle service to one or more of the nearby BART stations.                                                                                                                                                                                                                                                                                                                                                                 |
| d. Policy: Partner with AC Transit, BART, UC Berkeley and other employers to provide subsidized transit passes and fare-free zones.                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| e. Policy: Expand and integrate community shuttle bus networks.                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| f. Policy: Encourage additional passenger rail service and ridership in Berkeley.                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| Goals, Policies, and Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Project Consistency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>City of Berkeley CAP: Applicable Building Energy Use Actions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>1. Goal: Make green building business as usual in the new construction and remodel market</b></p> <p>a. Policy: Improve local energy and green building standards</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p><b>Consistent.</b> The proposed project would be required to comply with the 2016 Title 24 standards, which are 5 percent more efficient than the 2013 standards for commercial projects. The Preliminary Energy Analysis showed that the project, as designed, would result in 17 percent energy savings beyond that achieved through 2013 Title 24 standards. Therefore, the project would result in an efficiency rating beyond even 2016 Title 24 standards. The project would be designed to achieve a Silver LEED rating as well.</p>               |
| <b>City of Berkeley CAP: Applicable Waste Reduction and Recycling Actions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>2. Goal: Increase recycling, composting &amp; waste reduction in the commercial sector</b></p> <p>a. Policy: Enhance recycling and composting outreach and assistance to local businesses</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p><b>Consistent.</b> The City of Berkeley is responsible for complying with AB 939, which mandates 50% of solid waste diverted from landfills. Between 1995 and 2010, the City diverted 76% of waste, meeting the City’s goal of 75% waste diversion by 2010. The proposed project would participate in the City’s waste diversion programs and would continue diverting a minimum of 75% of its solid waste. The project would also be subject to all applicable State and County requirements for solid waste reduction as they change in the future.</p> |
| <b>City of Berkeley General Plan Environmental Management Element</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>Policy EM-4: Green Building Certification.</b> Develop a green building certification program.</p> <p><b>Applicable Actions:</b></p> <ul style="list-style-type: none"> <li>▪ Encourage all private buildings to be Green Building certified.</li> <li>▪ Develop a green design assistance program.</li> <li>▪ Minimize greenhouse gases produced by new buildings especially as related to space heating efficiencies</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p><b>Consistent.</b> The proposed project would be required to comply with the 2016 Title 24 standards, which are 5 percent more efficient than the 2013 standards for commercial projects. The Preliminary Energy Analysis showed that the project, as designed, would result in 17 percent energy savings beyond that achieved through 2013 Title 24 standards. Therefore, the project would result in an efficiency rating beyond even 2016 Title 24 standards. The project would be designed to achieve a Silver LEED rating as well.</p>               |
| <p><b>Policy EM-5: “Green” Buildings.</b> Promote and encourage compliance with “green” building standards.</p> <p><b>Applicable Actions:</b></p> <ul style="list-style-type: none"> <li>▪ Encourage, and where appropriate require, new construction and major remodel projects to be sited, designed, constructed, and operated to enhance the well-being of their occupants, and to minimize present and future impacts on the community and the natural environment. (Also see Policy EM-39.)</li> <li>▪ Encourage landscaping for water and energy efficiency. (Also see Policy EM-26.)</li> <li>▪ Encourage buildings to incorporate renewable energy and energy- and water-efficient technologies. (Also see Policies EM-38 and EM-39.)</li> <li>▪ Encourage use of recycled-content construction materials. (Also see Policy EM-6.)</li> <li>▪ Encourage efforts to improve indoor air quality and to</li> </ul> | <p><b>Consistent.</b> The proposed project would be required to comply with the 2016 Title 24 standards, which are 5 percent more efficient than the 2013 standards for commercial projects. The Preliminary Energy Analysis showed that the project, as designed, would result in 17 percent energy savings beyond that achieved through 2013 Title 24 standards. Therefore, the project would result in an efficiency rating beyond even 2016 Title 24 standards. The project would be designed to achieve a Silver LEED rating as well.</p>               |

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| Goals, Policies, and Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Project Consistency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>provide a comfortable and healthy environment.</p> <ul style="list-style-type: none"> <li>▪ Encourage reduction of construction and demolition waste. (Also see Policy EM-6.)</li> <li>▪ Encourage construction of durable buildings.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>Policy EM-7: Reduced Wastes.</b> Continue to reduce solid and hazardous wastes.</p> <p><b>Applicable Actions:</b></p> <ul style="list-style-type: none"> <li>▪ Achieve a 64 percent diversion of waste from landfills.</li> <li>▪ Manage wastes locally to the greatest extent feasible to minimize the export of wastes and pollution to other communities.</li> <li>▪ Encourage reduction in the use of toxic materials.</li> <li>▪ Encourage reuse, recycling, and composting.</li> <li>▪ Support programs and incentives to reduce the manufacture and use of materials that are non-recyclable or hazardous to people and the environment.</li> <li>▪ Encourage reusable bags and packaging such as reusable bottles, whether glass or plastic.</li> </ul> | <p><b>Consistent.</b> The City of Berkeley is responsible for complying with AB 939, which mandates 50 percent of solid waste diverted from landfills. Between 1995 and 2010, the City diverted 76 percent of waste, exceeding the City’s General Plan goal of 64 percent waste diversion. In addition, per AB 341, California’s goal is 75% diversion by 2020. The Alameda County goal is “Under 10 by 2020” (i.e. less than 10 percent of material sent to Alameda County landfills will be readily recyclable or compostable. The proposed project would participate in the City’s waste diversion programs and would continue diverting a minimum of 75% of its solid waste.. The project would also be subject to all applicable state and County requirements for solid waste reduction as they change in the future.</p> |
| <p><b>Policy EM-31 Landscaping.</b> Encourage drought-resistant, rodent-resistant, and fire-resistant plants to reduce water use, prevent erosion of soils, improve habitat, lessen fire danger, and minimize degradation of resources.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p><b>Consistent.</b> To achieve LEED Silver or equivalent rating, at least 75 percent of plants in non-turf landscaped areas would be species that require no or little summer watering once established, among other water-saving measures, according to the applicant’s Bay-Friendly Basics Landscape Checklist. In addition, the project would be required to comply with the California Water Efficient Landscape Ordinance, which reinforces landscape irrigation and water conservation best practices currently required by EBMUD Section 31 Regulations.</p>                                                                                                                                                                                                                                                           |
| <p><b>Policy EM-35: Energy-Efficient Design.</b> Promote high-efficiency design and technologies that provide cost-effective methods to conserve energy and use renewable energy sources.</p> <p><b>Applicable Actions:</b></p> <ul style="list-style-type: none"> <li>▪ Promote statewide code revisions necessary to enable the use of new methods and materials to conserve resources and prevent pollution.</li> </ul>                                                                                                                                                                                                                                                                                                                                            | <p><b>Consistent.</b> The proposed project would be required to comply with the 2016 Title 24 standards, which are around 5 percent more efficient than the 2013 standards for commercial projects. The Preliminary Energy Analysis showed that the project, as designed, would result in 17 percent energy savings beyond that achieved through 2013 Title 24 standards. Therefore, the project would result in an efficiency rating beyond even 2016 Title 24 standards. The project would be designed to achieve a Silver LEED rating as well.</p>                                                                                                                                                                                                                                                                           |
| <p><b>Policy EM-36: Energy Conservation.</b> Continue to implement energy conservation requirements for residential and commercial buildings at the time of sale and at time of major improvements.</p> <p><b>Applicable Actions:</b></p> <ul style="list-style-type: none"> <li>▪ Encourage patterns of development, building designs, and construction methods that are energy-efficient and reduce pollution.</li> <li>▪ Encourage the use of lighting that is energy-efficient and non-intrusive.</li> </ul>                                                                                                                                                                                                                                                      | <p><b>Consistent.</b> The proposed project would be required to comply with all standards of Title 24 that are in effect at the time of development. The 2016 Title 24 standards are around 28 percent more efficient than the 2013 Title 24 standards, which are around 30 percent more efficient than the 2008 standards, which in turn are around 15 percent more efficient than the 2005 standards. The Preliminary Energy Analysis showed that the project, as designed, would result in 17 percent energy savings beyond that achieved through 2013 Title 24 standards. Therefore, the project would result in an efficiency rating beyond even 2016 Title 24 standards.</p>                                                                                                                                              |

Based on the information above, the proposed project would be consistent with the applicable CAP and General Plan policies. Therefore, this impact would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

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## 8 Hazards and Hazardous Materials

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

- |                                                                                                                                                                                                                                                              |                          |                          |                                     |                                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?                                                                                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?                                                              | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?                                                                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Be located on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e. For a project located in an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f. For a project near a private airstrip, would it result in a safety hazard for people residing or working in the project area?                                                                                                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?                                                                                                                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

|                                                                                                                                                                                                                       | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

a. *Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

Demolition of the seven structures on the Pardee Block parking lot and construction of the proposed medical office building would require the limited use of heavy machinery and construction equipment. The operation of these vehicles and machinery requires hazardous materials including fuel, engine oil, engine coolant, and lubricants. These materials would be transported to the sites in limited quantities during construction, and could result in a spill or accidental release of small quantities. Construction of the project would be conducted in accordance with applicable federal and state laws, such as the Hazardous Materials Transportation Act, Resource Conservation and Recovery Act, the California Hazardous Material Management Act, and the California Code of Regulations, Title 22. The project would be subject to preparation and implementation of a SWPPP that would include BMPs for handling of construction equipment and materials and would be subject to standard conditions of the City’s Toxics Management Division (TMD) requiring that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with the project’s building permit application and be approved by TMD prior to issuance of the building permit. Adherence to these requirements would reduce the potential hazards to the public related to hazardous materials. Construction-related impacts would be less than significant.

During operation, the proposed project would involve medical uses that could involve the use, storage, disposal, or transportation of hazardous materials such as cleaning chemicals and biohazardous medical wastes. These materials would not be substantially different from medical and cleaning supplies in general and are widely used throughout the region and project area. Medical waste is a subset of wastes generated at health care facilities, such as hospitals, physicians’ offices, dental practices, blood banks, and veterinary hospitals/clinics, as well as medical research facilities and laboratories. Generally, medical waste is healthcare waste that may be contaminated by blood, body fluids, or other potentially infectious materials and is often referred to as regulated medical waste (USEPA 2017).

State environmental and health departments are the primary regulators for medical waste. Other federal agencies have regulations regarding medical waste as well, including the Centers for Disease Control, Occupational Safety and Health Administration, U.S. Food and Drug Administration, and others. In California, the California Department of Public Health, Medical Waste Management Program regulates the generation, handling, storage, treatment, and disposal of medical waste by providing oversight for the implementation of the Medical Waste Management Act (California Department of Public Health 2017). The Medical Waste Management Program permits and inspects all medical waste off-site treatment facilities and medical waste transfer stations. In addition to the treatment methods specifically allowed in the Medical Waste Management Act, there are

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alternative medical waste treatment technologies approved for use in California. Medical waste generated or used at the medical office building would be required to meet all Medical Waste Management Act regulations. Therefore, impacts related to medical waste hazards would be less than significant.

As with any commercial activities that involve the storage and use of hazardous materials, on-site activity involving hazardous substances (such as the petrochemicals, polymers, and basic inorganics described above), and the transport, storage, and handling of these substances must adhere to applicable federal, state, and local safety standards, ordinances, or regulations, including a Hazardous Materials Business Plan. Businesses that engage in the use, sale, storage, or transport of hazardous substances are monitored by various state (e.g., Department of Toxic Substance Control [DTSC]) and local (e.g., the City's TMD) entities. Potentially hazardous waste produced during operation would also be collected, stored and disposed of in accordance with applicable laws and regulations.

In summary, compliance with existing laws and regulations governing the transport, use, release and storage of hazardous materials and wastes, including the required SWPPP and Hazardous Materials Business Plan, would reduce impacts related to exposure of the public or environment to hazardous materials to less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- b. Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

Refer to discussion 8a.

#### **LESS THAN SIGNIFICANT IMPACT**

- c. Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?*

The proposed medical office building site is located approximately 950 feet from Global Montessori International School. The next nearest school is Longfellow Middle School, approximately 0.5 miles to the east. Waste generated from project operation would mostly entail medical waste, and any hazardous or acutely hazardous materials, substances, or waste would be handled according to applicable federal and state regulations. Waste generated from the proposed medical office building would not impact the nearby schools. Therefore, impacts from hazardous materials on nearby schools would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- d. Would the project be located on a site included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

Langan Treadwell Rollo (Langan) conducted a Phase I Environmental Site Assessment (Phase I ESA) of the medical office building project site in July 2016 (Langan 2016, Appendix D). As part of the Phase I ESA, Langan reviewed an environmental database report prepared by Environmental Data Resources, Inc. (EDR). The EDR report contains information from the environmental databases maintained by the USEPA, state agencies, and local agencies. The medical office site is not listed on any of the regulatory databases EDR searched. In addition, inquiries were made of files held at the

City's TMD for the medical office site. These reveal no evidence of past release(s) at the medical office site. Langan also searched online database including the California DTSC's EnviroStor database and the SWRCB's GeoTracker website. No files or records associated with the medical office site were found on the EnviroStor database (Langan 2016). The medical office site is listed on GeoTracker as a "non-case information site," indicating that GeoTracker contains information related to previous Phase I and Phase II ESA's prepared for the medical office site in 2004. However, the medical office site is not identified as a cleanup site or permitted facility. A review of the information in GeoTracker did not reveal evidence or records related to contamination (SWRCB 2017). Finally, Langan observed minor oil stains in the paved parking areas on the medical office site during site reconnaissance, but determined that it represents a *de minimis* condition with no associated hazard or health concerns.

The Phase I ESA prepared by Langan included review of off-site facilities with known contamination in soil and groundwater most likely to represent potential environmental concerns for the medical office site. These included properties or locations that were nearby and/or hydraulically up-gradient of the medical office site. The review of the off-site database found that none of the nearby listings had violations. All were closed by the regulatory agency, were hydrologically cross-gradient or down-gradient, or were determined to be a significant distance (greater than 0.25 mile) from the medical office site. Therefore, no off-site locations are expected to pose an environmental risk to the medical office site. A complete copy of regulatory database information provided by EDR is included in the Phase I report (see Appendix D).

A Phase I ESA was also prepared for the Pardee Block parking lot in June 2018 (Langan 2018) Appendix D. Langan reviewed a database report prepared by EDR that indicated the Pardee Block parking lot site was listed in the EMI, HAZNET, FINDS, RCRA-SQG, and ECHO databases. Additional inquiries were made with the Berkeley Fire Department and the City's TMD. Langan also searched online regulatory databases including GeoTracker and EnviroStor, and reviewed the series of previous environmental investigations (Phase I and Phase II). During the site visit, Langan observed small quantities of hazardous substances and petroleum products at all addresses at the Pardee Block parking lot site except 1010 Carleton Street. Three aboveground storage tanks were observed at the Pardee Block parking lot site that contained used motor oil and various drums containing transmission fluid, used oil filters, and used coolant. (Langan 2018)

Based on the database search, requests made for public documentation related to the Pardee Block parking lot site, review of previous reports, and site reconnaissance, Langan concluded that petroleum hydrocarbons, metals, and VOCs in the Pardee Block are present in the subsurface (Langan 2018). Therefore, the project could create a hazard to the public or environment during site demolition, preparation, and grading.

However, with implementation of standard conditions of approval, the applicant would be required to prepare a Soil and Groundwater Management Plan (SGMP) to submit to the City for approval prior to issuance of demolition, grading or building permits. The SGMP would outline soil and groundwater handling, transportation, and disposal procedures to be used during excavation on the Pardee Block parking lot site. The SGMP would further require the construction contractor to provide details regarding how hazardous materials would be appropriately handled and disposed of during and following construction. Hazards to the public or environment would be avoided with implementation of this standard condition of approval. The impact from hazardous materials to the public or environment would therefore, be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**



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- e. *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*

There are no private airstrips near the project sites. The closest airport to the project sites is Oakland International Airport, located approximately ten miles to the south. The project sites are located entirely outside of the airport influence zone (Alameda County, 2010). Therefore, no impact related to airport safety would occur.

**NO IMPACT**

- f. *For a project near a private airstrip, would it result in a safety hazard for people residing or working in the project area?*

Refer to discussion 8e.

**NO IMPACT**

- g. *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The City has designated San Pablo Avenue and Dwight Way as Emergency Access and Evacuation Routes (City of Berkeley 2011). The proposed project would not impede emergency access on Dwight Way. While the project would involve a new curb cut and improvements to the pedestrian environment along San Pablo Avenue, as well as Parker Street and Tenth Street, these actions would not result in street closures that could impede emergency access or evacuation. The new curb cut along San Pablo Avenue is only for emergency vehicle access to the project site. Standard City practice is for the Berkeley Fire Department and Berkeley Police Department to review proposed project plans for access concerns. None have been identified to date. Therefore, the project would not involve the development of structures that could potentially impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

- h. *Would the project expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

The project sites are in an urban area in Berkeley. The sites are near an eclectic mix of land uses including retail, restaurants, automobile services, commercial offices, light industrial, a church, and residences. According to the City’s Emergency Access and Evacuation Network map, the project sites are not adjacent to or inside the hill fire hazard area. As a result, there would be no risk of exposing people or structures to a significant risk of loss, injury or death involving wild land fires.

**NO IMPACT**

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## 9 Hydrology and Water Quality

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                                                                                                                                              |                          |                                     |                                     |                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a. Violate any water quality standards or waste discharge requirements?                                                                                                                                                                                                                                                                                                                      | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?                                                                                                                                                            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| d. Substantially alter the existing drainage pattern of the site or area, including the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?                                                                                                                                               | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| e. Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?                                                                                                                                                                                                         | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| f. Otherwise substantially degrade water quality?                                                                                                                                                                                                                                                                                                                                            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| g. Place housing in a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary, Flood Insurance Rate Map, or other flood hazard delineation map?                                                                                                                                                                                                                              | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

|                                                                                                                                                                           | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| h. Place structures in a 100-year flood hazard area that would impede or redirect flood flows?                                                                            | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including that occurring as a result of the failure of a levee or dam? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| j. Result in inundation by seiche, tsunami, or mudflow?                                                                                                                   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

a. *Would the project violate any water quality standards or waste discharge requirements?*

Construction activities on the project sites would have the potential to cause soil erosion from exposed soil, an accidental release of hazardous materials such as vehicle fuels and lubricant, or temporary siltation from storm water runoff. Soil disturbance would occur during excavation for the proposed building foundations, demolition of the existing buildings, and grading of the project sites. However, proponents of development projects are required to comply with BMC Chapter 17.20 relating to the requirements of the City’s NPDES permit, and construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that contaminants are not released into urban runoff, in order to prevent significant adverse impacts to water quality. Construction activities that disturb one or more acres of land surface are subject to the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2012-0006-DWQ) adopted by SWRCB. Compliance with the permit requires each qualifying development project to file a Notice of Intent with the SWRCB. Permit conditions require development of a storm water pollution prevention plan (SWPPP), which must describe the sites, the facility, erosion and sediment controls, runoff water quality monitoring, means of waste disposal, implementation of approved local plans, control of construction sediment and erosion control measures, maintenance responsibilities, and non-storm water management controls. Inspection of construction sites before and after storms is also required to identify storm water discharge from the construction activity and to identify and implement erosion controls, where necessary. In addition, the project would be subject to standard conditions of the City’s Toxics Management Division (TMD) requiring that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with the project’s building permit application and be approved by TMD prior to issuance of the building permit.

The SGMP is required to identify procedures for soil and groundwater management, including identification of pollutants and disposal methods, and is required to comply with the hazardous materials and waste management standards required by BMC §15.12.100, the San Francisco Bay Regional Water Quality Control Board’s Order No. R2-2015-0049 C.3 and C.6, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66360 et seq.), and the East Bay Municipal Utility District’s Ordinance 311. The project would be required to comply with all City requirements under its NPDES permit. BMC Section 17.20.070 states the following:

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- A. It is unlawful to discharge any matter into the storm drain system such that the discharge results in or contributes to a violation of any National Pollutant Discharge Elimination System (NPDES) permit issued to the discharger and administered by the State of California under authority of the U.S. Environmental Protection Agency, including the NPDES permit issued to the City of Berkeley and others (NPDES Permit No. CA0029831, on file in the office of the City Clerk) and any amendment, revision or reissuance thereof, and whether such discharge is separately considered or when combined with other discharges.
- B. Each industrial discharger, discharger associated with construction activity, or any other discharger described in any general NPDES permit regulating stormwater discharges, as may be adopted by the U.S. Environmental Protection Agency, the State Water Resources Control Board, or the California Regional Water Quality Control Board, San Francisco Bay Region, shall submit to the appropriate agency a notice of intent to comply with said permit and undertake all other activities required by any general stormwater permit applicable to such discharges.
- C. Each discharger identified in any individual NPDES permit regulating stormwater discharges shall comply with and undertake all activities required by such permit.

BMC Section 17.20.050 has the following requirements for construction and development:

- 1. Any construction contractor performing work in the City shall provide filter materials at catch basins to retain any debris, dirt, or other pollutants generated by such work to prevent said pollutants from flowing into the city's storm drain system.
- 2. Any applicant for a building or grading permit from the City shall, as a condition of receiving such permit, sign a certification stating that the applicant has read and shall use, to the maximum extent practicable, applicable portions of the State stormwater best management practices manual for construction activity, a copy of which shall be available to the applicant where building and grading permits are obtained.
- 3. Any applicant for a building or grading permit from the City who is subject to the State NPDES construction general permit shall, as a condition of receiving such permit, provide evidence that the applicant has submitted a notice of intent to the State Water Resources Control Board as required by said permit.
- 4. The City Manager may establish controls on the volume and rate of stormwater runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants into the storm drain system.

Construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that the above requirements are being met, and that contaminants are not released into urban runoff, in order to prevent significant adverse impacts to water quality. For all the reasons stated above, the project would not violate water quality standards or otherwise substantially degrade water quality, and this impact would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

- b. *Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?*

The proposed project does not include installation of new groundwater wells or use of groundwater from existing wells. Therefore, development under the proposed project would not result in a net deficit in aquifer volume or a lowering of the groundwater table. The project would not result in an exceedance of safe yield or a significant depletion of groundwater supplies. Additionally, the increase in impervious surfaces on the sites would be a nominal percentage of the overall watershed and would therefore not substantially interfere with groundwater recharge. Finally, the proposed bioretention areas would allow for infiltration of storm water runoff. Impacts related to groundwater would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

- c. *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?*

The medical office building site is not connected to an existing storm water drainage system and storm water runoff leaving the site enters City streets before being intercepted by the storm water drainage system at downstream locations. The proposed project would increase the amount of impervious surface area compared to existing conditions on the medical office building site, which currently contains about 22,900 square feet of impervious surfaces. Under the project, the medical office building site would contain about 54,100 square feet of impervious surfaces. The Pardee Block surface parking lot has about 43,800 square feet of impervious surfaces from the existing structures and development on the site. The proposed surface parking lot would reduce impervious surfaces to approximately 34,300 square feet.

Per BMC §17.20.070, the applicant would be required to comply with the San Francisco Bay Regional Water Quality Control Board's Municipal Regional Storm Water NPDES Permit (Order No. R2-2015-0049, NPDES Permit No. CAS612008). Provision C.3 of the Municipal Regional Storm Water NPDES Permit contains requirements for new development that creates 10,000 square feet or more of impervious surface. These requirements include Low Impact Development (LID) requirements, including source control requirements and site design and storm water treatment requirements. Source control requirements include, but are not limited to, plumbing certain discharges to the sanitary sewer, installing landscaping that minimizes irrigation and runoff, and stenciling storm drain inlets. Site design and storm water treatment requirements include, but are not limited to, avoiding disturbance of natural water bodies, conserving natural areas, minimizing impervious surfaces, minimizing storm water runoff, and treating 100 percent of the amount of runoff identified in Provision C.3.d.

The runoff from the medical office site would be detained in three biotreatment areas along the western edge of the project site. These biotreatment areas total 1,644 square feet and would be sized to treat the amount of runoff specified in Provision C.3.d. The runoff would be filtered in these areas and then would flow from these areas into the City streets before eventually being intercepted by the existing storm water drainage system downstream of the medical office building site. The Pardee Block parking lot incorporates permeable pavers throughout, which provides self-treating surfaces to meet C.3 requirements. While the biofiltration system and permeable pavers

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would effectively treat excess runoff to meet the C.3 requirements of the Municipal Regional Storm Water NPDES Permit, the biotreatment areas may not be sufficient to prevent localized flooding of City streets from project-related increases in runoff. Therefore, the implementation of the proposed project would result in a potentially significant impact related to flooding and inadequate storm water drainage capacity.

## Mitigation Measures

The following mitigation measures would reduce this impact to a less than significant level.

### *HYD-1 Hydrology and Hydraulic Mitigation Analysis*

The project shall not increase from pre-project to post-construction conditions peak flow and flow duration to existing gutters, and shall not raise from pre-project to post-construction the hydraulic grade line in existing storm drains at all times throughout the life of the project. The applicant shall demonstrate through a hydrology and hydraulics mitigation analysis to show how this performance standard will be achieved and used to provide the basis of design for the implementing this mitigation.

The hydrology and hydraulics mitigation analysis shall be submitted to and approved by the City of Berkeley Department of Planning and Development prior to issuance of required project permits. The analysis shall identify existing and post-construction drainage patterns, magnitudes, and durations within the project limits and also identify existing off-site discharge locations, durations, and magnitudes from the project site. The mitigation actions to meeting the performance standard may include conveyance pipeline (minimum 12-inch diameter, reinforced concrete pipe) in the right-of-way, and the pipe shall not be used to attenuate peak flows. The mitigation method shall be designed to operate in conjunction with MRP Provision C3 requirements. The applicant shall make up front payment for City staff and consultant costs related to reviewing the hydrology and hydraulics mitigation analysis..

### *HYD-2 Storm Water Control Measures*

Discharges of any water from the project site shall be controlled at all times and shall not exceed pre-project peak flow or duration in existing storm drains and gutters throughout the project life. Applicant shall design and construct the mitigation method developed through the Hydrology and Hydraulic Mitigation Analysis performed in HYD-1 and as approved by the City. The mitigation actions to meet the performance standards may include conveyance within the right-of-way but storage within the right-of-way is not allowed. The identified method(s) shall be completely operational and any facilities located within the right-of-way shall be approved by and dedicated to the City prior to issuance of certificate of occupancy.

## Significance After Mitigation

Implementation of Mitigation Measures HYD-1 and HYD-2 would ensure that the rate and amount of post-development runoff would not exceed the rate and amount of pre-development runoff. Localized flooding and exceedance of existing storm water drainage capacity would be avoided with implementation of this mitigation measure. The impact from project-related runoff would be less than significant with mitigation incorporated.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- d. *Would the project substantially alter the existing drainage pattern of the site or area, including the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or offsite?*

Refer to discussion 9c.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- e. *Would the project create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

Refer to discussion 9c.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- f. *Would the project otherwise substantially degrade water quality?*

Refer to discussion 9a.

**LESS THAN SIGNIFICANT IMPACT**

- g. *Would the project place housing in a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary, Flood Insurance Rate Map, or other flood hazard delineation map?*

The project sites are located within Flood Zone X (Federal Emergency Management Agency 2009). Zone X describes areas outside the 100-year flood limit or in the 100-year flood limit but shallow enough to not represent a special hazard. The flood potential in this area of Berkeley is relatively minimal. The project sites are not located an inundation hazards zone, as shown in Berkeley General Plan Figure 16 *Reservoir Inundation Hazards*.

**NO IMPACT**

- h. *Would the project place structures in a 100-year flood hazard area that would impede or redirect flood flows?*

The proposed project includes the development of medical offices and a surface parking lot; it would not involve the construction of housing. The project would not impede or redirect flood flows in a 100-year flood hazard area or an area subject to inundation in the event of a dam or levee failure. The project would therefore have no impact related to these hazards.

**NO IMPACT**

- i. *Would the project expose people or structures to a significant risk of loss, injury, or death involving flooding, including that occurring as a result of the failure of a levee or dam?*

Refer to discussions 9g and 9h above.

**NO IMPACT**

- j. *Would the project result in inundation by seiche, tsunami, or mudflow?*

The project sites are not near a major inland body of water, such as a large lake, that could produce a seiche. The project sites are located approximately one half mile east of San Francisco Bay, which is susceptible to tsunamis. However, the project sites are located outside of a Tsunami Inundation Area (California Emergency Management Agency 2009). The project sites are relatively flat and not



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in an area subject to mudflows or landslides. Risk of inundation by seiche, tsunami or mudflow at the project sites would be remote, and would not be increased due of project development. The project would therefore have no impact related to these hazards.

**NO IMPACT**

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# 10 Land Use and Planning

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                                                            |                          |                                     |                          |                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| a. Physically divide an established community?                                                                                                                                                                                                                                                             | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| c. Conflict with an applicable habitat conservation plan or natural community conservation plan?                                                                                                                                                                                                           | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

*a. Would the project physically divide an established community?*

The project sites are in an urbanized area of Berkeley and include two properties: a 1.6-acre vacant property and a 1.6-acre parcel developed with multiple commercial and light industrial buildings. The proposed project does not involve street closures, linear features, or development that would separate land uses or neighborhoods. Development of the proposed project would not physically divide an established community. There would be no impact.

**NO IMPACT**

*b. Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

**Berkeley General Plan**

The medical office site has two General Plan land use designations: Avenue Commercial along San Pablo Avenue (the eastern portion of the property) and Manufacturing along Tenth Street and Parker Street (the western portion of the property). The proposed Pardee Block parking lot has a land use designation of Manufacturing-Mixed Use, which is addressed in the West Berkeley Plan as Mixed Manufacturing, which provides for "a general industrial district, where both heavy and light manufacturers can function, along with "biotech" industries and office users which can recycle the upper stories of buildings."

The General Plan describes the Avenue Commercial designation as characterized by “pedestrian-oriented commercial development and multi-family residential structures,” but refers the reader to the underlying zoning district for specific uses allowed. The project would generally meet the broad definition of this designation in the General Plan, as the development would include a 750-square foot quick-service restaurant and retail space suitable for walk-in customers, a small public plaza with seating and landscaping, and a pedestrian-scale first floor façade with pedestrian access to the medical office building.

The General Plan describes the Manufacturing designation as characterized by “manufacturing and industrial uses necessary for a multi-faceted economy and job growth,” and refers the reader to the underlying zoning district for specific uses allowed. The project would generally meet the broad definition of this designation in the General Plan, as the medical office building would provide job growth in the city.

The project would be generally consistent with applicable policies of the 2002 General Plan related to environmental issues addressed by CEQA, including the following:

**Policy LU-3–Infill Development:** Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.

**Policy LU-7–Neighborhood Quality of Life, Action A:** Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

**Policy UD-16–Context:** The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.

**Policy EM-5–“Green” Buildings:** Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

As discussed in Section 1, *Aesthetics*, the proposed project would be compatible in scale to the greater neighborhood and would require approval by the City’s Design Review Committee ensure architectural sensitivity. The project proponent has indicated that the new building would be designed with a goal of LEED certification at a minimum Silver level, and would be required to meet the energy efficiency standards of the CBC (Title 24, California Code of Regulations). As discussed in Section 5, *Cultural Resources*, the project would not result in significant impacts to historic resources and would not be located adjacent to historic buildings.

**Policy UD-32–Shadows:** New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Shadow-sensitive areas are typically those outdoor areas associated with residential, institutional or recreational land uses. The second floor of the Missouri Lounge building (adjacent to the north boundary of the medical office building site) contains three residential units, considered shadow-sensitive land uses. Based on the shadow analysis completed for the proposed building, the entire Missouri Lounge building would be shaded by the proposed building during the afternoons (after 3:00 p.m.) in December. South-facing windows would presumably receive the most sunlight at that site. However, the Missouri Lounge building does not contain any south-facing windows. There is one window located on the west side of the building on the second floor, which is covered by a five-foot wall extension that currently limits the amount of light coming into the unit from the direction

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of the proposed project. The three residential units have windows that face Parker Street to the north that would not be affected by the proposed building and seasonal shadows. The Missouri Lounge includes an outdoor patio and storage space that would be shaded seasonally by the proposed building, but that area is not considered a shadow-sensitive area. In addition, the patio area is often shaded intentionally by umbrellas and a tent structure, as well as a six-plus foot fence bordering the subject property. The proposed building would not eliminate the efficacy of solar panels that could be placed on the roof of the Missouri Lounge building since the winter afternoon shadows cast on the building would be seasonal. The Pardee Block parking lot would require removing seven existing buildings that create shadows; no new structures are proposed there.

### West Berkeley Plan

The project sites are also located in the West Berkeley Plan Area, defined as the area between San Pablo Avenue (incorporating both sides of the street) and the Eastshore Freeway. The West Berkeley Plan is intended to guide the development of West Berkeley. It sets forth the City's key land use, environmental, economic development, transportation, housing and social services, and physical form (urban design, historic preservation, open space) policies for West Berkeley. The project would be generally consistent with applicable policies of the West Berkeley Plan related to environmental issues addressed by CEQA, including the following:

**Land Use Goal 1:** Over the economically active area of West Berkeley, provide for a continued economic and land use mix, incorporating manufacturing, other industrial, retail and office/laboratory uses, to benefit Berkeley residents and businesses economically, benefit the City government fiscally, and promote the varied and interesting character of the area.

**Land Use Goal 2:** Channel development---both new businesses and residences and the expansion of existing businesses---to districts which are appropriate for the various existing elements of the West Berkeley land use mix.

**Land Use Goal 3:** Protect residential core neighborhoods from adverse impacts of economic growth—especially traffic and parking congestion and noise.

The proposed medical office building would provide for continued economic development as well as provide important services for the City's residents. The project is not located in a residential core neighborhood and would not result in substantially adverse traffic and parking impacts from the economic expansion. In addition, the West Berkeley Plan permits "Parking Lots (for uses located in the district)" in the Mixed Manufacturing designation.

**Land Use Goal 4:** Assure that new development in any sector is of a scale and design that is appropriate to its surroundings, while respecting the genuine economic and physical needs of the development.

Please see the discussion under General Plan Policy LU-3—Infill Development above.

**Environmental Policy 1.6:** Avoid the establishment of new uses which pose unmitigable environmental hazards (see Permitted and Prohibited Uses in Land Use Element).

As discussed throughout this Initial Study but in particular in Section 6, *Geology and Soils*, and Section 8, *Hazards and Hazardous Materials*, the project would not result in unmitigable environmental hazards.

**Environmental Policy 5.2:** Reduce existing traffic and adequately mitigate the impact of future traffic (see Transportation Element)

As discussed in Section 16, Transportation, impacts related to traffic would be less than significant with mitigation incorporated.

**Environmental Policy 5.6:** Avoid the establishment of new uses which would create immitigable odors in residential districts

As discussed in Section 3, Air Quality, impacts related to odors would be less than significant.

**Environmental Policy 5.7:** Institute tree planting as an anti-pollution measure (see Physical Form Element for Implementation Measures)

As shown on the proposed landscape plan, the project would increase the number of trees on the proposed medical office site substantially. Although two existing trees on the medical office plan area would be removed, approximately 26 total trees would be planted, including coast live oak trees. An additional 28 trees would be planted on the Pardee Block parking lot site.

### Berkeley Municipal Code

The project sites have three zoning designations: West Berkeley Commercial (C-W) along San Pablo Avenue (the eastern portion of the medical office building property), Mixed Use-Light Industrial (MU-LI) along Tenth Street and Parker Street (the western portion of the medical office property), and Mixed Use-Residential (MU-R) along Pardee Street, where the Pardee Block parking lot would be located. To accommodate medical office use throughout the portions of the building approved under Use Permit #ZP2016-0170 for Research and Development, the underlying zoning of approximately two thirds of the medical office site would need to be rezoned from MU-LI to C-W.

Pursuant to BMC Table 23E.64.030, medical offices over 7,500 square feet are allowed in the C-W District with a Use Permit; quick-service restaurants of less than 1,500 square feet are allowed in the C-W District with a Zoning Certificate. The proposed Pardee Block parking lot would comply with BMC Section 23E.84.030 if the Use Permit were issued as it allows construction of parking lots in the MU-R District for uses not exclusively for that district. Table 13 details how the medical office project would comply with specific applicable development standards of the BMC under the proposed C-W zoning.

**Table 13 Berkeley Municipal Code C-W District Development Standards**

| BMC Section 23E.64.070-080  |               | Existing | Proposed       | Required |
|-----------------------------|---------------|----------|----------------|----------|
|                             |               |          | Medical Office | C-W      |
| Lot Area (sq. ft.)          |               | 68,331   | 68,331         |          |
| Gross Floor Area (sq. ft.)  |               | 0        | 60,670         |          |
| Floor Area Ratio            |               | 0        | 0.91           | 3.0      |
| Building Height             | Average (ft.) | 0        | 42             | 50 max   |
|                             | Maximum (ft.) | 0        | 44             | 50 max   |
|                             | Stories       | 0        | 3              | 3 max    |
| Building Setbacks (ft.)     | Front         | -        | 5              | 0 min    |
|                             | Rear          | -        | 0              | 0 min    |
|                             | Left Side     | -        | 5              | 0 min    |
|                             | Right Side    | -        | 27'8"          | 0 min    |
| Lot Coverage (%)            |               | 0        | 46.9           | n/a      |
| Usable Open Space (sq. ft.) |               | -        | 2,150          | n/a      |

<sup>1</sup> Total Floor Area Ratio is calculated by dividing the gross floor area (61,000 square feet) by the lot area (68,331 square feet).

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Pursuant to BMC Section 23E.64.080, the project is required to provide a total of 238 parking spaces: 203 parking spaces for the medical office (one space per 300 square feet of floor area) and 35 parking spaces for the Pardee Block buildings that would remain after construction of the Pardee Block parking lot (one space per 2000 square feet of floor area). When implemented, the project would provide 238 parking spaces: 115 spaces at the proposed medical office site and 123 spaces at the Pardee Block parking lot for a total of 238 spaces.

The Pardee Block parking lot would provide the 35 parking spaces required for the approximately 24,000 square feet of Pardee Block businesses that would remain intact and operational, and the remaining 88 spaces would serve as off-site parking for the medical office employees. Patients visiting the medical offices would use the 115 proposed on-site parking spaces at the medical office site.

As discussed under Project History, the Berkeley City Council requested that the Planning Commission consider and make recommendations regarding the requested rezoning of the MU-LI portion of the medical office site to C-W, which would allow medical office uses throughout the proposed building. The Planning Commission subsequently held two public meetings in February 2018 and April 2018 and directed City staff to forward its recommendations for the proposed rezone to the City Council. The final determination on the rezone is pending as of the publication of this Initial Study.

As the medical office building site is currently zoned MU-LI, the proposed medical office use is not an allowed use on the eastern portion of the medical office property. Allowing 100 percent medical office uses in the building would result in a potentially significant impact related to Land Use and Planning unless the rezoning is approved.

### Mitigation Measures

The following mitigation measure would reduce Land Use and Planning impacts to a less than significant level.

#### *LU-1 Rezone*

Demolition permits shall not be issued unless and until a rezone is approved by the City of Berkeley that would change the zoning on the western portion of the medical office building site from Mixed-Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).

### Significance After Mitigation

Implementation of Mitigation Measures LU-1 would ensure that the proposed use of the sites would not conflict with any applicable land use plan, policy, or regulation. As proposed, the project complies with the development standards in the West Berkeley Commercial zoning district. The impact would be less than significant with mitigation incorporated.

#### **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- c. *Would the project conflict with an applicable habitat conservation plan or natural community conservation plan?*

As discussed in Section 4, Biological Resources, the project sites are not located in a habitat conservation plan or natural community conservation plan area.

#### **NO IMPACT**

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# 11 Mineral Resources

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                        |                          |                          |                          |                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

a. *Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*

The project sites and surrounding properties are part of an urbanized area with no current oil or gas extraction. According to the City’s General Plan, Berkeley has no active mineral extraction industries. No mineral resource activities would be altered or displaced by the proposed project. The project would have no impact on mineral resources.

**NO IMPACT**

b. *Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

Refer to discussion 11a.

**NO IMPACT**

*This page intentionally left blank.*

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# 12 Noise

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                 |                          |                                     |                                     |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a. Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?                                                                   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?                                                                                                                                               | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| c. Result in a substantial permanent increase in ambient noise levels above those existing prior to implementation of the project?                                                                                                                              | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above those existing prior to implementation of the project?                                                                                          | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| e. For a project located in an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f. For a project near a private airstrip, would it expose people residing or working in the project area to excessive noise?                                                                                                                                    | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

## Environmental Setting

### Noise

Noise is unwanted sound that disturbs human activity. Environmental noise levels typically fluctuate over time, and different types of noise descriptors are used to account for this variability. Noise level measurements include intensity, frequency, and duration, as well as time of occurrence. Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). Because of the way the human ear works, a sound must be about 10 dBA greater than the

reference sound to be judged twice as loud. In general, a 3 dBA change in community noise levels is noticeable, while 1–2 dBA changes generally are not perceived.

Noise levels typically attenuate (or drop off) at a rate of 6 dBA per doubling of distance from point sources (such as construction equipment). Noise levels may be reduced by the introduction of intervening structures. The construction style for dwelling units in California generally provides a reduction of exterior-to-interior noise levels of about 30 dBA with closed windows (Federal Highway Administration 2006).

Some land uses are more sensitive to ambient noise levels than other uses due to the amount of noise exposure and the types of activities involved. For example, residences, motels, hotels, schools, libraries, churches, nursing homes, auditoriums, museums, cultural facilities, parks, and outdoor recreation areas are more sensitive to noise than commercial and industrial land uses. The nearest noise-sensitive receptors to the proposed medical office site are the three residential units on the second floor of the Missouri Lounge, adjacent to the northeast property line at the corner of San Pablo Avenue and Parker Street; the Covenant Worship Center, a religious institution adjacent to the southern property line; a recording studio approximately 55 feet from the western property line, on the west side of Tenth Street; single-family residences approximately 150 feet south on Carleton Street and east of the medical office site, across San Pablo Avenue; and condominiums approximately 180 feet south of the site on San Pablo Avenue. The nearest noise-sensitive receptors to the Pardee Block parking lot site beyond those mentioned above include multi-family and single-family residential units located 75 and 115 feet southeast across Tenth Street, multi-family and single family residential units located approximately 140 feet south across Pardee Street, and Global Montessori International School located approximately 950 feet to the south.

To characterize existing ambient noise levels at the project sites, Rincon Consultants collected two 15-minute noise measurement using an ANSI Type II sound level meter. The first measurement (Measurement #1) was collected on April 19, 2017. This measurement was taken during the afternoon peak hour, between 4:50 p.m. and 5:20 p.m., on the east side of the medical office building site along San Pablo Avenue. The primary source of noise during the study was automobile traffic on project-area roadways, especially San Pablo Avenue and Parker Street. The second measurement (Measurement #2) was collected on August 24, 2018. This measurement was taken during hours of operation of the existing businesses at the Pardee Block parking lot site, between 10:51 a.m. and 11:06 a.m., on the north side of the site along Carleton Street. Table 14 lists the measurement results and Figure 20 shows the noise measurement locations.

**Table 14 Noise Measurement Results**

| Number | Location                                                           | Time                              | Result (Leq) |
|--------|--------------------------------------------------------------------|-----------------------------------|--------------|
| 1      | East side of medical office building site, along San Pablo Avenue  | 4/19/17, 4:57 p.m. to 5:12 p.m.   | 68.0         |
| 2      | North side of Pardee Block parking lot site, along Carleton Street | 8/24/18, 10:51 a.m. to 11:06 a.m. | 60.9         |

See Appendix E for Noise Measurement Results.  
Source: Rincon Consultants 2017

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Figure 20 Noise Measurement Location



### Vibration

Vibration is a unique form of noise because its energy is carried through buildings, structures, and the ground, whereas noise is simply carried through the air. Thus, vibration is generally felt rather than heard. Some vibration effects can be caused by noise (e.g., the rattling of windows from passing trucks). This phenomenon is caused by the coupling of the acoustic energy at frequencies that are close to the resonant frequency of the material being vibrated. Typically, groundborne vibration generated by manmade activities attenuates rapidly as distance from the source of the vibration increases. The ground motion caused by vibration is measured as particle velocity in inches per second and is referenced as vibration decibels (VdB).

The vibration velocity level threshold of perception for humans is approximately 65 VdB. A vibration velocity of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels for many people. Most perceptible indoor vibration is caused by sources inside buildings such as operation of mechanical equipment, movement of people, or the slamming of doors. Typical outdoor sources of perceptible groundborne vibration are construction equipment, steel-wheeled trains, and traffic on rough roads.

### Regulatory Setting

The Environmental Management Element of the City's General Plan includes policies and actions to address community noise in Berkeley. Policy EM-47 of the Environmental Management Element ensures that new noise-sensitive uses, such as residences and schools, are protected from detrimental noise levels. The policy sets normally acceptable, conditionally acceptable, and unacceptable exterior noise levels that apply to the placement of new noise-sensitive receptors. Table 15 provides a summary of the City's guidelines for noise and land use compatibility.

**Table 15 City of Berkeley Noise and Land Use Compatibility Guidelines**

| Land Use Category                                                              | Exterior Noise Exposure Levels<br>(dBA Ldn) |                                       |                           |
|--------------------------------------------------------------------------------|---------------------------------------------|---------------------------------------|---------------------------|
|                                                                                | Normally Acceptable <sup>1</sup>            | Conditionally Acceptable <sup>2</sup> | Unacceptable <sup>3</sup> |
| Residential, Hotels, and Motels                                                | <55 – 60                                    | 60 – 75                               | 75 to >80                 |
| Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds              | <55 – 65                                    | 65 – 80                               | >80                       |
| Schools, Libraries, Museums, Hospitals, Personal Care, Meeting Halls, Churches | <55 – 60                                    | 60 – 75                               | 75 to >80                 |
| Office Buildings, Business Commercial, and Professional                        | <55 – 70                                    | 70 – 80                               | >80                       |
| Auditoriums, Concert Halls, Amphitheaters                                      | –                                           | <55 – 70                              | 70 to >80                 |

<sup>1</sup> Normally Acceptable: noise exposure would be acceptable for intended land use. Development may occur without requiring an evaluation of the noise environment unless the use could generate noise impacts on adjacent uses.

<sup>2</sup> Conditionally Acceptable: A specified land use may be permitted only after detailed analysis of the noise environment and the project characteristics to determine whether noise insulation or protection features are required.

<sup>3</sup> Unacceptable: Analysis and mitigation are required. New construction or development should not be undertaken unless all feasible noise mitigation options have been analyzed and appropriate mitigations incorporated.

Source: City of Berkeley 2010.

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Section 13.40, *Community Noise*, of the BMC sets the City’s standards for on-site operation noise and construction noise. As shown in Table 16, Section 13.40.05, *Exterior Noise Standards*, provides the exterior noise limits not to be exceeded for more than 30 minutes in any hour in various zoning districts. If the measured ambient noise level exceeds these limits, the allowable noise exposure standard would be the existing ambient noise level.

Table 16 City of Berkeley Exterior Noise Limits

| Zone          | Time Period            | L <sub>50</sub> <sup>1</sup> Noise Level (dBA) |
|---------------|------------------------|------------------------------------------------|
| R-1, R-2      | 7:00 a.m. – 10:00 p.m. | 55                                             |
|               | 10:00P.M – 7:00 a.m.   | 45                                             |
| R-3 and Above | 7:00 a.m. – 10:00 p.m. | 60                                             |
|               | 10:00P.M – 7:00 a.m.   | 55                                             |
| Commercial    | 7:00 a.m. – 10:00 p.m. | 65                                             |
|               | 10:00 p.m. – 7:00 a.m. | 60                                             |
| Industry      | Anytime                | 70                                             |

<sup>1</sup> L<sub>50</sub> is the noise level that cannot be exceeded for more than 30 minutes in any hour.  
 Source: BMC §13.40.050

Section 13.40.060, *Interior Noise Standards*, of the BMC sets interior noise limits for multi-residential dwellings, as shown in Table 17. These noise limits may not be exceeded for more than five minutes in any hour and may not be exceeded by 5 dBA for more than one minute in an hour or by 10 dBA for any period of time.

Table 17 City of Berkeley Interior Noise Limits

| Zone | Time Period            | Noise Level (Leq dBA) |
|------|------------------------|-----------------------|
| All  | 7:00 a.m. – 10:00 p.m. | 45                    |
|      | 10:00 P.M – 7:00 a.m.  | 40                    |

Source: Berkeley, Municipal Code, Section 13.40.060

Section 13.40.070, *Prohibited Acts*, of the BMC sets standards for construction noise. Construction activities are prohibited between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, 8:00 p.m. to 9:00 a.m. on weekends and holidays such that the resulting noise creates a noise disturbance across a residential or commercial property line.

Table 18 lists the City’s maximum sound levels for mobile and stationary equipment that apply to construction activities when technically and economically feasible during permitted construction hours.

Table 18 City of Berkeley Construction Noise Standards

| Equipment Type | Day/Times                                       | Residential (R-1, R-2; dBA L <sub>max</sub> ) | Multi-Family Residential (R-3; dBA L <sub>max</sub> ) | Commercial/Industrial (dBA L <sub>max</sub> ) |
|----------------|-------------------------------------------------|-----------------------------------------------|-------------------------------------------------------|-----------------------------------------------|
| Mobile         | Weekdays<br>7:00 a.m. to 7:00 p.m.              | 75                                            | 80                                                    | 85                                            |
|                | Weekends and Holidays<br>9:00 a.m. to 8:00 p.m. | 60                                            | 65                                                    | 70                                            |
| Stationary     | Weekdays<br>7:00 a.m. to 7:00 p.m.              | 60                                            | 65                                                    | 70                                            |
|                | Weekends and Holidays<br>9:00 a.m. to 8:00 p.m. | 50                                            | 55                                                    | 60                                            |

Source: BMC §13.40.070

Section 13.40.070, *Prohibited Acts*, of the BMC prohibits operating or permitting the operation of any device that creates a vibration, which annoys or disturbs at least two or more reasonable persons of normal sensitiveness who reside in separate residences (including apartments and condominiums) at or beyond the property boundary of the source, if on private property, or at least 150 feet (46 meters) from the source, if on a public space or public ROW.

a. *Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

The proposed medical office and parking areas are not noise-sensitive uses. Therefore, the proposed project would not expose people on-site to noise levels in excess of the City’s noise and land use compatibility guidelines.

The project would introduce noise sources typical of a medical office building, including parking lot activity, rooftop ventilation and heating systems, truck deliveries, and trash hauling. These noise sources and levels would be similar to those of surrounding institutional, commercial, and industrial office uses such as the church adjacent to the project sites; retail, restaurant, and automobile service businesses to the east along San Pablo Avenue; and light industrial and automobile service businesses to the south along Carleton Street. Furthermore, noise levels from these sources would not exceed existing ambient traffic noise from San Pablo Avenue, a heavily traveled arterial road, which approaches 70 dBA Leq during peak hours. Therefore, the project’s on-site operational noise would not substantially contribute to ambient noise and would have a less than significant impact.

The proposed Pardee Block parking lot would contain 123 vehicle parking spaces. Typical noise sources associated with a parking lot include tire squeal, doors slamming, car alarms, horns, and engine start-ups. However, implementation of the project would replace noise sources typical of automotive repair centers and warehouse uses with noise from a surface parking lot (average ambient noise 60.9 dBA). Peak noise generation for the parking lot would occur during operational hours of the proposed medical office building. Therefore, residential sensitive receptors near the proposed Pardee Block parking lot would not experience increased noise from parking lot activities associated with the project.

Table 19 lists noise levels associated with typical activities in parking lots 50 feet from the source and 75 and 140 feet from the source. The distances of 75 and 140 feet represent the distance between the proposed Pardee Block parking lot and the nearest residential receptors. Table 19



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shows the maximum noise level generated from a parking lot from car horns and alarms, which generate noise estimated at 66 dBA at a distance of 75 feet and 60 dBA at a distance of 140 feet, and tire squeals that generate an estimated 63 dBA at a distance of 75 feet and 57 dBA at a distance of 140 feet. However, these sources of noise are intermittent and spontaneous and would not affect overall ambient noise. More typical parking lot noises range from 33 dBA at 75 feet from people talking to 47 dBA at 75 feet from vehicles traveling on-site. While the project would increase the frequency of conversations and vehicles traveling on-site as compared to existing uses, noise associated with these sources would be lower than ambient noise along San Pablo Avenue or noise generated at the existing automotive shops (average 60.9 dBA). Parking lot noise would incrementally add to overall noise levels, but the increase would be less than 3 dBA and generally would not be perceptible. Impacts from parking lot activities would be less than significant.

**Table 19 Typical Parking Lot Noise**

| Source               | Level at 50 Feet (dBA) | Level at 75 Feet (dBA) | Level at 140 Feet (dBA) |
|----------------------|------------------------|------------------------|-------------------------|
| Autos at 14 mph      | 50                     | 47                     | 41                      |
| Car Alarm Signal     | 69                     | 66                     | 60                      |
| Car Alarm Chirp      | 54                     | 51                     | 45                      |
| Car Horns            | 69                     | 66                     | 60                      |
| Door Slams or Radios | 64                     | 61                     | 55                      |
| Talking              | 36                     | 33                     | 27                      |
| Tire Squeals         | 66                     | 63                     | 57                      |

Estimates are based on actual noise measurements taken at various parking lots.

Source: Gordon Bricken and Associates 2012.

Vehicle trips associated with the project also would permanently increase ambient noise from traffic on nearby street segments. For traffic-related noise, impacts would be significant if project-generated traffic results in exposure of sensitive receptors to unacceptable noise levels.

Table 20 shows significance thresholds for increases in traffic related noise levels caused by the project.

**Table 20 Significance of Changes in Operational Roadway Noise Exposure**

| Existing Noise Exposure<br>(Ldn or Leq in dBA) | Noise Exposure Increase Threshold<br>(Ldn or Leq in dBA) |
|------------------------------------------------|----------------------------------------------------------|
| 45-50                                          | 7                                                        |
| 50-55                                          | 5                                                        |
| 55-60                                          | 3                                                        |
| 60-65                                          | 2                                                        |
| 65-75                                          | 1                                                        |
| 75+                                            | 0                                                        |

Source: Federal Transit Administration (FTA)2006.

The analysis of roadway noise is based on estimates of vehicle trip generation in the Traffic Impact Analysis (TIA) for the project (Fehr & Peers 2017) (Appendix F). As shown in Table 14, the existing peak-hour traffic noise level in the project vicinity is approximately 68 dBA Leq. Therefore, a noise exposure increase of 1 dBA or greater would result in a potentially significant traffic noise impact. Table 21 summarizes the percent changes in daily traffic volumes on nearby roadway segments and the resulting estimated increase in noise levels. The project would result in up to 162 average daily trips at the intersection of San Pablo Avenue and Parker Street, with many fewer trips at other local intersections. There would be 141 a.m. peak trips and 189 p.m. peak trips distributed on the local roadway network.

**Table 21 Projected Change in Daily Traffic**

| Intersection                            | Existing ADT | Project ADT | Total ADT | Percent Increase in ADT | Noise Level Increase (dBA) |
|-----------------------------------------|--------------|-------------|-----------|-------------------------|----------------------------|
| Sixth Street/University Avenue          | 7,170        | 68          | 7,238     | 1%                      | <0.4                       |
| San Pablo Avenue/University Avenue      | 7,096        | 90          | 7,186     | 1%                      | <0.4                       |
| Dwight Crescent/Seventh St/Dwight Way   | 2,404        | 68          | 2,472     | 3%                      | <0.4                       |
| Tenth Street/Dwight Way                 | 1,667        | 46          | 1,713     | 3%                      | <0.4                       |
| San Pablo Avenue/Dwight Way             | 5,138        | 116         | 5,254     | 2%                      | <0.4                       |
| Seventh Street/Parker Street            | 2,318        | 68          | 2,386     | 3%                      | <0.4                       |
| Tenth Street/Parker Street              | 618          | 114         | 732       | 16%                     | <0.8                       |
| San Pablo Avenue/Parker Street          | 3,834        | 162         | 3,996     | 4%                      | <0.4                       |
| Seventh Street/Carleton Street          | 2,175        | 66          | 2,241     | 3%                      | <0.4                       |
| Tenth Street/Carleton Street            | 414          | 87          | 501       | 17%                     | <0.8                       |
| San Pablo Avenue/Carleton Street (west) | 3,707        | 80          | 3,787     | 2%                      | <0.4                       |
| San Pablo Avenue/Carleton Street (east) | 3,826        | 59          | 3,885     | 2%                      | <0.4                       |
| Seventh Street/Ashby Avenue             | 6,748        | 66          | 6,814     | 1%                      | <0.4                       |
| San Pablo Avenue/Ashby Avenue           | 6,898        | 80          | 6,978     | 1%                      | <0.4                       |

Source: Fehr & Peers 2017.

As shown in Table 21, the percentage increase in traffic volumes would be highest at the intersections of Tenth Street and Parker Street, and Tenth Street and Carleton Street, both of which provide the main access routes to the medical office site. Traffic noise, because of the project, would not increase by more than an estimated 0.8 dBA at any roadway segment or intersection, which would not exceed the most conservative applicable noise exposure increase threshold of 1 dBA. Therefore, traffic noise impacts would be less than significant.

#### **LESS THAN SIGNIFICANT IMPACT**

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b. *Would the project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?*

The FTA has set guidelines for evaluating human response to vibration, shown in Table 22. The FTA guidelines are based on the frequency of events as well as the receiving uses. On-site uses and surrounding uses include office and church uses (Category 3), and light industrial uses that are not noise-sensitive. Residential uses exist adjacent to the project sites (Category 2). Table 22 shows that for Category 2 land uses, vibration levels would be significant if they exceed 72 VdB for frequent events, 75 VdB for occasional events, and 80 VdB for infrequent events. For Category 3 land uses, vibration levels would be significant if they exceed 75 VdB for frequent events, 78 VdB for occasional events, or 83 VdB for infrequent events.

**Table 22 Groundborne Vibration Impact Criteria for Human Annoyance**

|                                                                                       | Threshold Vibration Impact Level (VdB) for: |                                |                                |
|---------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------|--------------------------------|
|                                                                                       | Frequent Events <sup>1</sup>                | Occasional Events <sup>2</sup> | Infrequent Events <sup>3</sup> |
| <b>Category 1:</b> Buildings where vibration would interfere with interior operations | 65                                          | 65                             | 65                             |
| <b>Category 2:</b> Residences and buildings where people normally sleep               | 72                                          | 75                             | 80                             |
| <b>Category 3:</b> Institutional land uses with primary daytime use                   | 75                                          | 78                             | 83                             |

<sup>1</sup> "Frequent events" is defined as more than 70 vibration events of the same source per day.

<sup>2</sup> "Occasional events" is defined as between 30 and 70 vibration events of the same source per day.

<sup>3</sup> "Infrequent events" is defined fewer than 30 vibration events of the same source per day.

Source: FTA 2006

Section 13.40.070, *Prohibited Acts*, of the BMC prohibits operating or permitting the operation of any device that creates a vibration, which annoys or disturbs at least two or more reasonable persons of normal sensitiveness, at or beyond the property boundary of the source if on private property, or at least 150 feet from the source if on a public space or public ROW. Medical office and parking lot uses do not typically generate substantial vibration. However, construction activities may cause vibration on properties in the immediate vicinity of the project sites.

Table 23 shows the estimated vibration levels at distances that correspond to the nearest vibration-sensitive receptors to construction activity: the three residential units on the second floor of the Missouri Lounge, located adjacent to the northeast property line at the corner of San Pablo Avenue and Parker Street; the Covenant Worship Center and a retail building on San Pablo Avenue, located 25 feet from a proposed surface parking lot that would be paved by vibratory rollers; a recording studio located on Tenth Street, 55 feet to the west; single-family residences located 150 feet to the south and east; and condominiums located 180 feet to the south of the proposed medical office building; multi-family and single-family residential units located 75 and 115 feet southeast, multi-family and single family residential units located approximately 140 feet south, and Global Montessori International School located approximately 950 feet south from the proposed Pardee Block parking lot.

Table 23 Vibration Source Levels for Construction Equipment

| Equipment                                | Approximate VdB <sup>1</sup> |                 |                 |                 |
|------------------------------------------|------------------------------|-----------------|-----------------|-----------------|
|                                          | 25 Feet                      | 75 Feet         | 150 Feet        | 180 Feet        |
| <b>Proposed Medical Office Building</b>  |                              |                 |                 |                 |
| Vibratory Roller                         | 94                           | 80              | 71              | 69              |
| Large Bulldozer                          | 87                           | 80              | 74              | 63              |
| Loaded Trucks                            | 86                           | 79              | 72              | 62              |
| Jackhammer                               | 79                           | 65              | 55              | 53              |
| Small Bulldozer                          | 58                           | 43              | 34              | 32              |
| <b>Proposed Pardee Block Parking Lot</b> | <b>75 Feet</b>               | <b>120 Feet</b> | <b>140 Feet</b> | <b>950 Feet</b> |
| Vibratory Roller                         | 84                           | 79              | 76              | 59              |
| Large Bulldozer                          | 77                           | 72              | 71              | 52              |
| Loaded Trucks                            | 76                           | 71              | 70              | 51              |
| Jackhammer                               | 67                           | 64              | 63              | 44              |
| Small Bulldozer                          | 48                           | 43              | 42              | 23              |

<sup>1</sup> FTA provides equipment vibration levels in approximate vibration levels (Lv VdB) at a distance of 25 feet. These were converted to VdB at other distances using methods provided in *Transit Noise and Vibration Assessment* (US DOT 1995).

Source: FTA 2006

As shown in Table 23, noise-sensitive receptors would experience the strongest vibration during paving activity (from vibratory rollers) and grading activity (from large bulldozers and loaded trucks). Vibration levels could reach up to 94 VdB at the three residential units atop the Missouri Lounge located north of the medical office site, the church south of the medical office site, and up to 80 VdB at the recording studio west of the medical office site from construction activities for the proposed medical office building. Vibration levels could reach up to 84 VdB during the demolition, grading, and paving phases at the residences and church adjacent to the proposed Pardee Block parking lot.

These estimates are conservative because they assume the sustained operation of vibration-generating equipment along the property lines. Under this assumption, it is expected that operation of construction equipment for the proposed medical office building along the southern property line, adjacent and 25 feet from sensitive receptors (i.e. the three residential units and church), would generate vibration in excess of the FTA's daytime threshold of 83 VdB for infrequent vibration events at institutional land uses. The use of construction equipment along the western property line, 55 feet from the recording studio, would generate vibration in excess of the FTA's daytime threshold of 78 VdB for occasional vibration events at institutional land uses. Vibration levels at residences, located 150 feet from the medical office site, would reach an estimated 71 VdB, which is below the FTA's daytime threshold of 72 VdB for frequent events. Vibration levels generated during construction activities for the proposed Pardee Block parking lot would exceed the FTA's daytime threshold of 80 VdB for infrequent events near residences.

Vibration levels would not exceed 100 VdB, which is the general threshold where minor damage can occur in fragile buildings. The City restricts construction activity to the daytime hours of 7:00 a.m. to 7:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on Saturdays. No construction activity is permitted on Sundays and Federal holidays.

The temporary use of vibratory rollers, large bulldozers, and loaded trucks may disturb weekday or Saturday church services and recording activities at Fantasy Studios. Therefore, the project would

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result in a potentially significant temporary vibration impact. Perceptible vibration could be minimized by use of administrative controls such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce vibration to hours with least potential to affect nearby businesses and residents. The limited construction hours would ensure that vibration impacts do not occur during evening hours and would eliminate impacts to normal residential sleep hours. Therefore, the following mitigation measure would be required.

### Mitigation Measure

The following mitigation measure would reduce this impact to a less than significant level.

#### *NOI-1 Construction Vibration Reduction Measures*

Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:

- The applicant or contractor shall ensure that construction activities involving vibratory rollers, large bulldozers, or loaded trucks that create a vibration disturbance across the Project’s shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during the regular posted services times at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.
- The applicant or contractor shall, to the extent technically and economically feasible, limit the use of vibratory rollers, large bulldozers, or loaded trucks within 75 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios (2600 Tenth Street) to no more than 30 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.
- The applicant or contractor shall, to the extent technically and economically feasible, limit the use of jackhammers within 25 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios to no more than 70 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.
- The applicant or contractor shall provide tenants of the three residential units atop the Missouri Lounge, the Covenant Worship Center, Fantasy Studios, and residents within a 500-foot radius of the project sites with a notification at least 24 hours prior to vibration-generating construction activities.

### Significance After Mitigation

Implementation of Mitigation Measure NOI-1 would ensure that construction vibration impacts to nearby sensitive land uses would be reduced to the extent feasible. The impact from project-related construction vibration would be less than significant with mitigation incorporated.

#### **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- c. *Would the project result in a substantial permanent increase in ambient noise levels above levels existing without the project?*

Refer to discussion 12a.

#### **LESS THAN SIGNIFICANT IMPACT**

- d. *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

During the anticipated nine-month construction period, the project would generate temporary noise from concrete and asphalt removal, excavation, grading, demolition, and building construction. This noise was modeled by phase of construction at the nearest noise-sensitive receptors, using reference noise levels from three sources: the FTA's *Noise and Vibration Impact Assessment* (2006), the Federal Railroad Administration's *High Speed Ground Transportation Noise and Vibration Impact Assessment Manual* (2012), and the Federal Highway Administration's *Construction Noise Handbook* (2006). For construction equipment, a standard noise attenuation rate of 6 dBA per doubling of distance was assumed from the reference distance to the distance of noise-sensitive receptors. The type of equipment utilized during each phase was based on defaults in CalEEMod used to model air quality and greenhouse gas emissions, since the applicant has not yet prepared a final list of construction equipment for the project. These defaults are listed in Appendix A worksheets, and construction noise model worksheets are included in Appendix E.

Table 24 shows the modeled noise levels at distances that correspond to noise-sensitive receptors near construction activity: the three residential units atop the Missouri Lounge adjacent to a proposed surface parking lot and 40 feet from the proposed building, Covenant Worship Center at 25 feet from a proposed on-site surface parking lot, Fantasy Studio at 55 feet, single-family residences at 150 feet, and condominiums at 180 feet from the subject property line of the proposed medical office building; multi-family and single-family residential units located 75 and 115 feet southeast, multi-family and single family residential units located approximately 140 feet south, and Global Montessori International School located approximately 950 feet south from the proposed Pardee Block parking lot. This analysis is conservative because construction equipment would not typically operate along the project boundary near sensitive receptors.

Although temporary construction noise levels would impact the three residential units atop the Missouri Lounge adjacent to the proposed medical office building site and the residential units in the vicinity of the proposed Pardee Block parking lot, existing City regulations limiting the days and duration of construction are in place to limit impacts to the extent possible. The limited construction hours would ensure that noise impacts do not occur during evening hours and would eliminate impacts to normal residential sleep hours. The existing Missouri Lounge building, including the residential units, does not contain any south-facing windows. There is one residential window located on the west side of the building on the second floor, which is already blocked by a five-foot wall extension, which would provide some level of noise reduction for the western most unit.

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**Table 24 Noise Levels from Construction Equipment**

| Construction Phase                                           | Equipment                                                    | Distance to Sensitive Receptor       |                                      |                                       |                                       |
|--------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------|--------------------------------------|---------------------------------------|---------------------------------------|
|                                                              |                                                              | Estimated Noise at 25 feet (dBA Leq) | Estimated Noise at 55 feet (dBA Leg) | Estimated Noise at 150 feet (dBA Leq) | Estimated Noise at 180 feet (dBA Leq) |
| <b>Proposed Medical Office Building</b>                      |                                                              |                                      |                                      |                                       |                                       |
| Site Preparation                                             | Backhoe, dozer, grader                                       | 91                                   | 84.2                                 | 76                                    | 74                                    |
| Grading                                                      | Backhoe, dozer, grader                                       | 91                                   | 84.2                                 | 76                                    | 74                                    |
| Building Construction and Architectural Coating <sup>1</sup> | Air compressor, backhoe, crane, forklift, generator, welders | 81                                   | 74.5                                 | 75                                    | 71                                    |
| Paving                                                       | Backhoe, cement mixer, paver, roller                         | 91                                   | 84.2                                 | 76                                    | 74                                    |
| <b>Proposed Pardee Block Parking Lot</b>                     |                                                              |                                      |                                      |                                       |                                       |
| Demolition                                                   | Concrete/Industrial Saw, dozer, tractor/loader/backhoe       | 81                                   | 77                                   | 75                                    | 57                                    |
| Grading                                                      | Backhoe, dozer, grader                                       | 80                                   | 76                                   | 74                                    | 58                                    |
| Paving                                                       | Backhoe, cement mixer, paver, roller                         | 77                                   | 72                                   | 71                                    | 54                                    |

<sup>1</sup> Building construction and architectural coating would occur at a greater distance from the nearest receptors than would site preparation, grading, and paving because the proposed building would be set back from the property lines.

Sources: Federal Highway Administration 2006, FTA 2006, Federal Railroad Administration 2012. See Appendix E for data sheets

As shown in Table 24, construction noise levels at the back of the church located 25 feet from the medical office site would range from an estimated 81 to 91 dBA Leq, depending on the phase of construction, 74.5 to 84.2 dBA Leq at Fantasy Studios, and would decrease to an estimated 71 to 74 dBA Leq at the condominiums located 180 feet south of the medical office site. The site preparation, grading, and paving phases of project construction for the medical office building tend to create the highest construction noise levels because of the operation of heavy equipment, although only a limited amount of equipment can operate near a given location at a particular time. In addition, construction vehicles traveling on local roadways can generate intermittent noise levels that affect adjacent receptors.

Construction noise levels for the proposed Pardee Block parking lot would range from an estimated 77 to 81 dBA Leq for the nearest multi- and single-family residences, 72 to 77 dBA Leq for the church, 71 to 75 dBA Leq for the residences located south, and 54 to 57 dBA Leq for the school, depending on phase of construction. The demolition and grading phases of project construction for the Pardee Block parking lot tend to create the highest construction noise levels due to the operation of heavy equipment. Similar to construction activities anticipated for the proposed medical office building, only a limited amount of equipment can operate near a given location at a particular time; therefore, the construction noise level estimates provided in Table 24 are conservative.

The noise-sensitive receptors near the proposed medical office building, including the three residential units atop the Missouri Lounge, church, recording studio, single-family residences, and condominiums, are located in commercial and industrial zones, where the City's thresholds for construction noise are 85 dBA from mobile equipment and 70 dBA from stationary equipment during permitted construction activity hours on weekdays, and 70 dBA from mobile equipment and 60 dBA from stationary equipment during permitted construction activity hours on weekends and holidays.

The noise-sensitive receptors in proximity to the proposed Pardee Block parking lot, including the multi- and single-family residences, church, and school are located in mixed-use residential zones. There are no specific construction noise thresholds established for mixed-use residential zones. However, the City's thresholds for construction noise in multi-family residential areas are 80 dBA from mobile equipment and 65 dBA from stationary equipment during permitted construction activity hours on weekdays, and 65 dBA from mobile equipment and 55 dBA from stationary equipment during permitted construction activity hours on weekends and holidays.

Based on the estimated construction noise levels in Table 24, construction noise would exceed:

- Weekday and weekend/holiday thresholds for mobile and stationary equipment at the residential units atop the Missouri Lounge adjacent to the proposed medical office building, and the residential buildings adjacent to the proposed Pardee Block parking lot
- Weekday and weekend/holiday thresholds for mobile and stationary equipment at Covenant Worship Center
- The weekday threshold for stationary equipment and weekend/holiday thresholds for mobile and stationary equipment at Fantasy Studios and the nearest single-family residences and condominiums

Construction noise impacts would be temporary, and construction contractors would be required to comply with BMC Section 13.40.070 requirements restricting hours of excessive noise generation, specifically that construction activities are prohibited between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, 8:00 p.m. to 9:00 a.m. on weekends, and on holidays. Nonetheless, construction noise would exceed City thresholds at noise-sensitive receptors, resulting in a potentially significant temporary increase in ambient noise levels.

## Mitigation Measures

The following mitigation measure would be required, consistent with Mitigation Measure NOI-3 in the West Berkeley Project EIR:

### *NOI-2 Construction Noise Abatement*

Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:

1. The applicant or contractor shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
2. The applicant or contractor shall use quiet models of air compressors and other stationary noise sources where technology exists.
3. The applicant or contractor shall locate stationary noise-generating equipment as far as feasible from the nearest noise-sensitive receptors.



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4. The applicant or contractor shall prohibit unnecessary idling of internal combustion engines.
5. The applicant or contractor shall construct solid plywood fences around the construction site adjacent to operational businesses, including the Covenant Worship Center (2622 San Pablo Avenue).
6. The applicant or contractor shall ensure that construction activities that generate excessive noise that creates noise disturbance across the Project site's shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during regular posted services at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.
7. The applicant or contractor shall ensure that supporting construction activities, including the loading and unloading of materials and truck movements, are limited to the hours of 7:00 a.m. to 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 8:00 p.m. on Saturdays, or as stipulated in the conditions of approval if more restrictive. No construction-related activity shall occur on Sunday or any Federal Holiday without explicit permission from the City of Berkeley.
8. The applicant or contractor shall notify adjacent businesses, the Covenant Worship Center, and residents within a 500-foot radius of the project sites of the construction schedule in writing at least 7 days before beginning construction. The applicant or contractor also shall designate a "construction liaison" responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant or contractor shall conspicuously post a telephone number for the liaison on-site.

### Significance After Mitigation

Implementation of Mitigation Measure NOI-2 would avoid construction noise during posted services at the adjacent church. During the use of construction equipment, this measure would reduce associated noise to the extent feasible for all nearby sensitive receptors. The impact from construction noise would be less than significant with mitigation incorporated.

#### **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- e. *For a project located in an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

There are no public or private airports or airstrips in or adjacent to the project sites. The closest airport to the project sites is Oakland International Airport, located approximately 10 miles to the south. The project sites are located entirely outside of the airport influence zone (Alameda County 2010). Therefore, there would be no impact related to airport noise.

#### **NO IMPACT**

- f. *For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise?*

Refer to discussion 12e.

#### **NO IMPACT**

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# 13 Population and Housing

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                             |                          |                          |                                     |                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Displace substantial amounts of existing housing, necessitating the construction of replacement housing elsewhere?                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?                                                                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

a. *Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

The proposed project involves the construction of 60,670 square feet for medical offices, 750 square feet for a quick service restaurant, and a 43,847 square-foot surface parking lot. The project does not include residential units that would cause a direct increase in the city’s population. While the project may provide new employment opportunities in the city of Berkeley that could contribute to population growth, this contribution would be nominal. According to Plan Bay Area (Association of Bay Area Governments [ABAG] 2017), the regional forecast (or set of projections) shows that between 2010 and 2040, the Bay Area is projected to grow from 3.4 to 4.7 million jobs. Nearly 600,000 jobs have already been added as of 2015, with an additional 700,000 anticipated by 2040 (ABAG 2017). Employment projections suggest an economy increasingly concentrated in professional services and health and education and less in direct production of goods and wholesale trading, in line with changes expected nationwide (ABAG 2017).

ABAG does not have published ratios of employee per space per sector information. Therefore, comparable information was used from the Southern California Association of Governments (SCAG). Using SCAG average employees per square feet regional calculations (Employment Density Study 2001), the proposed project would be expected to add an average of one employee per 288 square feet of low-rise office space (i.e. medical offices) and one employee per 344 square feet of “other retail” (i.e., quick service restaurant). Thus, the proposed project is expected to employ approximately 212 persons (60,670 square feet /288 square + 750 square feet /344 square feet). Based on these estimates, the project would constitute a minimal percentage of the projected regional employment growth of 700,000 jobs. Based on the anticipated land use and the location of the project in a densely populated and mostly built-out City, it is anticipated that many employees of the proposed project would be primarily drawn from existing Berkeley residents or from nearby

communities. Therefore, the project would not result in substantial direct or indirect population growth in the city of Berkeley or the region.

**LESS THAN SIGNIFICANT IMPACT**

- b. Would the project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?*

There are no residences on the project sites. Therefore, the proposed project would not result in the displacement of existing housing or people. No impact would occur.

**NO IMPACT**

- c. Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?*

Refer to discussion 13b.

**NO IMPACT**

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# 14 Public Services

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

- a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

|                            |                          |                          |                                     |                                     |
|----------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| 1 Fire protection?         | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 2 Police protection?       | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 3 Schools?                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 4 Parks?                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 5 Other public facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

*a.1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection?*

The City of Berkeley Fire Department (BFD) provides fire protection, including fire suppression, paramedic ambulance service, search and rescue, fire prevention inspections/permits, public education programs, emergency preparedness planning, and other services based on community needs. The proposed project would be required to adhere to conditions of approval and codes set forth by the BFD regarding on-site fire protection measures and emergency access.

The fire station closest to the project sites is Fire Station 1, at 2442 Eighth Street, approximately 1,000 feet northwest of the sites. The sites are in the existing service area of the BFD and on-site construction would be required to comply with applicable Fire Code requirements. The proposed project would not include new residences, and therefore would not increase the permanent population requiring fire services. The project would not require new fire protection facilities to be built, as it can be adequately served by existing facilities, equipment and staff. The project also would not handle large quantities of hazardous materials that could otherwise warrant special consideration. With the continued implementation of existing practices of the City, including

compliance with the California Fire Code and the Uniform Building Code, the proposed project would not significantly affect community fire protection services and would not result in the need for construction of fire protection facilities.

**LESS THAN SIGNIFICANT IMPACT**

*a.2. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection?*

Berkeley Police Department provides police protection. The closest police station is located at 2100 Martin Luther King, Jr. Way, which is approximately 1.6 miles from the project sites. The project sites are in the Berkeley Police Department's service area. The proposed project would not include new residences and therefore, would not increase the permanent population requiring police services. There would be no need for new or expanded police protection facilities. Impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

*a.3. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools?*

The proposed project involves the construction of a 60,670 square-foot medical office building and a 43, 847 square-foot off-site parking lot, and would not involve new residential uses. Therefore, the project would not directly increase the number of school-aged children in the area and would not result in the need for new or physically altered school facilities elsewhere. No impacts related to construction of other school facilities would occur.

**NO IMPACT**

*a.4. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks?*

Refer to Section 15, *Recreation*.

**NO IMPACT**

*a.5. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities?*

Library services are provided by the Berkeley Public Library. The closest library branch is the West Branch of the Berkeley Public Library located at 1125 University Avenue, which is 0.8 miles away

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from the project sites. The proposed project would not directly generate population growth through additional residential units, and therefore would not result in the need for new library facilities.

Impacts to other public facilities (e.g., sewer storm drains and roadways) are discussed in Section 16 (Transportation) and Section 18 (Utilities and Service Systems) of this Initial Study. Impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

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# 15 Recreation

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                             |                          |                          |                          |                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

a. *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

The City owns and operates approximately 52 parks, comprising 230 acres of urban parks (City of Berkeley General Plan, Open Space and Recreation Element). Berkeley's estimated population is 112,580 residents. Therefore, the ratio of public parks to residents in the city is 10 acres of parkland for every 1,000 residents. The park closest to the project sites is San Pablo Park, approximately 0.5 mile southeast of the sites. It is a 12.95-acre park that includes soccer and baseball/softball fields, tennis and basketball courts, playground areas with play equipment, picnic areas, and a recreation building/clubhouse.

The proposed project would not directly affect existing or planned parks or trails. Development of the proposed project does not include a residential component and would not add housing units to the area. The parkland ratio would remain 10 acres of parkland per 1,000 city residents after development of the proposed project.<sup>4</sup> Therefore, the project would not substantially alter citywide demand for parks. No impacts to parks or recreational facilities would occur.

**NO IMPACT**

b. *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

Refer to discussion 15a.

**NO IMPACT**

<sup>4</sup> If the 198-acre Claremont Canyon Regional Reserve is included in the total amount of park space, the figure increases to over 12 acres per 1,000 residents.

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# 16 Transportation

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                                                                                                                                                                                                                  |                          |                                     |                                     |                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a. Conflict with an applicable plan, ordinance or policy establishing a measure of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?                                                                                                                                                                   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?                                                                                                                                                                                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible use (e.g., farm equipment)?                                                                                                                                                                                                                                                                            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| e. Result in inadequate emergency access?                                                                                                                                                                                                                                                                                                                                                                                        | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| f. Conflict with adopted policies, plans, or programs regarding public transit, bikeways, or pedestrian facilities, or otherwise substantially decrease the performance or safety of such facilities?                                                                                                                                                                                                                            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

This analysis is based upon the Traffic Impact Analysis (TIA) prepared for the project by Fehr and Peers in June 2017 and amended in August 2018 (included in Appendix F). Previously, Fehr & Peers had prepared the 1050 Parker Street Transportation Impact Analysis (June 2017 TIA), which

evaluated the impacts of a project consisting of 100 percent medical office (about 60,670 square feet) on the transportation and circulation system surrounding the project site. Since the uses at the medical office site would remain the same as the scenario analyzed in the June 2017 TIA, the trip generation developed for that TIA would continue to remain valid. In addition, the overall trip distribution (direction of approach and departure) for the project would also remain the same as the ones assumed in the June 2017 TIA. However, the provision of the Pardee Block Parking Lot would change the project traffic assignment in the area surrounding the project site. Considering that the Pardee Block Parking Lot would only be used by the project employees and that about half the project peak hour trips would be site employees, it is expected that about half of the project peak hour trips would begin or end at the Pardee Block Parking Lot. The impact of this aspect of the proposed project was analyzed in the August 2018 TIA Addendum (TIA Addendum). The setting and study methodology for both the June 2017 TIA and the TIA Addendum are outlined below.

### Level of Service Methodology

Intersection operations are described using the term “Level of Service” (LOS). LOS is a qualitative description of traffic operations from the vehicle driver perspective and consists of the delay experienced by the driver at the intersection. It ranges from LOS A, with no congestion and little delay, to LOS F, with excessive congestion and delays, based on quantitative tools.

Signalized intersection operations are evaluated using the method provided in the 2010 Highway Capacity Manual (HCM). This method uses intersection characteristics to estimate average control delay and then assigns a LOS value. Control delay is defined as the delay associated with deceleration, stopping, moving up in the queue, and acceleration experienced by drivers at a signalized intersection.

Unsignalized intersection (four-way stop-controlled and side-street stop-controlled) LOS is also analyzed using the 2010 HCM. Delay is calculated for movements that are controlled by a stop sign or that must yield the ROW. This method defines operations by average control delay per vehicle (measured in seconds) for each stop-controlled movement. This incorporates delay associated with deceleration, acceleration, stopping, and moving up in the queue. For side-street stop-controlled intersections, the movement or approach with the highest delay is reported, as well as average intersection delay.

### City of Berkeley Significant Criteria

An impact is considered significant in the City of Berkeley if:

- At a signalized or all-way stop-controlled intersection operations degrade from Level of Service (LOS) D to LOS E or worse and more than a two-second increase in delay
- At a signalized or all-way stop-controlled intersection, more than a three-second increase in delay at intersections operating at LOS E without and with the project
- At a signalized or all-way stop-controlled intersection, operations degrade from LOS E to LOS F and more than a three-second increase in delay
- At a signalized or all-way stop-controlled intersection operating at LOS F without the project, a change in the volume-to-capacity (v/c) ratio of more than 0.01
- At an unsignalized intersection, the addition of project-related traffic causes:
  - The critical approach to operate at LOS F
  - The intersection meets peak hour traffic volume signal warrants

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- Minimum of 10 peak-hour vehicles added to a critical movement
- No alternative routes are available.

### Study Intersections and Scenarios

This analysis evaluates the impacts associated with the project on traffic operations under Pipeline and Cumulative (2040) conditions. The Pipeline scenario accounts for traffic generated by the following approved and proposed projects in the vicinity of the project sites, which are anticipated to be completed in the near future:<sup>5</sup>

- 600 Addison Street, a research and development site
- 2200 Fifth Street, a residential development
- 2100 San Pablo Avenue, a mixed-use development
- 2720 San Pablo Avenue, a mixed-use development
- 2747 San Pablo Avenue, a mixed use development
- 2748 San Pablo Avenue, a mixed use development
- 3020 San Pablo Avenue, a mixed use development
- 3100 San Pablo Avenue, a commercial and office development

Traffic forecasts for the Cumulative scenario (year 2040) were developed based on the results of the most recent (2015) Alameda County Transportation Commission (ACTC) Countywide Travel Demand Model. The Cumulative (2040) No Project analysis assumes the following roadway modifications:

- At the Seventh Street/Ashby Avenue intersection (#12), the signal equipment would be upgraded and signal timings would be coordinated with the planned signal at the Seventh Street/Anthony Street intersection, which would replace the existing signal at Seventh Street/Potter Street intersection.
- At the San Pablo Avenue/Ashby Avenue intersection (#13), a 50-foot left-turn lane would be provided on the westbound approach. Signal equipment at the intersection would also be upgraded to provide protected left-turns for the eastbound and westbound approaches.

For each scenario, Fehr & Peers evaluated existing traffic operations during typical weekday morning (a.m.) and afternoon (p.m.) peak hours at the following 14 intersections in the vicinity of the project. These intersections were selected for analysis because they are most likely to be affected by the proposed project.

1. Sixth Street/University Avenue
2. San Pablo Avenue/University Avenue
3. Seventh Street/Dwight Crescent/Dwight Way
4. Tenth Street/Dwight Way
5. San Pablo Avenue/Dwight Way
6. Seventh Street/Parker Street
7. Tenth Street/Parker Street
8. San Pablo Avenue/Parker Street

---

<sup>5</sup> The land uses and trip generation associated with these projects are included in Appendix D of the traffic study.

9. Seventh Street/Carleton Street
10. Tenth Street/Carleton Street
11. San Pablo Avenue/Carleton Street (west)
12. San Pablo Avenue/Carleton Street (east)
13. Seventh Street/Ashby Avenue
14. San Pablo Avenue/Ashby Avenue

The existing a.m. and p.m. peak period (7:00 to 9:00 a.m. and 4:00 to 6:00 p.m.) intersection turning movements and the pedestrian and bicycle volumes were collected on June 2, 2015 (intersections 5, 12, and 13), February 2, 2016 (intersections 1, 2, and 3), and September 13, 2016 (intersections 3, 4, and 6 thru 11). All counts were collected on clear days with local schools in normal session. These time periods were selected because trips generated by the proposed project during these hours, in combination with background traffic, are expected to represent typical worst traffic conditions. For each study intersection, the hour with the highest traffic volume within each peak period was selected for analysis. Figures showing existing a.m. and p.m. peak hour intersection vehicle volumes and the lane configurations and controls at the study intersections, as well as existing a.m. and p.m. peak hour bicycle and pedestrian volumes can be found in the TIA (see Appendix F). The TIA appendices include detailed count sheets for the study intersections. Table 25 details existing intersection operations.

Table 25 Existing Intersection Operations

| Intersection                                              | Control          | a.m. Peak Hour               |                  | p.m. Peak Hour               |                  |
|-----------------------------------------------------------|------------------|------------------------------|------------------|------------------------------|------------------|
|                                                           |                  | Delay (seconds) <sup>1</sup> | LOS <sup>2</sup> | Delay (seconds) <sup>1</sup> | LOS <sup>2</sup> |
| 1. Sixth Street/University Avenue <sup>3</sup>            | Signalized       | 44.1                         | D                | 51.9                         | D                |
| 2. San Pablo Avenue/University Avenue                     | Signalized       | 37.2                         | D                | 42.7                         | D                |
| 3. Seventh Street/Dwight Crescent/Dwight Way <sup>3</sup> | Signalized       | 28.9                         | C                | 30.7                         | C                |
| 4. Tenth Street/Dwight Way                                | Side-Street Stop | 1.8 (18.6)                   | A (C)            | 2.7 (20.4)                   | A (C)            |
| 5. San Pablo Avenue/Dwight Way                            | Signalized       | 30.0                         | C                | 41.6                         | D                |
| 6. Seventh Street/Parker Street <sup>3</sup>              | Signalized       | 4.9                          | A                | 8.7                          | A                |
| 7. Tenth Street/Parker Street                             | All-Way Stop     | 7.6                          | A                | 8.2                          | A                |
| <b>8. San Pablo Avenue/Parker Street</b>                  | Side-Street Stop | 1.7 (24.9)                   | A (C)            | 3.4 ( <b>51.9</b> )          | <b>A (F)</b>     |
| 9. Seventh Street/Carleton Street                         | Side-Street Stop | 1.0 (17.5)                   | A (C)            | 1.1 (27.3)                   | A (D)            |
| 10. Tenth Street/Carleton Street                          | Side-Street Stop | 4.4 (10)                     | A (B)            | 5.8 (10.1)                   | A (B)            |
| 11. San Pablo Avenue/Carleton Street (west)               | Side-Street Stop | 0.9 (19.4)                   | A (C)            | 0.6 (19.9)                   | A (C)            |
| 12. San Pablo Avenue/Carleton Street (east)               | Side-Street Stop | 1.1 (19.9)                   | A (C)            | 1.5 (34.3)                   | A (D)            |
| <b>13. Seventh Street/Ashby Avenue</b>                    | Signalized       | 39.1                         | D                | <b>64.8</b>                  | <b>E</b>         |
| 14. San Pablo Avenue/Ashby Avenue                         | Signalized       | 40.3                         | D                | 46.3                         | D                |

<sup>1</sup> Average intersection delay and LOS based on the 2010 HCM method except where noted. Average delay is reported for signalized intersections. Average and worst-approach delays, respectively, are reported for side-street stop controlled intersections.

<sup>2</sup> Intersections operating at unacceptable levels are shown in **bold**.

<sup>3</sup> Average intersection delay and LOS based on HCM 2000 because the intersection cannot be accurately evaluated in the 2010 HCM.

Source: Fehr & Peers, 2016; 2018 TIA Addendum

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As shown in Table 25, all study intersections operate at LOS D or better during a.m. peak hour. Most study intersections operate at LOS D or better during the p.m. peak hour, except the following:

- The side-street stop controlled westbound approach at the San Pablo Avenue/Parker Street intersection (#8) operates at LOS F.
- The signalized Seventh Street/Ashby Avenue intersection (#13) operates at LOS E.

The peak hour traffic signal warrant was evaluated for the seven unsignalized study intersections. The San Pablo Avenue/Parker Street intersection (#8) meets the California MUTCD peak hour signal warrant under the existing scenario (see Appendix C of the TIA).

### Trip Generation

The traffic projections for the proposed project were developed using the following three steps: 1) estimating the trip generation associated with the project; 2) determining trip distribution; and 3) assigning the project traffic to the roadway system. These three steps are described below.

The West Berkeley Circulation Master Plan (WBCMP) includes a trip generation methodology specific to development projects in the West Berkeley planning area. The methodology reduces national trip generation rates of the Institute of Transportation Engineers (ITE) Trip Generation Manual to better reflect local conditions. ITE trip generation rates are based on national data, often collected in suburban locations with low rates of non-auto travel. The WBCMP adjustments reflect the high density of uses, proximity to transit, and propensity to walk in West Berkeley. Based on the application of the WBCMP, the a.m. and p.m. peak hour trips generation for the project were reduced by approximately 16 percent.

The trip generation also accounted for pass-by trips, which are defined as trips attracted to a site from adjacent roadways as an intermediate stop on the way to a final destination. Pass-by trips alter travel patterns in the immediate study area, but do not add new vehicle trips to the roadway network, and should therefore be excluded from trip generation estimates. Based on field observations by Fehr & Peers as described in the TIA, a 70 percent pass-by rate reduction was applied to the trip generation for the café after accounting for the WBCMP reduction.

In addition, the Pardee Block Parking Lot site is currently occupied by operational auto-related uses and warehouses that would be demolished. Based on observations in May 2018, these uses generate fewer than five trips during either a.m. or p.m. peak hours. Table 26 details the estimated project trip generation rates.

Table 26 Estimated Project Trip Generation with Reductions

| Land Use                                     | Weekday Peak Hour Totals <sup>1</sup> |                | Total Daily Trips |
|----------------------------------------------|---------------------------------------|----------------|-------------------|
|                                              | a.m. Peak Hour                        | p.m. Peak Hour |                   |
| Medical Office <sup>2</sup>                  | 144                                   | 215            | 2,177             |
| Cafe <sup>4</sup>                            | 81                                    | 31             | 662               |
| <b>Subtotal</b>                              | <b>225</b>                            | <b>246</b>     | <b>2,838</b>      |
| WBCMP Reductions (-16%)                      | -36                                   | -39            | -454              |
| Café pass-by (-70%)                          | -48                                   | -18            | -389              |
| Demolition of Pardee Block Auto Repair shops | -5                                    | -5             | -213              |
| <b>Net New Trips</b>                         | <b>136</b>                            | <b>184</b>     | <b>1,782</b>      |

<sup>1</sup> AM and PM totals include both anticipated in and out trips.

<sup>2</sup> ITE *Trip Generation (9th Edition)* land use category 720 (medical-dental office)

AM Peak Hour Average Rate = 2.39 trips per KSF (79% in, 21% out)

PM Peak Hour Average Rate = 3.57 trips per KSF (28% in, 72% out)

<sup>4</sup> ITE *Trip Generation (9th Edition)* land use category 936 (coffee/donut shop without drive-through window)

AM Peak Hour Average Rate = 108.38 trips per KSF (51% in, 49% out)

PM Peak Hour Average Rate = 40.75 trips per KSF (50% in, 50% out)

Source: Table 4 of the June 2017 TIA (Fehr & Peers, 2017)

The trip distribution and assignment process estimates how the vehicle trips generated by a project sites would distribute across the roadway network. Considering that the Pardee Block Parking Lot would only be used by the project employees and that about half the project peak hour trips would be site employees, it is expected that about half of the project peak hour trips would begin or end at the Pardee Block Parking Lot. Figure 1 in the 2018 TIA Addendum shows the trip distribution for the project sites. The directions of approach and departure of project trips were based on the trip distribution documented in the West Berkeley Environmental Impact Report (EIR), modified to account for the project location, the existing travel patterns and street network serving the project sites, and the location of project driveways on Ninth, Tenth, and Parker Streets.

- a. *Would the project conflict with an applicable plan, ordinance or policy establishing a measure of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit?*

Table 27 summarizes intersection operations at the intersections of San Pablo Avenue/Dwight Way and San Pablo Avenue/Parker Street in the p.m. peak hour. Tables 1, 2, and 3 in the 2018 TIA Addendum (see Appendix F) show the LOS evaluation for all other study area intersections under Existing Conditions, Existing plus Project, Pipeline plus Project and Cumulative plus Project conditions. As shown in those tables, the project would not significantly impact intersection operations at any other study area intersections under.



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Table 27 Proposed Project Study Intersection LOS Summary

| Intersection                        | Traffic Control  | Peak Hour | No Project                         |                    | Plus Proposed Project            |                    | Significant Impact? |
|-------------------------------------|------------------|-----------|------------------------------------|--------------------|----------------------------------|--------------------|---------------------|
|                                     |                  |           | Delay <sup>1,2</sup> (seconds)     | LOS <sup>1,2</sup> | Delay <sup>1,2</sup> (seconds)   | LOS <sup>1,2</sup> |                     |
| <b>Existing Conditions</b>          |                  |           |                                    |                    |                                  |                    |                     |
| 5. San Pablo Ave/<br>Dwight Way     | Signalized       | PM        | 41.6                               | D                  | 47.5                             | D                  | No                  |
| 8. San Pablo Ave/<br>Parker Street  | Side-street stop | PM        | 3.4<br><b>(51.9)</b>               | A <b>(F)</b>       | 19.5<br><b>(&gt;120)</b>         | C <b>(F)</b>       | Yes                 |
| <b>Pipeline Conditions</b>          |                  |           |                                    |                    |                                  |                    |                     |
| 5. San Pablo Ave/<br>Dwight Way     | Signalized       | PM        | <b>64.1</b>                        | E                  | <b>74.3</b>                      | E                  | Yes                 |
| 8. San Pablo Ave/<br>Parker Street  | Side-street stop | PM        | 10.8 <b>(&gt;120)</b>              | B <b>(F)</b>       | 48.1<br><b>(&gt;120)</b>         | E <b>(F)</b>       | Yes                 |
| <b>Cumulative (2040) Conditions</b> |                  |           |                                    |                    |                                  |                    |                     |
| 5. San Pablo Ave/<br>Dwight Way     | Signalized       | PM        | <b>89.6</b><br><b>(v/c=1.14)</b>   | F                  | <b>97.1</b><br><b>(v/c=1.16)</b> | F                  | Yes                 |
| 8. San Pablo Ave/<br>Parker Street  | Side-street stop | PM        | <b>&gt;120</b><br><b>(&gt;120)</b> | F <b>(F)</b>       | <b>&gt;120 (&gt;120)</b>         | F <b>(F)</b>       | Yes                 |

<sup>1</sup> Average intersection delay and LOS based on the 2010 HCM method. Average delay is reported for signalized intersections. Average and worst-approach delays, respectively, are reported for side-street stop controlled intersections.

<sup>2</sup> Intersections operating at unacceptable levels are shown in **bold**.

Source: Fehr & Peers, 2018 TIA Addendum

The project would increase the volume-to-capacity ratio by more than 0.01 at the San Pablo Avenue/Dwight Way intersection (#5), which would operate at LOS F during the p.m. peak hour, causing a significant impact based on City of Berkeley thresholds. In addition, the project would add more than 10 peak hour trips to the San Pablo Avenue/Parker Street intersection (#8), cause the intersection to operate at LOS F during the p.m. peak hour, and would meet the California MUTCD peak hour signal warrant under the Cumulative (2040) Plus Project scenario, causing a significant impact based on City of Berkeley thresholds. The proposed project would contribute 19 percent of the traffic generated at the San Pablo Avenue/Dwight Way intersection and 29 percent of the traffic generated at the San Pablo Avenue/Parker Street intersection.

In addition to the transportation mitigation measures detailed below, the applicant would be required to comply with standard conditions of approval related to transportation demand management and transit subsidies for employees. A Transportation Demand Management compliance report shall be submitted to the Transportation Division Manager, on a form acceptable to the City, prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is in compliance with the applicable requirements and the following:

- f. Consistent with BMC 23E.68.080.H, and subject to the review and oversight of the Transportation Division Manager, the cost equivalent to an unlimited local bus pass shall be provided on a Clipper Card, or equivalent card that can be used by major Bay Area transit systems, shall be provided, at no cost, to every employee.
- g. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.

- h. Transit information shall be provided in the residential lobby, updated at a minimum once a year. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.
- i. Transportation Information Officer will gather and provide information regarding transit and other alternative transportation to residents and commercial tenants and their employees. Information may pertain to the City, regional transit agencies, car sharing, Spare the Air, 511 and other relevant programs. This information package shall be provided to all residents/employees on arrival plus once a year.
- j. The food service operation, if qualifying for participation in the Alameda County Guaranteed Ride Home program (or successor program), shall participate in the "Guarantee Ride Home" program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency. Enrollment shall be encouraged by providing Guarantee Ride Home information to all employees. An affidavit/statement indicating number of participating employees shall be provided annually to the Transportation Division Manager. .

### Mitigation Measures

The following mitigation measures would be required to reduce impacts to these intersections to less than significant levels.

#### *T-1 Reimbursement Agreement to Facilitate Traffic Improvements*

A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required building permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City's pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.

- a. **Intersection Improvements.** Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection.
- b. **Signal Installation.** Signalization of the San Pablo Avenue/Parker Street intersection and coordinated signal timing with the adjacent intersections on San Pablo Avenue

### Significance After Mitigation

Implementation of Mitigation Measure T-1 would ensure that the necessary traffic improvements are installed to reduce project impacts to less than significant levels.

Providing 100-foot left-turn pockets on both approaches to the Dwight Way / San Pablo Avenue intersection would eliminate approximately three on-street parking spaces on the westbound approach and four on-street parking spaces on the eastbound approach. The removal of parking spaces would not be a significant residual impact under CEQA.

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Signalization and coordinated signal timing of the San Pablo Avenue/Parker Street intersection would improve operations to LOS A during the a.m. and p.m. peak hours and would reduce the impact to less than significant.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- b. *Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?*

Refer to discussion 16a.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- c. *Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?*

The closest airport to the project sites is Oakland International Airport, located approximately ten miles to the south. The project sites are located entirely outside of the airport influence zone (Alameda County, 2010). The project is consistent with the zoning designation for the sites and would not affect the airport or airport flight paths such that a change in air traffic patterns would occur. The proposed project would not result in a change in traffic levels near the airport such that a substantial safety risk occurs. No impact would occur.

**NO IMPACT**

- d. *Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible use (e.g., farm equipment)?*

The proposed project would not use or attract vehicles or equipment, such as farm equipment or tractors, that would be incompatible with the existing land uses or circulation patterns surrounding the project area. The proposed project would not change road designs or alignments and would be required to conform to traffic and safety regulations that specify adequate emergency access measures. The sites are located along existing roadways lacking significant safety hazards.

The proposed medical office site would provide on-site surface parking that site employees and visitors would access through two full-access driveways. A driveway midblock on Parker Street would provide access to and from the north and a driveway midblock on Tenth Street, opposite the driveway for the existing development across the street, would provide access to and from the west. The Pardee Block parking lot would provide parking for employees of the medical office building and employees and customers of the remaining Pardee Block commercial buildings. The Pardee Block parking lot would be accessed through two gate-operated driveways located midblock on Tenth Street and midblock on Ninth Street. All driveways would provide adequate sight distance between the vehicles exiting the driveways and pedestrians in both directions of the adjacent sidewalks. There is an existing pedestrian crossing located at the intersection of Carleton Street and Ninth Street to provide access to the sidewalk along Carleton Street on the same side as the medical office.

Trees planted adjacent to the driveways would not affect visibility of exiting vehicles because the tree canopies typically have at least six feet of canopy clearance from ground level. All driveways would be controlled by gates which would be open during typical business hours and would be closed and controlled by keycard at other times. All driveways provide space between the gates and the adjacent street for at least one automobile, minimizing the potential for blocking through traffic

on Tenth, Parker, and Ninth Streets. However, vehicles parked on either side of each driveway may block sight distance between vehicles exiting the driveway and motorists or cyclists traveling on either direction of adjacent streets, requiring mitigation.

The following mitigation measures would be required to reduce impacts to motorist and bicyclist safety to less than significant levels.

## Mitigation Measures

### T-2 Driveway Safety

The applicant shall provide 10 feet of red curb on either side of the project driveways on Ninth, Tenth, and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Ninth, Tenth, and Parker Streets. Improvements shall occur prior to certificate of occupancy.

## Significance After Mitigation

Implementation of Mitigation Measure T-2 would improve the sight distance between vehicles exiting the project driveways and reduce the risk to motorists and bicyclists traveling along Tenth, Ninth, and Parker Streets. The impacts related to driveway safety would be less than significant with mitigation incorporated.

### LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

#### *e. Would the project result in inadequate emergency access?*

The project would involve infill development that would not hinder emergency access or evacuation. San Pablo Avenue is a designated evacuation road. The medical office site would have on-site parking accessed from Parker Street and Tenth Street as well as off-site parking at the Pardee Block parking lot accessed from Tenth Street and Ninth Street. An emergency-only vehicle access driveway would be provided on San Pablo Avenue. The project parking lot layout allows fire apparatus access throughout the site. The nearest fire station to the project sites is Berkeley Fire Station #1 located at 2442 8th Street just north of Dwight Way, less than 0.5 miles northwest of the project sites. Although general traffic congestion may delay emergency vehicle response during peak commute times, it would not substantially affect response times. There would be no design features or uses that would increase hazards or restrict emergency access to the project sites or surrounding area. In addition, as is standard City practice, the Berkeley Fire Department and Berkeley Police Department would review proposed project plans for access concerns.

### LESS THAN SIGNIFICANT IMPACT

#### *f. Conflict with adopted policies, plans, or programs regarding public transit, bikeways, or pedestrian facilities, or otherwise substantially decrease the performance or safety of such facilities?*

## Public Transit

Public transportation that serves the project sites includes Bay Area Rapid Transit (BART) rail service, Alameda-Contra Costa Transit District (AC Transit) bus service, and the West Berkeley Shuttle. Figure 4 of the June 2017 TIA shows the transit routes in the vicinity of the project sites.

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The Downtown Berkeley and Ashby BART stations are located 1.6 and 1.8 miles from the medical office site, respectively. The West Berkeley Shuttle, which is a free shuttle service funded by the Berkeley Gateway Transportation Management Association (TMA) that provides transit connection between Ashby BART station and major employment centers in West Berkeley, has a stop at 2600 Tenth Street, which is adjacent to the west side of the medical office site. The shuttle operates two buses on weekdays from 5:30 a.m. to 10:00 a.m. and from 3:00 p.m. to 7:00 p.m. with approximately 15-minute frequency.

The nearest AC Transit bus stops to the medical office site are on San Pablo Avenue at Parker Street immediately adjacent to the medical office site and on San Pablo Avenue at Dwight, about 0.2 miles north of the medical office site. Lines 72, 72M, and 72R operate along San Pablo Avenue, stopping south of Dwight Way in the southbound direction and north of Parker Street in the northbound direction. Line 49 operates along Dwight Way, stopping just west of San Pablo Avenue in the westbound direction and east of San Pablo Avenue in the eastbound direction.

The West Berkeley Shuttle is a free shuttle, funded by the Berkeley Gateway Transportation Management Association (TMA) that provides transit connection between Ashby BART station and major employment centers in West Berkeley. The shuttle operates two buses on weekdays from 5:30 AM to 10:00 AM and from 3:00 PM to 7:00 PM with approximately 15-minute frequency. The morning and afternoon routes vary slightly, but the nearest stop for both routes is at 2600 Tenth Street, which is adjacent to the west side of the medical office site.

The proposed project would add some riders to the existing transit services. U.S. Census mode share data shows that approximately nine percent of trips generated by the project would be attributed to AC Transit and six percent would be attributed to BART (Fehr and Peers 2017). Calculations by Fehr and Peers concluded that the project would increase AC Transit ridership by about one rider per bus and BART ridership by less than one rider per train during the peak hours. This minimal increase would not have a substantial effect on AC Transit bus or BART ridership.

## Bicycle and Pedestrian Circulation

Figure 5 of the June 2017 TIA identifies existing and proposed bicycle facilities in the study area. In the project study area, all non-residential and most residential streets provide sidewalks. Sidewalks are provided on all streets adjacent to the project sites. Signalized intersections in the vicinity of the project sites provide curb ramps and pedestrian signal heads. Unsignalized intersections in the vicinity of the project sites provide curb ramp and marked crosswalks, with the exception of the Tenth Street/Carleton Street intersection, which only provides curb ramps. The nearest signalized crosswalk across San Pablo Avenue is at Dwight Way, about 0.2 miles north of the project sites.

Currently, bicyclists are allowed on all streets in the study area. However, there are no existing bicycle facilities along San Pablo Avenue near the project. Existing bicycle facilities near the project sites include the Ninth Street Bicycle Lane (Class II) and the Channing Way Bicycle Boulevard (Class III). A mix of bicycle lanes, bicycle boulevards, and bicycle routes connect to these two facilities and provide access east to downtown Berkeley and the UC Berkeley campus, west to the Berkeley Amtrak station and San Francisco Bay Trail, north to the North Berkeley BART station and Albany, and south to Emeryville and Oakland.

Sections 23E.64.080 and 23E.80.080 of the BMC require bicycle parking for new non-residential uses at a rate of one space per 2,000 square feet. Thus, the 60,670 square-foot medical office building would require 31 bicycle parking spaces and the remaining Pardee Block businesses (totaling 27,000 square feet) would require 14 bicycle parking spaces. In addition, the project is providing an

addition 10 percent bicycle parking spaces to allow for a reduction in vehicle parking spaces for the Pardee Block buildings. This equates to 3 additional bicycle spaces for the Pardee Block. The project would provide 46 bicycle parking spaces at the medical office site and 18 bicycle parking spaces at the Pardee Block parking lot site. Short term and long term parking are provided on both project sites. The proposed bicycle parking supply would exceed the City of Berkeley requirements.

Cyclists would use the surrounding surface streets to travel to and from the project sites. They would use either the project driveways on Parker, Ninth, and Tenth Streets, or the pedestrian access points on San Pablo Avenue, Parker, Ninth, and Tenth Streets, to access the sites and the bicycle parking. The *City of Berkeley Bicycle Master Plan Final Draft (2017)* identifies San Pablo Avenue as a future cycle track and Parker Street between Mable and Ninth Streets as a future bicycle boulevard. The proposed project would not modify San Pablo Avenue or Parker Street and would not conflict with the proposed bicycle improvements. Furthermore, the Bicycle Master Plan recommends a pedestrian hybrid beacon at the San Pablo Avenue/Parker Street intersection to improve crossing San Pablo Avenue for pedestrians and cyclists. Mitigation Measure T-2, which would signalize the San Pablo Avenue/Parker Street intersection, would also improve pedestrians and cyclists crossing of San Pablo Avenue and would not conflict with the Bicycle Master Plan.

The project would provide pedestrian access points on San Pablo Avenue, Parker, Ninth, and Tenth Streets, and provides designated paths between the pedestrian access points and the main building lobby that minimize potential conflicts between motorists and pedestrians within the project sites. In addition, the café component of the project would be along the San Pablo Avenue frontage with direct access on San Pablo Avenue.

The sidewalks adjacent to the sites are currently approximately 12 feet wide along San Pablo Avenue, and 10 feet on Parker and Tenth Streets. City of BMC §16.18.080 requires a minimum clear space of six feet on all sidewalks. The project would not modify any of the sidewalks along project frontages and the sidewalks adjacent to the project would continue to satisfy the City requirements. The nearest signalized crosswalks across San Pablo Avenue are at Dwight Way, about 0.15 miles north, and at Grayson Street, about 0.2 miles south of the medical office site. Mitigation Measure T-2 would signalize San Pablo Avenue/Parker Street intersection and provide a signal-protected crossing of San Pablo Avenue adjacent to the medical office site, improving pedestrian connections across this segment of San Pablo Avenue.

Pedestrian access for the Pardee Block Parking Lot would be provided through a gate just south of the driveway on Tenth Street. The medical office employees that park at the Pardee Block Parking Lot would use this gate and then cross two of the approaches at the Tenth Street/Carleton Street intersection to walk between the project building and the parking lot. The intersection is currently controlled by stop-signs on the Tenth Street approaches, with no controls on the Carleton Street approaches. In addition, none of the four crossings at the intersection are currently marked; however, all four crossings have adequate sight distance. The proposed project has been designed to include an all-way stop at the Tenth Street/Carleton Street intersection and would mark the intersection with crosswalk striping. This design feature would be ensured through a condition of approval requiring that the project conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the approved drawings.

The proposed project would not involve changes in traffic patterns that would impact bicycle or pedestrian routes or that would interrupt bus or shuttle service routes. Impacts to transit facilities would be less than significant.

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# 17 Tribal Cultural Resources

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in a Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- |                                                                                                                                                                                                                                                                                                                                                                                                                                |                          |                          |                                     |                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| <p>a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or</p>                                                                                                                                                                                                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p>b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 2024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code section 5024.1, the lead agency shall consider the significant of the resource to a California Native American tribe.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

*a., b. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074 that is (a) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or (b) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 2024.1?*

California Assembly Bill 52 of 2014 (AB 52) was enacted on July 1, 2015, and establishes that “a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment” (Public Resources Code (PRC) §21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3).

PRC §21074 (a)(1)(A) and (B) defines tribal cultural resources as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe” and meets either of the following criteria:

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying these criteria, the lead agency shall consider the significance of the resource to a California Native American tribe

AB 52 also establishes a formal consultation process for California tribes regarding tribal cultural resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

According to Appendix G of the CEQA Guidelines, an impact to tribal cultural resources from the project would be significant if the project would cause a substantial adverse change in the significance of a tribal cultural resource that meets the criteria listed in Public Resources Code Section 21074.

The City of Berkeley prepared and mailed formal notification letters in accordance with the provisions of AB 52 to one Native American tribe, the Ohlone Tribe, on June 7, 2018. The tribe’s representative, Mr. Andrew Galvan responded to the City saying that the tribe was not interested in consultation under AB 52. No tribal cultural resources have been identified on-site. However, proposed excavation of the project sites could potentially result in adverse effects of unanticipated tribal cultural resources. The City has standard conditions of approval to address the potential discovery of cultural resources during demolition, grading, and/or construction. 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. Therefore, the proposed project would not have a significant impact on tribal cultural resources.

#### **LESS THAN SIGNIFICANT IMPACT**



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# 18 Utilities and Service Systems

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Would the project:

|                                                                                                                                                                                                                                   |                          |                          |                                     |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?                                                                                                                               | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?                                                                            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?                                                                                                            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| g. Comply with federal, state, and local statutes and regulations related to solid waste?                                                                                                                                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

a. *Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*

The City's sanitary sewer lines feed into the wastewater treatment plant operated by EBMUD, which provides secondary treatment for a maximum flow of 168 million gallons per day (MGD), primary treatment for up to 320 MGD, and plant capacity for a short-term hydraulic peak of 415 MGD. On

average, the EBMUD wastewater treatment plant treats 63 MGD of wastewater (EBMUD 2017a). Therefore, on an average day the EBMUD wastewater treatment plant has a remaining secondary treatment capacity of 105 MGD and could accommodate development associated with the proposed project. The project would not require the construction of wastewater infrastructure and would have a less than significant impact.

**LESS THAN SIGNIFICANT IMPACT**

- b. Would the project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

Refer to discussion 18a.

**LESS THAN SIGNIFICANT IMPACT**

- c. Would the project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

As discussed in Item 9, *Hydrology and Water Quality*, the medical office site is not connected to an existing storm water drainage system and storm water runoff leaving the medical office site enters City streets before being intercepted by the storm water drainage system at downstream locations. The proposed project would increase the amount of impervious surface area compared to existing conditions on the medical office site and would include features that slow the rate of storm water runoff and improve water quality, including three biotreatment areas. The runoff would be filtered in these areas and then would flow from these areas into the City streets before eventually being intercepted by the existing storm water drainage system downstream of the medical office site. The Pardee Block parking lot incorporates permeable pavers throughout the site which would provide self-treating surfaces. While the biofiltration system would effectively treat excess runoff to meet the C.3 requirements of the Municipal Regional Storm Water NPDES Permit, the biotreatment areas may not be sufficient to prevent localized flooding of City streets from project-related increases in runoff, which in turn may require the establishment of additional storm water control measures. Implementation of Mitigation Measures HYD-1 and HYD-2 as detailed in Item 9, *Hydrology and Water Quality*, would ensure that the rate and amount of post-development runoff would not exceed the rate and amount of pre-development runoff. If mitigation measures include new stormwater infrastructure in the public right-of-way, the construction of this infrastructure shall be required to follow accepted industry practices and therefore would not be expected to cause significant environmental effects. Compliance with the City's NPDES permit and Stormwater Ordinance (Chapter 17.20 of the BMC) would further ensure that any impacts associated with new stormwater infrastructure would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

- d. Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*

In the 2015 Urban Water Management Plan (UWMP), EBMUD updated its Drought Management Program Guidelines to incorporate new measures such as a staged system of drought rates, new ordinances and penalties, and a supersaver recognition program. With implementation of the updated Drought Management Program, EBMUD predicts that available supply would meet demand

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during both a one-year and two-year drought through the year 2040. However, EBMUD's 2015 UWMP found that, in the event of a three-year drought, the utility's water supply would be insufficient to meet demand in future years and would require supplementation beyond that already identified (EBMUD 2016). Due to water scarcity, future users of the project sites (and all EBMUD customers) should plan for shortages and both voluntary and mandatory water use reductions in times of drought. EBMUD imposes a system capacity charge on new developments to fund system maintenance and the development of new water sources. The project applicant would be required to pay this fee and undertake measures to conserve water.

The project would reduce water use relative to standard building practices by complying with the California Water Efficient Landscape Ordinance. At least 75 percent of plants in non-turf landscaped areas would be species that require no or little summer watering once established, among other water-saving measures, according to the applicant's Bay-Friendly Basics Landscape Checklist. These water conservation measures would reduce the project's burden on municipal water supply systems. The project also would be required to comply with Section 31 of EBMUD's Water Service Regulations, which describe applicable water-efficiency measures (EBMUD 2017b). Water supply impacts would be less than significant and the construction of new water treatment facilities or the expansion of existing facilities would not be required.

**LESS THAN SIGNIFICANT IMPACT**

- e. Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

Refer to discussion 18a.

**LESS THAN SIGNIFICANT IMPACT**

- f. Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?*

Solid waste from the project sites would be disposed of at the Vasco Road Landfill, which has a maximum permitted throughput of 2,518 tons of solid waste per day and a remaining capacity of 7,379,000 cubic yards or 22 percent (CalRecycle 2018). The Vasco Road Landfill is estimated to close in 2022.

The City of Berkeley is responsible for complying with AB 939, which mandates 50 percent of solid waste diverted from landfills. Between 1995 and 2010, the City diverted 76 percent of waste, meeting the City's goal of 75 percent waste diversion by 2010. The proposed project would participate in the City's waste diversion programs and would continue diverting a minimum of 75 percent of its solid waste. The project would also be subject to all applicable State and County requirements for solid waste reduction as they change in the future. According to the CalEEMod V. 2016.3.2 air quality model, which also calculates waste generation, the project is projected to generate 164 tons of waste annually or 0.5 tons of waste on a daily basis (Appendix A). This would account for less than 0.01 percent of the daily permitted throughput for the Vasco Road Landfill. Although some increase in waste generation may occur because of the proposed development, the increase would not be significant, and adequate landfill capacity is available to serve the project. Impacts would be less than significant.

**LESS THAN SIGNIFICANT IMPACT**

- g. Would the project comply with federal, state, and local statutes and regulations related to solid waste?*

Compliance with Berkeley's Municipal Code Title 11 is required of all businesses in the city. Section 11.60.010 regulates solid waste and recycling and is consistent with the City of Berkeley's 1986 Solid Waste Management Plan, the County of Alameda Solid Waste Management Plan, and the legislative intent and findings of the State of California Solid Waste Management and Resource Recovery Act of 1972 (Government Code §66700 et seq.) Therefore, the project would comply with all applicable regulations related to solid waste and no impact would occur.

**NO IMPACT**

City of Berkeley  
 1050 Parker Street Medical Office and Off-Site Parking Lot Project  
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## 19 Mandatory Findings of Significance

|  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|
|--|--------------------------------|----------------------------------------------------|------------------------------|-----------|

Does the project:

|                                                                                                                                                                                                                                                                                                                                                                                            |                          |                                     |                                     |                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|
| <p>a. Have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</p> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p>b. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)</p>                                                        | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| <p>c. Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</p>                                                                                                                                                                                                                                                          | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

a. *Does the project have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

As discussed in Item 4, *Biological Resources*, the project does not have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal. Furthermore, the City’s standard conditions of approval would reduce project impacts to biological, cultural and tribal resources to a less than significant level.

Adverse impacts to archaeological and paleontological resources would not occur since the project sites and vicinity are completely developed and archaeological resources are not known to be present. The project sites are not known to have any association with an important example of

California's history or prehistory as discussed in Section 5, *Cultural Resources*. The Ohlone Tribe was notified of the project, per California AB 52 (*Tribal Cultural Resources*). The tribal contact person did not request consultation during the 30-day notification period.

#### **LESS THAN SIGNIFICANT IMPACT**

- b. *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)*

Implementation of the project would result in less than significant environmental impacts with implementation of the identified mitigation measures. Cumulative impact analyses are specifically included for traffic. Impacts would be less than significant with incorporation of identified mitigation measures T-1 and T-2. Other impacts associated with the project would generally be localized at the project sites and would not combine with other projects to cause cumulatively considerable environmental impacts. With mitigation as identified in this Initial Study, the project would not result in impacts that are individually limited, but cumulatively considerable.

#### **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

- c. *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

In general, impacts to human beings are associated with air quality, hazards and hazardous materials, and noise impacts. As detailed in the preceding responses, the proposed project would not result, either directly or indirectly, in substantial adverse impacts related to air quality or hazards and hazardous materials.

Noise and vibration impacts would be reduced to less than significant levels with implementation of mitigation measures NOI-1 and NOI-2 to minimize the exposure of noise-sensitive receptors to construction activity noise and vibrations. Therefore, the project would not have substantial adverse effects on people after mitigation.

#### **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

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## PLANNING & DEVELOPMENT

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October 19, 2018

TO: Commenters on the 1050 Parker Street Medical Office and 2700 Tenth Off-Site Parking Lot Project Draft Initial Study-Mitigated Negative Declaration

**Subject: Response to Comments on the Draft IS-MND**

Dear Commenter,

Thank you for providing the City of Berkeley with comments on the Draft Initial Study-Mitigated Negative Declaration (IS-MND) for the proposed 1050 Parker Street Medical Office and 2700 Tenth Street Off-Site Parking Lot Project. Your participation is appreciated and considered an essential element in the planning and environmental review process.

In accordance with the California Environmental Quality Act Guidelines, Section 15088, the City of Berkeley as the lead agency has reviewed and considered comments received during the public review period. A copy of your comments and the City's response to your comments are attached to this letter. The complete Final IS-MND, including responses to all comments received, is available on the City's website: [https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1050\\_Parker.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1050_Parker.aspx)

The City of Berkeley Zoning Adjustments Board (ZAB) will conduct a public hearing to consider adoption of the IS-MND on **October 25, 2018**, at 7:00 PM at 2134 Martin Luther King, Jr. Way, 2nd Floor Council Chambers in Berkeley. The ZAB may consider the project at that time or at a date to be determined. For details and to confirm the hearing date, interested parties should check the ZAB's agenda on their website at: <http://www.cityofberkeley.info/zoningadjustmentsboard/>.

Again, thank you for providing the City with comments. If there are any questions about the responses to comments, please contact Layal Nawfal at [lnawfal@cityofberkeley.info](mailto:lnawfal@cityofberkeley.info) or (510) 981-7424.

Sincerely,

A handwritten signature in black ink, appearing to read "Layal Nawfal".

Layal Nawfal  
Associate Planner



**PLANNING & DEVELOPMENT**

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**Final Mitigated Negative Declaration  
 Response to Comments on  
 Draft Initial Study-Mitigated Negative Declaration  
 1050 Parker Street Medical Office and Off-Site Parking Project**

**Subject: Response to Public Review Comment and Final Mitigated Negative Declaration**

This document has been prepared to respond to comments received on the Draft Initial Study-Mitigated Negative Declaration (IS-MND) prepared for the 1050 Parker Street Medical Office and Off-Site Parking Project (SCH#2018092001). The Draft IS-MND found that with implementation of the mitigation measures and the City's standard conditions of approval, impacts on the environment from the proposed project were less than significant. The list of comment letters the City received is below.

**LIST OF COMMENT LETTER(S) RECEIVED**

| <b>Individuals</b>                         |                                                  |                    |
|--------------------------------------------|--------------------------------------------------|--------------------|
| 1                                          | Carly Barker and Stephen LaMond                  | September 8, 2018  |
| 2                                          | Janet Hurwich                                    | September 13, 2018 |
| 3                                          | Fredic Fierstein                                 | September 14, 2018 |
| 4                                          | Carly Barker and Stephen LaMond                  | September 24, 2018 |
| 5                                          | Mitchel Bornstein                                | September 25, 2018 |
| <b>State, Local, and Regional Agencies</b> |                                                  |                    |
| 6                                          | State of California Department of Transportation | October 3, 2018    |

None of the comments received identified new impacts or resulted in a substantial increase in the severity of impacts. Responses to the comments received do not constitute new information that warrants recirculation of the Draft IS-MND. This Response to Comments (RTC) Document provides responses to comments received and minor corrections or clarification of material in the Draft IS-MND. This RTC Document, together with the Draft IS-MND constitutes the Final IS-MND for the proposed 1050 Parker Street Medical Office and Off-Site Parking Project.

  
 Shannon Allen  
 Principal Planner

10/19/18  
 Date of Issuance of  
 Final Mitigated Negative Declaration

Attachments:  
 Comment Letter(s) Followed by Staff Responses

# Responses to Comments on the Draft IS-MND

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## 1. INTRODUCTION

### 1.1 PURPOSE OF THE RESPONSE TO COMMENTS ON THE DRAFT IS-MND

This document has been prepared to respond to comments received on the Draft Initial Study-Mitigated Negative Declaration (Draft IS-MND) prepared for the proposed 1050 Parker Street Medical Offices and Off-Site Parking Lot Project (project). The Draft IS-MND identifies the likely environmental consequences associated with development of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments (RTC) Document provides responses to comments on the Draft IS-MND and makes revisions to the Draft IS-MND, as necessary, in response to those comments or to make clarifications to material in the Draft IS-MND. This document, together with the Draft IS-MND, constitutes the Final IS-MND for the proposed project.

### 1.2 ENVIRONMENTAL REVIEW PROCESS

Pursuant to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft IS-MND. The Draft IS-MND was made available for public review on September 4, 2018. Copies of the Notice of Intent to Adopt the Draft IS-MND were mailed to local and state agencies as well as property owners and residential and commercial occupants within 300 feet of the project site. The Draft IS-MND and a Notice of Intent to Adopt a Mitigated Negative Declaration were posted electronically on the City's website, and a paper copy was available for public review at the City of Berkeley Planning and Development Department and at the Berkeley Main Library Reference Desk.

The 30-day Draft IS-MND public comment period began on September 4, 2018 and ended October 4, 2018. The City received six comment letters on the Draft IS-MND. Copies of written comments received during the comment period are included in Chapter 2 of this document.

### 1.3 DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

**Chapter 1: Introduction.** This chapter discusses the purpose and organization of this RTC Document and the Final IS-MND, and summarizes the environmental review process for the project.

**Chapter 2: Comments and Responses.** This chapter contains reproductions of the comment letters received on the Draft IS-MND. A written response for each CEQA-related comment received during the public review period is provided. Each response is keyed to the corresponding comment.

**Chapter 3: Draft IS-MND Revisions.** Corrections to the Draft IS-MND that are necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft IS-MND, are contained in this chapter. Underlined text represents language that has been added to the Draft IS-MND; text with ~~strikeout~~ has been deleted from the Draft IS-MND.

## 2. COMMENTS AND RESPONSES

This chapter includes comments received during the circulation of the Draft IS-MND prepared for the 1050 Parker Street Medical Offices and Off-Site Parking Lot Project.

The Draft IS-MND was circulated for a 30-day public review period that began on September 4, 2018. The City of Berkeley received six comment letters on the Draft IS-MND. The commenters and the page number on which each commenter's letter appear are listed below.

| Letter No. and Commenter                                               | Page No. |
|------------------------------------------------------------------------|----------|
| 1 Carly Barker and Stephen LaMond                                      | 3        |
| 2 Janet Hurwich, Ph.D.                                                 | 9        |
| 3 Fredric Fierstein                                                    | 11       |
| 4 Carly Barker and Stephen LaMond                                      | 13       |
| 5 Mitchel Bornstein                                                    | 16       |
| 6 Patricia Maurice, California Department of Transportation (Caltrans) | 19       |

The comment letters and responses follow. The comment letters have been numbered sequentially and each separate CEQA issue raised by the commenter has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in Comment Letter 1).

Revisions to the Draft IS-MND necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft IS-MND, are included in the responses. Underlined text represents language that has been added to the Draft IS-MND; text with ~~strikeout~~ has been deleted from the Draft IS-MND. All revisions are then compiled in the order in which they would appear in the Draft IS-MND (by page number) in Chapter 3, Text Revisions, of this document.

Letter 1

**From:** Nawfal, Layal  
**To:** [Sally Schiffman](#)  
**Subject:** FW: Project title: 1050 Parker St Medical office and off-Site Parking lot project USE PERMIT #ZP2018-0116  
**Date:** Monday, September 17, 2018 12:57:46 PM

---

FYI

Layal Nawfal  
Associate Planner  
Land Use Planning Division  
City of Berkeley  
510-981-7424  
[Lnawfal@cityofberkeley.info](mailto:Lnawfal@cityofberkeley.info)

City Holiday and Reduced Service schedule: <https://www.cityofberkeley.info/ContentDisplay.aspx?id=148>

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**From:** Stephen LaMond [mailto:[lamond\\_stephen@comcast.net](mailto:lamond_stephen@comcast.net)]  
**Sent:** Saturday, September 08, 2018 1:38 PM  
**To:** Nawfal, Layal <[LNawfal@cityofberkeley.info](mailto:LNawfal@cityofberkeley.info)>  
**Cc:** Carly Personal <[carlyjbarker@gmail.com](mailto:carlyjbarker@gmail.com)>; Stephen LaMond <[lamond\\_stephen@comcast.net](mailto:lamond_stephen@comcast.net)>  
**Subject:** Project title: 1050 Parker St Medical office and off-Site Parking lot project USE PERMIT #ZP2018-0116

Layal Nawfal:

We are writing you to request the following information be taken into consideration for the USE PERMIT #ZP2018-0116.

We are homeowners directly across the street from the proposed parking lot portion of this development (2709 10<sup>th</sup> Street, Unit, E Berkeley, CA 94710) Phone: 650-477-4043

We have the following questions/concerns etc.

Carly Barker nor myself (Stephen LaMond) residents at the above listed address are neither FOR or OPPOSED to this new construction. However we have several issues/comments to consider as well as clarify.

We thought it would be good to raise a few issues that MAY or MAY NOT be important to the Residents here.

Issues/Comments:

- Will there be loss of parking for residents of the area? TEMPORARILY or Long-term?
  - All construction should take place on the property itself, no construction equipment should be left in viable parking spaces during this construction phase given parking in

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cont.

this area is already at a premium. Any loss of parking (Temporarily or permanently is a Major concern) We have witnessed poorly planned construction sites where heavy equipment has been left on main thorough fares (San Pablo is prime example)

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- Temporary- with constructions comes blocked off spaces and access to valuable parking. Please avoid at all costs
  - Longer term parking: what is the impact in our area? Do we gain or lose parking? Parking is an expensive commodity in this area currently.
  - What can we do/state in order to get more information and some “protection from a great loss of parking in either situation??”
  - Noise abatement: Will there be restrictive times for construction start and stop? (There is such a thing at the new development on the corner of University and 6<sup>th</sup> Street)
  - Dirt and dust abatement?
- Is this a good time to request residential parking permits for this area? In the past this was a concern and this brings it up as a major concern now.
- Intersection lacks 4 way stop at Carleton and 10<sup>th</sup> Street.
  - Several accidents have taken place there since we have moved in. Will that get worse?
  - If this is a health care facility should there be more attention to this issue?
- Is a parking lot ideal? Is the actual facility being built across from 2600 offer sufficient parking or will it be very congested? How about redesign of that parcel to accommodate more parking? More underground parking?
- San Pablo ST. Church parking where will that go once that lot is removed?
  - Sunday’s and special events will take up parking possibly in and around our complex if that parking is removed across from 2600.
  - It is nice to have more parking available on weekends vs. always struggling to find parking.
- Missouri Bar Parking may end up down our area due to lost temporary parking.
  - Unlikely but it does draw a late night crowd to our area.
  - More car break-ins occur down by the bar area on a regular basis.
  - Hopefully the B of A parking lot can pick up the bulk of the parking issues.
- Other issues include: Increased traffic flow, more handicap spaces in the area to accommodate “medical patients???” Impact on overall area?
- Crime prevention in this area? Can we beef up patrols in general?
- Can we be assured that the construction will return our roads back to the condition they were prior to the construction? It seems that when work crews start digging up our streets the City never follows up to make sure the repair and patch work is conducted professionally and doesn’t create more potholes or other assorted concerns.

Thank you

Carly Barker and Stephen LaMond



## Letter 1

**COMMENTER:** Carly Barker and Stephen LaMond

**DATE:** September 8, 2018

### Response 1.1

The commenters state concerns regarding the availability of parking during project construction and project operation, and loss of parking spaces as a result of the project.

Approval of a project construction management plan by the City of Berkeley Department of Planning and Development is required prior to issuance of grading permits. The construction management plan will include construction parking and mobilization sites and routes permitted for construction vehicles to reduce inconvenience to residents in the project area.

As stated in the *Project Description* of the Draft IS-MND, the project would provide a total of 238 vehicle parking spaces. The project is required to provide a total of 238 parking spaces, pursuant to BMC Section 23E.64.080 as noted in Section 10, *Land Use and Planning*, of the IS-MND. Therefore, the project would provide a sufficient amount of parking spaces for the project.

No changes to the IS-MND are necessary to address this comment.

### Response 1.2

The commenters ask about noise abatement. Section 12, *Noise*, of the Draft IS-MND addresses project noise generation and impacts during construction and operation. Construction activities would be prohibited between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 8:00 p.m. and 9:00 a.m. on weekends and holidays per BMC Section 13.40.070. As discussed in the Draft IS-MND, project construction would exceed City thresholds at noise-sensitive receptors. Therefore, Mitigation Measure NOI-2 contains construction noise abatement measures to be implemented during construction to reduce associated temporary construction noise to the extent feasible for nearby sensitive receptors. With implementation of Mitigation Measure NOI-2, impacts would be less than significant.

No changes to the IS-MND are necessary to address this comment.

### Response 1.3

The commenters ask about dirt and dust abatement. Section 3, *Air Quality*, of the Draft IS-MND provides analysis pertaining to air pollutants emissions during project construction and operation. The project proponent would be required to comply with all BAAQMD control measures to reduce construction emissions, including watering active construction areas at least twice daily. As discussed in the Draft IS-MND, with required adherence to existing regulations impacts would be less than significant.

No changes to the IS-MND are necessary to address this comment.

### Response 1.4

The commenters inquire whether a residential parking permit program would be appropriate due to the proposed project. Parking permit requests are not a CEQA topic of concern, but rather a City policy decision. Please refer to Response 1.1 regarding project parking.

No changes to the IS-MND are necessary to address this comment.

### Response 1.5

The commenters state that the intersection at Carleton Street and Tenth Street lacks a four-way stop, which the commenters opine poses an issue to public safety. The intersection at Carleton Street and Tenth Street was included as a study intersection for the project Traffic Impact Analysis (TIA; Appendix F of the IS-MND), and the analysis concluded that the existing level of service is acceptable and the project's contributions to this intersection would not result in a significant impact. The study did not determine that the project's traffic impacts warrant installation of a signal at this intersection. As discussed further in Section 16, *Transportation*, of the draft IS-MND, the project as mitigated would not include features that would result in safety hazards.

No changes to the IS-MND are necessary to address this comment.

### Response 1.6

The commenters inquire about the appropriateness and sufficiency of parking spaces provided as part of the project. Please refer to Response 1.1 regarding project parking.

The commenters inquire about traffic congestion in the project site vicinity once the project is operational. A project Traffic Impact Analysis (TIA) was completed and included in its entirety as Appendix F of the Draft IS-MND. As stated in Section 16, *Transportation*, the project would contribute 19 percent of the traffic generated at the San Pablo Avenue/Dwight Way intersection and 29 percent of the traffic generated at the San Pablo Avenue/Parker Street intersection, and would cause a potentially significant impact at both intersections based on City of Berkeley thresholds. Therefore, the applicant would be required to comply with standard conditions of approval related to transportation demand management and transit subsidies for employees. The City Transportation Division Manager must approve a Transportation Demand Management compliance report for the project prior to occupancy. In addition, Mitigation Measure T-1 ensures necessary traffic improvements designed to reduce project impacts to less than significant levels.

The commenters inquire about a redesign of the project to accommodate underground parking. Design alternatives were not considered in analyzing the project for the Draft IS-MND. This comment will be forwarded to the City's decision makers for their consideration. The commenters will have further opportunities to comment on the project at the Zoning Adjustments Board hearing for the requested Use Permits.

No changes to the IS-MND are necessary to address this comment.

### Response 1.7

The commenters speculate there may be parking issues associated with services and special events hosted by a church on San Pablo Avenue (assumed to be the Covenant Worship Center located at

2618 San Pablo Avenue). The project site is not an official parking lot for the Covenant Worship Center. No changes to the IS-MND are necessary to address this comment.

### Response 1.8

The commenters speculate there may be parking issues associated with patrons of the Missouri Lounge. No parking for the Missouri Lounge would be removed as part of the proposed project. This comment is noted, but does not address analytical deficiencies of the IS-MND. No changes to the IS-MND are necessary to address this comment.

### Response 1.9

The commenters inquire about increased traffic as a result of the project, and the project's potential impact on the overall area. Section 16, *Transportation*, of the Draft IS-MND addresses project traffic impacts and summarizes the findings of the TIA (Appendix F of the Draft IS-MND). Mitigation Measures T-1 and T-2, which pertain to a Reimbursement Agreement for traffic improvements to select intersections and driveway safety measures, respectively, are necessary to mitigate traffic impacts to less than significant levels.

As stated in the *Project Description* of the Draft IS-MND, the project would provide a total of 238 vehicle parking spaces. The project is required to provide a total of 238 parking spaces, pursuant to BMC Section 23E.64.080 as noted in Section 10, *Land Use and Planning*, of the IS-MND. Of the 238 vehicle parking spaces to be provided through the project, ten spaces would be ADA accessible; seven ADA accessible spaces in the medical office parking lot and three ADA accessible spaces in the Pardee Block parking lot. Therefore, the project would provide a sufficient amount of parking spaces for the project.

Regarding accessible parking spaces, the project would be required to provide the appropriate number of accessible spaces to comply with the City's Municipal Code and Americans with Disabilities Act (ADA).

The Draft IS-MND provides project impact analysis based on compatibility with existing uses and site conditions. Based on CEQA analysis, the project would have less than significant impacts with mitigation incorporated for hydrology/water quality, land use and planning, noise, and transportation. All other areas analyzed resulted in less than significant or no impacts from the project.

No changes to the IS-MND are necessary to address this comment.

### Response 1.10

The commenters ask about crime prevention in the project area. Section 14, *Public Services*, of the IS-MND provides analysis pertaining to fire and police protection needs following the implementation of the project. The introduction of a new medical office building would not result in a substantial increase in demand for these services. As discussed in the Draft IS-MND, impacts would be less than significant.

No changes to the IS-MND are necessary to address this comment.

City of Berkeley  
1050 Parker Street  
Medical Offices and Off-Site Parking Lot Project

Responses to Comments on the Draft IS-MND

### Response 1.11

The commenters ask about future road conditions following project implementation. The City typically requires repair of damage to streets and sidewalks in the public right of way as a result of project construction. No changes to the IS-MND are necessary to address this comment.

RECEIVED

SEP 13 2018

LAND USE PLANNING

Letter 2

Janet Hurwich Ph.D  
2608 9<sup>th</sup> Street  
Berkeley, CA 94710

Land Use Planning  
1947 Center Street 2<sup>nd</sup> Floor  
Berkeley CA 94704

To whom it may concern


Project Title: 1050 Parker Street Medical Office and Off-Site parking Lot.  
Use Permit # ZP2018-0116  
Modification Permit: ZP2016-0170

1

As a trustee for property on 9<sup>th</sup> Street, I am writing to comment on the proposed development. The entire area is struggling with parking issues. Even though parking is included in the plan, I question whether sufficient parking will be provided for a medical building with staff, and a large number of patients coming and going throughout the day. This area cannot accommodate any more street parking, and public transit is sadly lacking. As mentioned in your 9/3/4/18 letter, traffic will also be impacted in this area, and there is no mention of the number of arrivals and departures that are expected each day.

I hope the City will take time to review these issues before allowing the project to proceed.

Sincerely,

  
Janet Hurwich, Ph.D

City of Berkeley  
 1050 Parker Street  
 Medical Offices and Off-Site Parking Lot Project

Responses to Comments on the Draft IS-MND

## Letter 2

**COMMENTER:** Janet Hurwich, Ph.D.

**DATE:** September 13, 2018

### Response 2.1

The commenter states concerns regarding the availability of parking once the project is complete and in operation. As stated in the *Project Description* of the Draft IS-MND, the project would provide a total of 238 vehicle parking spaces. The project is required to provide a total of 238 parking spaces, pursuant to BMC Section 23E.64.080 as noted in Section 10, *Land Use and Planning*, of the IS-MND. Therefore, the project would provide a sufficient amount of parking spaces for the project.

The commenter also states an opinion that project trip generation is not addressed in the Draft IS-MND. A transportation impact study for the project was conducted by Fehr and Peers at the direction of the City's Traffic Engineer. The traffic impact study is included with the Draft IS-MND as Appendix F. As discussed in Section 16, *Transportation*, of the IS-MND, the analysis completed in the traffic impact study included the number of anticipated trips generated by the project (see Table 26 in the Draft IS-MND). Impacts would be less than significant with mitigation identified in the IS-MND.

The commenter also states an opinion that public transit is sadly lacking at the project site. This opinion is acknowledged. However, it should be noted that, as discussed in the IS-MND, the medical office project site abuts San Pablo Avenue, a major transit corridor in Berkeley. There are a number of Alameda-Contra Costa (AC) Transit bus stops within 0.25 mile of the project site, with the closest one approximately 150 feet from the site at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). Additional bus stops are located at the intersection of Dwight Way and San Pablo Avenue, approximately one block north of the project site. There are three Bay Area Rapid Transit (BART) stations within 2.0 miles of the project site: North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east).

No changes to the IS-MND are necessary to address these comments.

Letter 3

**From:** Nawfal, Loyal  
**To:** [Sally Schifman](#)  
**Subject:** FW: 2600 Tenth st.  
**Date:** Monday, September 17, 2018 12:58:22 PM

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FYI

Loyal Nawfal  
Associate Planner  
Land Use Planning Division  
City of Berkeley  
510-981-7424  
[Lnawfal@cityofberkeley.info](mailto:Lnawfal@cityofberkeley.info)

City Holiday and Reduced Service schedule: <https://www.cityofberkeley.info/ContentDisplay.aspx?id=148>

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**From:** fredric fierstein [mailto:rjf345@yahoo.com]  
**Sent:** Friday, September 14, 2018 8:43 AM  
**To:** Nawfal, Loyal <LNawfal@cityofberkeley.info>  
**Subject:** 2600 Tenth st.

1 Dear Loyal Nawfal ;Thank you for the planning notice for 2600 10th st. I own the building at 1025 Carleton St. We have no parking there for our 18 tenants, using street parking only. This proposal will invite more people than all the new parking proposed, and the parking proposed does not give anyone else access to parking, I suggest that the new parking be made accessible, to all the even if it is paid parking at a reasonable price. The fact that it is private parking excludes my tenants and others that will be displaced by the onslaught of people and workers using the new building at 2600 10th St. this will impact many people who work and live in that area. thank you for your concern to this matter. Sincerely Fredric Fierstein

City of Berkeley  
1050 Parker Street  
Medical Offices and Off-Site Parking Lot Project

Responses to Comments on the Draft IS-MND

## Letter 3

**COMMENTER:** Fredric Fierstein

**DATE:** September 14, 2018

### Response 3.1

The commenter states concerns that there are no on-site parking spaces for the existing tenants of the neighboring building at 1025 Carleton Street and that the project parking demand would exceed the parking spaces provided by the project. The commenter proposes that the project parking lots be made accessible to the public.

As stated in the *Project Description* of the IS-MND, the project would provide a total of 238 vehicle parking spaces. The project is required to provide a total of 238 parking spaces, pursuant to BMC Section 23E.64.080 as noted in Section 10, *Land Use and Planning*, of the IS-MND. Therefore, the project would provide a sufficient amount of parking spaces for the project. Project site plans show that project parking spaces would not encroach on the neighboring building located at 1025 Carleton Street. Nevertheless, these comments and the commenter's suggestion are acknowledged and will be forwarded to the City's decision makers for their consideration.

No changes to the IS-MND are necessary to address this comment.



Letter 4

**Lynette Leighton**

**Subject:** FW: Project title: 1050 Parker St Medical office and off-Site Parking lot project USE PERMIT #ZP2018-0116

**From:** Stephen LaMond [[mailto:lamond\\_stephen@comcast.net](mailto:lamond_stephen@comcast.net)]

**Sent:** Monday, September 24, 2018 4:07 PM

**To:** Nawfal, Layal <[LNawfal@cityofberkeley.info](mailto:LNawfal@cityofberkeley.info)>

**Cc:** Carly Personal <[carlyjbarker@gmail.com](mailto:carlyjbarker@gmail.com)>; Stephen LaMond <[lamond\\_stephen@comcast.net](mailto:lamond_stephen@comcast.net)>; McCormick, Jacquelyn <[JMcCormick@cityofberkeley.info](mailto:JMcCormick@cityofberkeley.info)>

**Subject:** Re: Project title: 1050 Parker St Medical office and off-Site Parking lot project USE PERMIT #ZP2018-0116

Layal:

I would like to update our comments below. Given your absence for a few days I wanted to give you a chance to re-acclimate to work.

In addition to our comments and rationale below I want to highlight several areas of the Berkeley planning process that is important to our condo group and specifically to myself. It is important to note we are the only residence on the 10<sup>th</sup> street block that is directing across the street from the parking lot development and this will add additional parking concerns.

Under the land use policies of Berkeley, ***there is policy LU-4 discretionary review section A and Policy LU-5 Citizen involvement*** are important sections for us to consider and would appreciate assistance from you to make sure we have the ability to insure that we are well represented in the planning process. There is also policy LU-7 neighborhood Quality of life that could be impacted. We don't know for the better or worse. We assume for the worse when it comes to "parking." It generally, doesn't get better in Berkeley. In addition, ***LU-10 specifically states "Protect residential areas from Institutional and commercial parking impacts..."***

What we would like to put on the table in addition to the below considerations and questions that we have are the following:

To be fair to the current residents at 2709 10<sup>th</sup> street HOA that have elderly parent visitors, kids and general parking needs and in general the benefit to our small but vocal community and to the ongoing survival of small business's that we cherish in the area we welcome new development that is well thought out and planned.

As part of this thoughtfulness we are requesting the following:

IN the surface street parking planned for 1050 Parker Street Medical office OFF-SITE parking that is directly across from our residence we request:

- 2 • 5-7 spots of protected/first come first serve with gate access to the off site parking. 24/7 for the residents of our complex, we know that there will always be spaces coming and going within this facility and we feel that the added addition of patients, visitors etc. to the building will take up the demand of off-street parking relegated to first come first serve. We will be losing attempts at parking close to our condominium project.

2  
cont

- At minimum, we are asking for at least 1 spot per unit in our complex.
- The spaces for residential use by 2709 10<sup>th</sup> HOA association are to be free of charge, at our own risk but with 24/7 access (gate access etc.)
- We are also asking that the planning commission/building committee request that 5-7 spaces be offered for rental to ongoing business concerns in the area for a nominal fee. There are several business' operating with larger vehicles parked in the streets year round. In some instances, some of these businesses have 3-5 van's or similar vehicles that have no parking solutions at their business's.

With that said I would like to confirm that you have received our emails and that we be involved in any follow-up necessary for this project. This will be the smoothest transition and efforts by the developer to avoid any costly or longer term studies, suits, debates etc.

Thanks

Stephen LaMond and Carly Ebenstein  
2709 10<sup>th</sup> Street, Unit E  
Berkeley, CA 94710  
650-477-4043

City of Berkeley  
1050 Parker Street  
Medical Offices and Off-Site Parking Lot Project

Responses to Comments on the Draft IS-MND

## Letter 4

**COMMENTER:** Carly Barker and Stephen LaMond

**DATE:** September 24, 2018

### Response 4.1

The commenters state concerns regarding the planning process and public involvement. Though public involvement is a part of the CEQA process, including the 30-day public review period for the Draft IS-MND during which the commenters provided these comments, this comment does not address analytical deficiencies of the IS-MND. The commenters will have further opportunities to comment on the project at the Zoning Adjustments Board hearing for the requested Use Permits. The commenters also state concerns regarding parking impacts, in the context of General Plan Policy LU-10, which calls for the protection of residential areas from Institutional and commercial parking impacts. Please refer to Response 1.1 regarding parking impacts.

No changes to the IS-MND are necessary to address this comment.

### Response 4.2

The commenters propose a scenario in which a select number of parking spaces in the proposed Pardee Block parking lot may be reserved for residential use and a select number of parking spaces are offered as rental parking spaces for businesses in the vicinity. This comment on and suggestion for the proposed project is acknowledged and will be forwarded to the City's decision makers, but does not address any analytical deficiencies of the IS-MND.

No changes to the IS-MND are necessary to address this comment.

Letter 5

**From:** Nawfal, Loyal  
**To:** [Sally Schiffman](#)  
**Subject:** FW: Comment on 1050 Parker Street Medical Office Project  
**Date:** Tuesday, September 25, 2018 2:35:37 PM

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FYI

Loyal Nawfal  
Associate Planner  
Land Use Planning Division  
City of Berkeley  
510-981-7424  
[Lnawfal@cityofberkeley.info](mailto:Lnawfal@cityofberkeley.info)

City Holiday and Reduced Service schedule: <https://www.cityofberkeley.info/ContentDisplay.aspx?id=148>

**From:** Mitchel Bornstein [mailto:mitchqqq@gmail.com]  
**Sent:** Tuesday, September 25, 2018 12:18 PM  
**To:** Nawfal, Loyal <LNawfal@cityofberkeley.info>  
**Subject:** Comment on 1050 Parker Street Medical Office Project

To Land Use Planning Department of the City of Berkeley:

I would like to formally submit this comment in regards to the proposed 1050 Parker Street Medical Office and Off-Site Parking Lot Project, Use Permit #ZP2018-0116 and Modification of Use Permit #ZP2016-0170. This comment is specifically in regards to the Off-Site Parking Lot Project at the Pardee Block.

I believe that the idea of demolishing long-standing West Berkeley businesses for parking spaces is a bad idea for West Berkeley. I believe that it goes against the very nature of what makes West Berkeley amazing.

West Berkeley is known for and has thrived because of independent unique small businesses. This project would destroy (without any relocation plan) the following:

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Mobility Systems – A 15+ year West Berkeley Business that serves handicap individuals through sales and repair of handicap accessible vehicles. It is the ONLY business in Berkeley that offers these services. It has multiple employees. (There has been a claim by Wareham that Mobility will be able to stay...This claim is false. Mobiliy’s office space will not be knocked down, but all of its space for vehicles and repairs will be destroyed thus making it impossible for them to remain).

Saab Replay – A 20+ year West Berkeley Business that repairs Saab cars. It is the ONLY business in Berkeley and very well may be the only business in the East Bay that offers these services. It has multiple employees.

Berkeley Smog and Vehicle Registration Services – A 15+ year West Berkeley Business that

1  
cont.

provides smog checks and DMV registration services. It is the ONLY business in Berkeley that offers DMV registration services and while there are other smog stations, this one specializes in the older cars (such as Saabs) that are unique to Berkeley. It has multiple employees. Commercial Titan Wraps – A newer West Berkeley Business that provides high quality industrial and vehicle graphics. It is one of the only businesses in Berkeley to provide these services and the high quality of the artwork makes it a unique business. It has multiple employees.

In short, these businesses are everything that we want in West Berkeley: Small, owner-operated, employee generating, unique businesses. To destroy them for parking spaces is a terrible idea for West Berkeley.

I would like to offer two possible solutions that would allow the main portion of the project to continue, solve the parking problem and keep these excellent businesses:

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1) Fantasy Studios at 2600 10<sup>th</sup> Street has an existing parking lot. I would propose that a multi-story garage is built on the existing parking lot at Fantasy Studios. Wareham Properties owns this property so there would be no issue getting permission. This property is also closer to the proposed new structure at 1050 Parker which would mitigate traffic and street parking issues. And most importantly, these existing businesses would be allowed to remain. Or...

2) Force Wareham to come up with a relocation plan. I have personally asked Wareham for a relocation plan to which they have responded with no help whatsoever. It can be in the form of help finding new space, re-allocating existing space to save one or more of these businesses, allowing one or more of these businesses to move into the new site or monetary compensation to help move. As of now, Wareham does not care about the existing businesses at all and it will force them to close. As part of the project, please force Wareham to have a relocation solution for all 4 of these existing businesses so that we save them in West Berkeley.

Thank you for your consideration and please feel free to contact me with any questions.

Warmest Regards,

Mitch Bornstein

Owner, Berkeley Smog Test Only and Vehicle Registration Services

1010 Carleton Street, Unit A, Berkeley, CA 94710

[Info@berkeley-smog.com](mailto:Info@berkeley-smog.com)

510-549-2355

City of Berkeley  
1050 Parker Street  
Medical Offices and Off-Site Parking Lot Project

Responses to Comments on the Draft IS-MND

## Letter 5

**COMMENTER:**

**COMMENTER:** Mitchel Bornstein

**DATE:** September 25, 2018

### Response 5.1

The commenter states that the project would demolish existing businesses, and opines that that the loss of these businesses is unfavorable for West Berkeley. This comment does not pertain to the results of the environmental analysis in the IS-MND. However, this comment on the merits of the project is acknowledged and will be forwarded to the City's decision makers for their consideration. No changes to the IS-MND are necessary to address this comment.

### Response 5.2

The commenter suggests building a multi-story parking garage on the parking lot of Fantasy Studios (2600 Tenth Street) or for the project applicant to draft a relocation plan for the existing businesses. This comment does not pertain to the results of the environmental analysis in the IS-MND. Nevertheless, this comment and suggestion are acknowledged and will be forwarded to the City's decision makers for their consideration. No changes to the IS-MND are necessary to address this comment.

**DEPARTMENT OF TRANSPORTATION**  
 DISTRICT 4  
 OFFICE OF TRANSIT AND COMMUNITY PLANNING  
 P.O. BOX 23660, MS-10D  
 OAKLAND, CA 94623-0660  
 PHONE (510) 286-5528  
 FAX (510) 286-5559  
 TTY 711  
 www.dot.ca.gov

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|----------|
| Letter 6 |
|----------|



*Making Conservation  
 a California Way of Life*

October 3, 2018

SCH# 2018092001  
 GTS # 04-ALA-2017-00208  
 GTS I.D. 8477  
 ALA - 123 - 2.422

Layal Nawfal  
 City of Berkeley  
 1947 Center Street, Third Floor  
 Berkeley, CA 94704

**1050 Parker Street Medical Office and Off-Site Parking Lot Project– Mitigated Negative Declaration**

Dear Layal Nawfal:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. Our comments are based on the Mitigated Negative Declaration (MND).

***Project Understanding***

Modification of Use Permit #ZP2016-0170 would allow for the previously-approved 60,670 square-foot building to be used entirely for medical offices, rather than medical office and research and development. The Berkeley Municipal Code (BMC) parking requirements for medical office uses are higher than for research and development uses; as such, the proposed Pardee Block parking lot would provide the required overflow parking to meet the full parking requirements of the medical office building. Specific changes to the previously-approved building include the removal of an internal physical separation wall between the portions of the building with different underlying zoning designations, and modifications to meet accessibility requirements: accessible van, clean air/van pool, electric vehicle, and future electric vehicle parking spaces. The project is within the San Pablo Avenue (Berkeley) Priority Development Area.

The medical office building project would combine three parcels into one 68,331 square-foot parcel to allow the construction of a 60,670 square-foot, three-story building. The general configuration of the building would be an “L” shape, with each floor staggered in arrangement such that the second floor would contain a green roof along State Route (SR) 123 (San Pablo Avenue). The project would also include a 750- square-foot café/retail space located along SR 123 (San Pablo Avenue).

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Building entryways for pedestrians would be located on the ground floor along SR 123 (San Pablo Avenue) and Parker Street. Vehicular access would be provided on Parker Street and Tenth Street. On-site parking would be located under the building and on a surrounding surface lot. On-site parking accommodations would include a total of 115 automobile and 46 bicycle parking spaces.

The project would include nearly 10,000 square feet of landscaped area on the ground level, including 2,150 square feet of public open space comprising two small public plazas with seating and landscaping. A 650-square-foot plaza would be located at the corner of Parker and Tenth Street and a 1,200-square-foot plaza would be located along SR 123 (San Pablo Avenue), adjacent to the proposed café/retail space. Approximately 4,600 square feet of private open space would be provided on a second-floor terrace accessed from the third floor.

Two mechanical penthouses and an elevator penthouse would be constructed on the roof of the proposed building. The two mechanical penthouses would be 14 feet above the roof level, and the elevator penthouse would be 16 feet above the roof level.

**ADA Compliance**

1 Please update all existing sidewalk within State right-of-way on SR 123 (San Pablo Ave) to current Caltrans Standards. All pedestrian facilities shall comply with the Americans with Disabilities Act (ADA).

**Fair Share Contributions towards SR 123 and Parker Street Intersection Improvements**

2 The Lead Agency should identify project-generated travel demand and estimate the costs of transit and active transportation improvements necessitated by the proposed project; viable funding sources such as development and/or transportation impact fees should also be identified and incorporated in the Conditions of Approval. We encourage a sufficient allocation of fair share contributions toward multimodal and regional transit improvements to fully mitigate cumulative impacts to regional transportation, such as the bicycle and pedestrian improvement on SR 123 at the Parker Street intersection, listed in *Caltrans District 4 Bike Plan's* Appendix A (reference number: Ala-123-X06) and the *Berkeley Bicycle Plan 2017* page 5-18. See link to the Caltrans Bike Plan below. Please submit a final Staff Report to Caltrans.

[http://www.dot.ca.gov/d4/bikeplan/docs/D4BikePlan\\_ProjectList.pdf](http://www.dot.ca.gov/d4/bikeplan/docs/D4BikePlan_ProjectList.pdf)

**Vehicle Trip Reduction**

3 From Caltrans' *Smart Mobility 2010: A Call to Action for the New Decade*, the project site is identified as Place Type 2: Close-in Corridors where location efficiency factors, such as community design, are moderate and regional accessibility is strong. Given the project's intensification of use and increase in vehicular parking, the project should include a robust Transportation Demand Management (TDM) Program to reduce VMT and greenhouse gas emissions. Such measures will be critical in order to facilitate efficient access to and from the project site and reduce transportation impacts associated with the project. The measures listed below will promote smart mobility and reduce regional VMT.



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 cont.

- Project design to encourage walking, bicycling and convenient transit access;
- Carpool and clean-fuel parking spaces conveniently located to encourage carpooling and clean-fuel vehicles;
- Lower parking ratios;
- Charging stations and designated parking spaces for electric vehicles;
- Secured bicycle storage facilities;
- Fix-it bicycle repair station(s);
- Subsidize transit passes on an ongoing basis;
- Transportation and commute information kiosk;
- Outdoor areas with patios, furniture, pedestrian pathways, picnic and recreational areas;
- Showers, changing rooms and clothing lockers for bike commuters;
- Bicycle route mapping resources and bicycle parking incentives;
- Employee transportation coordinator;
- Emergency Ride Home program;
- Participation/Formation in/of a Transportation Management Association (TMA) in partnership with other developments in the area; and
- Aggressive trip reduction targets with annual Lead Agency monitoring and enforcement.

Transportation Demand Management programs should be documented with annual monitoring reports by an onsite TDM coordinator to demonstrate effectiveness. If the project does not achieve the VMT reduction goals, the reports should also include next steps to take in order to achieve those targets. Also, reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on SR 123 and I-80 and other nearby State facilities. These smart growth approaches are consistent with the MTC's Regional Transportation Plan/SCS goals and would meet Caltrans Strategic Management Plan sustainability goals.

For additional TDM options, please refer to the Federal Highway Administration's Integrating Demand Management into the Transportation Planning Process: A Desk Reference (Chapter 8). The reference is available online at:

<http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf>.

#### ***Travel Demand Analysis***

4

Please submit a travel demand analysis that provides VMT analysis resulting from the proposed project. With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies through the use of efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. Please ensure that the travel demand analysis includes:

- A vicinity map, regional location map, and site plan clearly showing project access in relation to the STN. Ingress and egress for all project components should be clearly identified. Clearly identify the State right-of-way. Project driveways, local roads and

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cont.

intersections, car/bike parking, and transit facilities should be mapped.

- A VMT analysis pursuant to the Lead Agency’s guidelines or, if the Lead Agency has no guidelines, the Office of Planning and Research’s Draft Guidelines. Projects that result in automobile VMT per capita greater than 15% below existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact. If necessary, mitigation for increasing VMT should be identified. Mitigation should support the use of transit and active transportation modes. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the Lead Agency.
- A schematic illustration of walking, biking and auto conditions at the project site and study area roadways. Potential issues for all road users should be identified and fully mitigated.
- The project’s primary and secondary effects on pedestrians, bicycles, disabled travelers and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

5

***Encroachment Permit***

Please be advised that any work or traffic control that encroaches onto the state right-of-way requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and six (6) sets of plans clearly indicating state right-of-way must be submitted to: Office of Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. To download the permit application and obtain more information, visit <http://www.dot.ca.gov/hq/traffops/developserv/permits/>.

***Lead Agency***

As the Lead Agency, the City of Berkeley is responsible for all project mitigation, including any needed improvements to the STN. The project’s fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

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Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Jannette Ramirez at 510-286-5535 or [jannette.ramirez@dot.ca.gov](mailto:jannette.ramirez@dot.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Pat C", with a horizontal line extending from the end of the signature.

PATRICIA MAURICE  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

## Letter 6

**COMMENTER:** Patricia Maurice, District Branch Chief, Local Development – Intergovernmental Review, Caltrans District 4

**DATE:** October 3, 2018

### Response 6.1

The commenter asks that the applicant update all existing sidewalk within State right-of-way (ROW) on SR 123 (San Pablo Avenue) to current Caltrans Standards. As stated in Section 16, *Transportation*, of the Draft IS-MND, the sidewalks adjacent to the site are currently approximately 12 feet wide along San Pablo Avenue, and 10 feet on Parker and Tenth Streets. City of Berkeley Municipal Code Section 16.18.080 requires a minimum clear space of six feet on all sidewalks. The project would not modify the sidewalks along project frontages and the sidewalks adjacent to the project would continue to satisfy the City requirements. Mitigation Measure T-2 requires the applicant to provide 10 feet of red curb on either side of the project driveways on Ninth, Tenth, and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Ninth, Tenth, and Parker Streets. Adherence to ADA requirements will be ensured by the City of Berkeley. No changes to the IS-MND are necessary to address this comment.

### Response 6.2

The commenter states that the project should estimate fair share contributions toward multimodal and regional transit improvements to mitigate cumulative impacts to regional transportation. A project traffic study was completed and is included as Appendix F and summarized in Section 16, *Transportation*, of the Draft IS-MND. Based on study results, Mitigation Measure T-1 requires that a Reimbursement Agreement be established between the project applicant and the City for the installation of a traffic signal at the intersection of San Pablo Avenue and Parker Street. Mitigation Measure T-1 would signalize San Pablo Avenue/Parker Street intersection and provide a signal-protected crossing of San Pablo Avenue adjacent to the medical office site, improving pedestrian connections across this segment of San Pablo Avenue. As described on page 123 of the Draft IS-MND, the proposed signalization of the San Pablo Avenue/Parker Street intersection is consistent with the City of Berkeley Bicycle Master Plan, which recommends installing a pedestrian hybrid beacon to improve crossing San Pablo Avenue for pedestrians and cyclists at this location. No changes to the IS-MND are necessary to address this comment.

### Response 6.3

The commenter states an opinion that given the project's intensification of use, the project should include a Transportation Demand Management (TDM) Program to reduce vehicle miles traveled (VMT) and greenhouse gas emissions. The commenter offers a list of measures intended to promote smart mobility and reduce regional VMT. The commenter recommends that the Transportation Demand Management program should be documented with annual monitoring reports by an onsite TDM coordinator to demonstrate effectiveness. The commenter also recommends that if the project does not achieve the VMT reduction goals, "next steps" should be determined in order to achieve those targets. The commenter states that reducing parking supply can encourage active

forms of transportation, reduce regional VMT, and lessen future transportation impacts on SR 123 (San Pablo Avenue) and I-80 and other nearby State facilities. The commenter states that recommended smart growth approaches are consistent with the MTC's Regional Transportation Plan/SCS goals and would meet Caltrans Strategic Management Plan sustainability goals. This information is acknowledged.

As discussed in the Draft IS-MND in Section 16, *Transportation*, the project would increase the volume-to-capacity ratio by more than 0.01 at the San Pablo Avenue/Dwight Way intersection (#5), which would operate at LOS F during the P.M. peak hour, causing a significant impact based on City of Berkeley thresholds. In addition, the project would add more than 10 peak hour trips to the San Pablo Avenue/Parker Street intersection (#8), cause the intersection to operate at LOS F during the P.M. peak hour, and would meet the California MUTCD peak hour signal warrant under the Cumulative (2040) Plus Project scenario, causing a significant impact based on City of Berkeley thresholds. The proposed project would contribute 19 percent of the traffic generated at the San Pablo Avenue/Dwight Way intersection and 29 percent of the traffic generated at the San Pablo Avenue/Parker Street intersection. As described on page 119, implementation of Mitigation Measure T-1 would ensure that the necessary traffic improvements, including intersection improvements at the San Pablo Avenue/Dwight Way intersection and signalization of the San Pablo Avenue/Parker Street intersection, are installed to reduce project impacts to less than significant levels.

As the mitigation measures summarized above would reduce impacts to below significance thresholds, no further mitigation is required. However, the City of Berkeley would enforce a standard condition of approval requiring the project to develop and implement a Transportation Demand Management program to encourage reduced VMT, under which the building management company or future employer would 1) provide ways to inform building tenants, employees, and visitors of transit opportunities in the vicinity of the project site, 2) be required to maintain a membership with a West Berkeley Shuttle program, 3) cover the cost of employee car share participation, 4) provide secure, on-site bicycle parking opportunities, 5) encourage enrollment by employees in the Alameda County Guaranteed Ride Home program, including participating in the "Guaranteed Ride Home" program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency 6) provide annual transit pass subsidies to each residential unit, and 7) reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation. No changes to the IS-MND are necessary to address this comment.

#### Response 6.4

The commenter asks that the applicant submit a travel demand analysis that provides a VMT analysis of the proposed project. The commenter states that with the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies through the use of efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. The commenter lists a series of details that the travel demand analysis should include. The commenter further states that the project's primary and secondary effects on pedestrians, bicycles, disabled travelers and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases, and

that access to pedestrians, bicycle, and transit facilities must be maintained. This information is acknowledged.

While the state's Office of Planning and Research draft guidelines embrace VMT as the new transportation metric, such a standard has not been formally adopted as of the date of the draft IS-MND. Therefore, the obligations under Senate Bill (SB) 743 for analyzing transportation impacts by a methodology other than levels of service (LOS) are not yet requirements for projects under CEQA review. The City of Berkeley has not independently adopted CEQA criteria requiring VMT analysis as part of a project's transportation impacts analysis. As described on page 104 of the draft IS-MND, the Level of Service (LOS) methodology utilized in the transportation impact study was conducted by Fehr and Peers at the direction of the City's Traffic Engineer. The City has full authority to adopt unique and relevant CEQA thresholds of significance. Therefore, the City is not required to conduct VMT analysis for the Project.

However, the project incorporates a number of smart growth features which would reduce VMT, including reduced vehicular parking. Bicycle use would be encouraged through the inclusion of bicycle storage and shower facilities, including changing rooms and lockers on the ground floor for employees, and an onsite bicycle repair station. The project includes approximately 18 short-term and 28 long-term bicycle parking spaces; more than required by zoning standards. In addition, the project would provide pedestrian access points on San Pablo Avenue, Parker Street, and Tenth Street, and provide designated paths between the pedestrian access points and the main building lobby that minimize potential conflicts between motorists and pedestrians within the project site. Public transportation that serves the project site includes Bay Area Rapid Transit (BART) rail service, Alameda-Contra Costa Transit District (AC Transit) bus service, and the West Berkeley Shuttle. The proposed project would add some riders to the existing transit services. U.S. Census mode share data shows that approximately nine percent of trips generated by the project would be attributed to AC Transit and six percent would be attributed to BART (Fehr and Peers 2017). Calculations by Fehr and Peers concluded that the project would increase AC Transit ridership by about one rider per bus and BART ridership by less than one rider per train during the peak hours. This minimal increase would not have a substantial effect on AC Transit bus or BART ridership. Furthermore, the City of Berkeley will enforce the standard condition of approval requiring the project incorporate a Transportation Demand Management program as described in Response 4.3 above.

The commenter does not specify what kind of secondary impacts might occur as a result of the mitigation measures identified for the project. However, no secondary impacts to bicycle or pedestrian facilities were identified in the project traffic study. The sidewalks adjacent to the site are currently approximately 12 feet wide along San Pablo Avenue, and 10 feet on Parker and Tenth Streets. City of Berkeley Municipal Code Section 16.18.080 requires a minimum clear space of six feet on all sidewalks. The project would not modify any of the sidewalks along project frontages and the sidewalks adjacent to the project would continue to satisfy the City requirements.

Mitigation Measure T-2, which would signalize the San Pablo Avenue/Parker Street intersection and provide a signal-protected crossing of San Pablo Avenue adjacent to the project site, would also improve pedestrians and cyclists crossing of San Pablo Avenue and would not conflict with the Bicycle Master Plan. As described on Page 121 of the IS-MND, the proposed project would not involve changes in traffic patterns that would impact bicycle or pedestrian routes or that would interrupt bus or shuttle service routes. Impacts to transit facilities would be less than significant and no changes to the IS-MND are necessary to address this comment.

City of Berkeley  
1050 Parker Street  
Medical Offices and Off-Site Parking Lot Project

Responses to Comments on the Draft IS-MND

### Response 6.5

The commenter states that any work or traffic control that encroaches onto the State right-of-way requires an Encroachment Permit to be issued by Caltrans and that traffic-related mitigation measures should be incorporated into the construction plans prior the encroachment permit process. This information is acknowledged. Plans for construction, including any need for encroachment into Caltrans right-of-way, will be developed based on applicable standards and will be reviewed and approved by the appropriate jurisdiction (City of Berkeley and/or Caltrans). No changes to the IS-MND are necessary to address this comment.

### 3 DRAFT IS-MND TEXT REVISIONS

Chapter 3 presents specific administrative changes to the text of the Draft IS-MND that are being made to correct minor errors or omissions or clarify information presented in the Draft IS-MND. No revisions to the Draft IS-MND were determined necessary based on review of all comments received during the public review period. Where minor revisions to the main text are called for, the page and paragraph are set forth, followed by the appropriate revision. Added text is indicated with underlined text. Text deleted from the Draft IS-MND is shown in ~~strikeout~~. Page numbers correspond to the page numbers of the Draft IS-MND.

#### 3.1 DRAFT IS-MND TEXT REVISIONS

- Page 61, Section 7, response 7.a contains the following administrative change:
  3. Transit information shall be provided in the ~~residential~~-lobby, updated at a minimum once a year. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.
  4. Transportation Information Officer will gather and provide information regarding transit and other alternative transportation to residents and commercial tenants and their employees. Information may pertain to the City, regional transit agencies, car sharing, Spare the Air, 511 and other relevant programs. This information package shall be provided to all ~~residents~~/employees on arrival plus once a year.
- Pages 75 and 76, Section 9, response 9.c contain the following administrative change in the third paragraph:

The runoff from the medical office site would be detained in three biotreatment areas along the western edge of the project site. These biotreatment areas total 1,644 square feet and would be sized to treat the amount of runoff specified in Provision C.3.d. The runoff would be filtered in these areas and then would flow from these areas into the City streets before eventually being intercepted by the existing storm water drainage system downstream of the medical office building site. The Pardee Block parking lot incorporates permeable ~~pavers~~ durable surface throughout, which provides self-treating surfaces to meet C.3 requirements. While the biofiltration system and permeable ~~pavers~~ durable surface would effectively treat excess runoff to meet the C.3 requirements of the Municipal Regional Storm Water NPDES Permit, the biotreatment areas may not be sufficient to prevent localized flooding of City streets from project-related increases in runoff. Therefore, the implementation of the proposed project would result in a potentially significant impact related to flooding and inadequate storm water drainage capacity.

- Page 89, Section 12, the following sentence was added to the end of the second paragraph of the page to clarify noise sensitive receptors:

Some land uses are more sensitive to ambient noise levels than other uses due to the amount of noise exposure and the types of activities involved. For example, residences, motels, hotels, schools, libraries, churches, nursing homes, auditoriums, museums, cultural facilities, parks, and outdoor



recreation areas are more sensitive to noise than commercial and industrial land uses. The nearest noise-sensitive receptors to the proposed medical office site are the three residential units on the second floor of the Missouri Lounge, adjacent to the northeast property line at the corner of San Pablo Avenue and Parker Street; the Covenant Worship Center, a religious institution adjacent to the southern property line; a recording studio approximately 55 feet from the western property line, on the west side of Tenth Street; single-family residences approximately 150 feet south on Carleton Street and east of the medical office site, across San Pablo Avenue; and condominiums approximately 180 feet south of the site on San Pablo Avenue. The nearest noise-sensitive receptors to the Pardee Block parking lot site beyond those mentioned above include multi-family and single-family residential units located 75 and 115 feet southeast across Tenth Street, multi-family and single family residential units located approximately 140 feet south across Pardee Street, and Global Montessori International School located approximately 950 feet to the south. The Montessori International School is located outside of the area of impact, and is noted as the school nearest to the project site.

- Page 89, Section 12, the source to Table 14 was updated:

**Table 1 Noise Measurement Results**

| Number | Location                                                           | Time                              | Result (Leq) |
|--------|--------------------------------------------------------------------|-----------------------------------|--------------|
| 1      | East side of medical office building site, along San Pablo Avenue  | 4/19/17, 4:57 p.m. to 5:12 p.m.   | 68.0         |
| 2      | North side of Pardee Block parking lot site, along Carleton Street | 8/24/18, 10:51 a.m. to 11:06 a.m. | 60.9         |

See Appendix E for Noise Measurement Results.  
 Source: Rincon Consultants 2017; updated 2018

- Page 101, Section 12, response 12.d contains the following administrative change in the second paragraph:

The noise-sensitive receptors in proximity to the proposed Pardee Block parking lot, including the multi- and single-family residences, ~~church, and school~~ are located in mixed-use residential zones. There are no specific construction noise thresholds established for mixed-use residential zones. However, the City’s thresholds for construction noise in multi-family residential areas are 80 dBA from mobile equipment and 65 dBA from stationary equipment during permitted construction activity hours on weekdays, and 65 dBA from mobile equipment and 55 dBA from stationary equipment during permitted construction activity hours on weekends and holidays.

- Page 118 and 119, Section 16, response 16.a contain the following administrative change:

~~f.a.~~ Consistent with BMC 23E.68.080.H, and subject to the review and oversight of the Transportation Division Manager, the cost equivalent to an unlimited local bus pass shall be provided on a Clipper Card, or equivalent card that can be used by major Bay Area transit systems, shall be provided, at no cost, to every employee.

- ~~g.b.~~ A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
- ~~h.c.~~ Transit information shall be provided in the ~~residential~~ lobby, updated at a minimum once a year. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.
- ~~i.d.~~ Transportation Information Officer will gather and provide information regarding transit and other alternative transportation to residents and commercial tenants and their employees. Information may pertain to the City, regional transit agencies, car sharing, Spare the Air, 511 and other relevant programs. This information package shall be provided to all ~~residents~~/employees on arrival plus once a year.
- ~~j.e.~~ The food service operation, if qualifying for participation in the Alameda County Guaranteed Ride Home program (or successor program), shall participate in the “Guarantee Ride Home” program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency. Enrollment shall be encouraged by providing Guarantee Ride Home information to all employees. An affidavit/statement indicating number of participating employees shall be provided annually to the Transportation Division Manager.

- Page 119, Section 16, Mitigation Measure T-1(a) was included as follows:

#### ***T-1 Reimbursement Agreement to Facilitate Traffic Improvements***

A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required building permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City’s pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.

- a. **Intersection Improvements.** Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection, as determined necessary by the City Engineer.

- Page 123, Section 16, response 16.f contains the following administrative changes in the third and fourth paragraphs of the page:

The sidewalks adjacent to the sites are currently approximately 12 feet wide along San Pablo Avenue, and 10 feet on Parker and Tenth Streets. City of BMC §16.18.080 requires a minimum clear space of six feet on all sidewalks. The project would not modify any of the sidewalks along project frontages and the sidewalks adjacent to the project would continue to satisfy the City requirements. The nearest signalized crosswalks across San Pablo Avenue are at Dwight Way, about 0.15 miles north, and at Grayson Street, about 0.2 miles south of the medical office site. Mitigation Measure ~~T-2~~ T-1 would signalize San Pablo Avenue/Parker Street intersection and provide a signal-protected

crossing of San Pablo Avenue adjacent to the medical office site, improving pedestrian connections across this segment of San Pablo Avenue.

Pedestrian access for the Pardee Block Parking Lot would be provided through a gate just south of the driveway on Tenth Street and a man-gate on Carleton Street. The medical office employees that park at the Pardee Block Parking Lot would use this gate and then cross two of the approaches at the Tenth Street/Carleton Street intersection to walk between the project building and the parking lot. The intersection is currently controlled by stop-signs on the Tenth Street approaches, with no controls on the Carleton Street approaches. In addition, none of the four crossings at the intersection are currently marked; however, all four crossings have adequate sight distance. The proposed project has been designed to include an all-way stop at the Tenth Street/Carleton Street intersection and would mark the intersection with crosswalk striping. This design feature would be ensured through a condition of approval requiring that the project conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the approved drawings.

# Addendum to the Responses to Comments on the Draft Initial Study-Mitigated Negative Declaration

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This document has been prepared as an addendum to the response to comments received on the Draft Initial Study-Mitigated Negative Declaration (Draft IS-MND) prepared for the proposed 1050 Parker Street Medical Offices and Off-Site Parking Lot Project (project).

The 30-day Draft IS-MND public comment period began on September 4, 2018 and ended October 4, 2018. The City initially received six comment letters on the Draft IS-MND. An additional letter from East Bay Municipal Utility District (EBMUD), dated September 27, 2018, but received after the close of the public review period on October 18, 2018, was accepted as part of the Draft IS-MND public comment record. Review of the letter and the Lead Agency response to EBMUD comments are provided below as an addendum to the Response to Comments (RTC) Document. This Addendum to the RTC Document, together with the Draft IS-MND and original RTC Document, constitutes the Final IS-MND for the proposed project.

Listed below is one letter that received after the public review period closed. A reproduction of the comment letter and a written response for each CEQA-related comment received is provided beginning on page 2. Each response is keyed to the corresponding comment. The other six comment letters received by the Lead Agency were addressed in the original RTC Document.

| Letter No. and Commenter                                  | Page No. |
|-----------------------------------------------------------|----------|
| 7 David J. Rehnstrom, East Bay Municipal Utility District | 2        |

The comment letter and responses follow. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 7.1, for example, indicates that the response is for the first issue raised in Comment Letter 7).



RECEIVED

OCT 18 2018

LAND USE PLANNING

September 27, 2018

Layal Nawfal, Associate Planner  
 City of Berkeley Planning and Development Department  
 1947 Center Street  
 Berkeley, CA 94704

Re: Notice of Intent to Adopt an Initial Study and Mitigated Negative Declaration –  
 1050 Parker Street Medical Office and Off-Site Parking Lot Project, Berkeley

Dear Ms. Nawfal:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Initial Study and Mitigated Negative Declaration (MND) for the 1050 Parker Street Medical Office and Off-Site Parking Lot Project located in the City of Berkeley (City). EBMUD has the following comments.

#### WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation range between 0 and 100 feet, will serve the proposed development. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to the proposed development. Engineering and installation of water services require substantial lead time, which should be provided for in the project sponsor's development schedule.

1 The MND indicates the potential for contaminated soils or groundwater to be present within the project site boundaries. The project sponsor should be aware that EBMUD will not install piping or services in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may be hazardous to the health and safety of construction and maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping or services in areas where groundwater contaminant concentrations exceed specified limits for discharge to the sanitary sewer system and sewage treatment plants. The project sponsor must submit copies to EBMUD of all known information regarding soil and groundwater quality within or adjacent to the project boundary and a legally sufficient, complete and specific written remediation plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of contaminated soil and groundwater.

EBMUD will not design piping or services until soil and groundwater quality data and remediation plans have been received and reviewed and will not start underground work until remediation has been carried out and documentation of the effectiveness of the remediation has

Loyal Nawfal, Associate Planner  
 September 27, 2018  
 Page 2

1  
 cont.

been received and reviewed. If no soil or groundwater quality data exists, or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil and groundwater that may be encountered during excavation, or EBMUD may perform such sampling and analysis at the project sponsor's expense. If evidence of contamination is discovered during EBMUD work on the project site, work may be suspended until such contamination is adequately characterized and remediated to EBMUD standards.

## WASTEWATER SERVICE

2

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to accommodate the proposed wastewater flows from this project and to treat such flows provided that the wastewater generated by the project meets the requirements of the EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. The East Bay regional wastewater collection system experiences exceptionally high peak flows during storms due to excessive infiltration and inflow (I/I) that enters the system through cracks and misconnections in both public and private sewer lines. EBMUD has historically operated three Wet Weather Facilities (WWFs) to provide primary treatment and disinfection for peak wet weather flows that exceed the treatment capacity of the MWWTP. Due to reinterpretation of applicable law, EBMUD's National Pollutant Discharge Elimination System (NPDES) permit now prohibits discharges from EBMUD's WWFs. Additionally, the seven wastewater collection system agencies that discharge to the EBMUD wastewater interceptor system ("Satellite Agencies") hold NPDES permits that prohibit them from causing or contributing to WWF discharges. These NPDES permits have removed the regulatory coverage the East Bay wastewater agencies once relied upon to manage peak wet weather flows.

A federal consent decree, negotiated among EBMUD, the Satellite Agencies, the Environmental Protection Agency, the State Water Resources Control Board, and the Regional Water Quality Control Board, requires EBMUD and the Satellite Agencies to eliminate WWF discharges by 2036. To meet this requirement, actions will need to be taken over time to reduce I/I in the system. The consent decree requires EBMUD to continue implementation of its Regional Private Sewer Lateral Ordinance ([www.eastbaypsl.com](http://www.eastbaypsl.com)), construct various improvements to its interceptor system, and identify key areas of inflow and rapid infiltration over a 22-year period. Over the same time period, the consent decree requires the Satellite Agencies to perform I/I reduction work including sewer main rehabilitation and elimination of inflow sources. EBMUD and the Satellite Agencies must jointly demonstrate at specified intervals that this work has resulted in a sufficient, pre-determined level of reduction in WWF discharges. If sufficient I/I reductions are not achieved, additional investment into the region's wastewater infrastructure would be required, which may result in significant financial implications for East Bay residents.

To ensure that the proposed project contributes to these legally required I/I reductions, the City should require the project applicant to comply with EBMUD's Regional Private Sewer Lateral Ordinance. Additionally, it would be prudent for the City to require the following mitigation measures for the proposed project: (1) replace or rehabilitate any existing sanitary sewer

Loyal Nawfal, Associate Planner  
September 27, 2018  
Page 3

2  
cont.

collection systems, including sewer lateral lines, to ensure that such systems and lines are free from defects or, alternatively, disconnected from the sanitary sewer system, and (2) ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent I/I to the maximum extent feasible while meeting all requirements contained in the Regional Private Sewer Lateral Ordinance and applicable municipal codes or Satellite Agency ordinances.

**WATER CONSERVATION**

3

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD requests that the City include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,



David J. Rehnstrom  
Manager of Water Distribution Planning

DJR:KKN:dks  
sb18\_168

cc: 2600 Tenth Street, LLC  
Attention: Christopher Barlow  
1120 Nye Street, Suite 400  
San Rafael, CA 94901

City of Berkeley

1050 Parker Street Medical Offices and Off-Site Parking Lot Project

Addendum to the Responses to Comments on the Draft Initial Study-Mitigated Negative Declaration

## Letter 7

**COMMENTER:** David Rehnstrom, Manager of Water Distribution Planning, East Bay Municipal Utility District (EBMUD)

**DATE:** September 27, 2018, received October 18, 2018

### Response 7.1

The commenter states the EBMUD's Aqueduct Pressure Zone will provide water service to the proposed project. The commenter adds that off-site pipeline improvements may be required to meet fire flow requirements set by the local fire department. This information is noted. These potential improvements would include upgrades to existing infrastructure in established utility corridors, and would not result in additional environmental impacts beyond those described in the Draft IS-MND.

The commenter further states that the project sponsor should contact the EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the project. Furthermore, the commenter states that EBMUD will not install piping or services until the applicant provides soil and groundwater quality data indicating that soil and groundwater are not contaminated, or remediation plans if contamination is present. This information is acknowledged.

As discussed in Section 18, *Utilities and Service Systems*, of the Draft IS-MND, it is anticipated that the increase in demand for domestic water will not be significant, and adequate water supplies and facilities are available to serve the project. EBMUD imposes a system capacity charge on new developments to fund system maintenance and the development of new water sources. Per the project conditions of approval, the applicant would be required to undertake measures to conserve water through water efficient landscaping. Furthermore, it is not anticipated that excavation at the project site would disturb contaminated soils or groundwater. However, standard conditions of the City's Toxics Management District would require preparation of a Soil and Groundwater Management Plan (SGMP) including identification of any pollutants and disposal methods. Compliance with these conditions would ensure that the applicant remediates contamination, if present, prior to the installation of water piping or services.

No changes to the IS-MND are necessary to address this comment.

### Response 7.2

The commenter anticipates that EBMUD's Main Wastewater Treatment Plan (MWWTP) and interceptor system will have adequate dry weather capacity to accommodate and treat wastewater flows from the project. However, the commenter notes that the East Bay regional wastewater collection system experiences exceptionally high peak flows during storms due to excessive infiltration and inflow that enters the system through cracks and misconnections in both public and private sewer lines. To ensure the project contributes to legally required infiltration and inflow reductions, the commenter states that the project should be required to comply with EBMUD's Regional Private Sewer Lateral Ordinance and implement mitigation measures. EBMUD's ordinance establishes regulations for the inspection, testing, repair, replacement, and ongoing maintenance of Private Sewer Laterals. This comment is noted.



City of Berkeley

**1050 Parker Street Medical Offices and Off-Site Parking Lot Project**

Addendum to the Responses to Comments on the Draft Initial Study-Mitigated Negative Declaration

As described on Page 53 of the Draft IS-MND, the project site would have access to the sanitary sewer system maintained by the City of Berkeley for the collection system, and by the EBMUD for interceptor lines. The project will be required to comply with all City requirements under its NPDES permit, as discussed on Page 75 of the draft IS-MND. In addition, the proposed project would be required to comply with the City of Berkeley's Private Sewer Lateral Ordinance (City of Berkeley Municipal Code Chapter 17.24). Similar to the EBMUD's ordinance, the City of Berkeley's ordinance would also require the project to upgrade or verify the condition of private sewer laterals in order to obtain a compliance certificate prior to issuance of a building permit.

No changes to the IS-MND are necessary to address this comment.

### Response 7.3

The commenter requests that the project be subject to a condition of approval to comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance." This comment does not identify an analytical deficiency of the Draft IS-MND; however, the City will consider this comment when preparing the conditions of approval. The commenter adds that EBMUD will not provide water service unless all applicable water-efficiency measures in Section 31 of EBMUD's Water Service Regulations are installed. This comment is noted.

As discussed in Section 18, *Utilities and Service Systems*, of the Draft IS-MND, the project would reduce water use relative to standard building practices by complying with the California Water Efficient Landscape Ordinance. At least 75 percent of plants in non-turf landscaped areas would be species that require no or little summer watering once established, among other water-saving measures, according to the applicant's Bay-Friendly Basics Landscape Checklist. These water conservation measures would reduce the project's burden on municipal water supply and wastewater systems. The project also would be required to comply with Section 31 of EBMUD's Water Service Regulations. Water supply impacts would be less than significant and the construction of new water treatment facilities or the expansion of existing facilities would not be required.

No changes to the IS-MND are necessary to address this comment.

## Mitigation Monitoring and Reporting Program

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This Mitigation Monitoring and Reporting Program (MMRP) was formulated based upon the findings of the Initial Study-Mitigated Negative Declaration (IS-MND) prepared for the 1050 Parker Street Project (Use Permits #ZP2018-0116 and #ZP2018-0117). The MMRP, which is provided in the following table, lists mitigation measures required and recommended in the IS-MND for the proposed project and identifies mitigation monitoring requirements. The Final MMRP must be adopted when the City makes a final decision on the project.

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

The MMRP is organized in a matrix format. The first column identifies mitigation measures that were identified in the Final IS-MND. The second column, entitled "Action Required," refers to the monitoring action that must be taken to ensure the mitigation measure's implementation. The third column, entitled "Monitoring Timing," refers to when the monitoring will occur to ensure that the mitigation action is complete. The fourth column, "Responsible Agency," refers to the agency responsible for oversight or ensuring that the mitigation measure is implemented. The "Compliance Verification" column is where the Responsible Agency verifies that the measures have been implemented. These mitigation measures include any minor revisions made as a result of the Response to Comments Document.

City of Berkeley  
 1050 Parker Street Project  
 Use Permits #ZP2018-0116 and #ZP2018-0117

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action Required                                               | Monitoring Timing                                        | Responsible Agency                                                 | Compliance Verification |      |          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|----------------------------------------------------------|--------------------------------------------------------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                               |                                                          |                                                                    | Initial                 | Date | Comments |
| <b>HYDROLOGY AND WATER QUALITY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                               |                                                          |                                                                    |                         |      |          |
| <b>HYD-1: Hydrology and Hydraulic Mitigation Analysis</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                               |                                                          |                                                                    |                         |      |          |
| <p>The project shall not increase from pre-project to post-construction conditions peak flow and flow duration to existing gutters, and shall not raise from pre-project to post-construction the hydraulic grade line in existing storm drains at all times throughout the life of the project. The applicant shall demonstrate through a hydrology and hydraulics mitigation analysis to show how this performance standard will be achieved and used to provide the basis of design for the implementing this mitigation.</p> <p>The hydrology and hydraulics mitigation analysis shall be submitted to and approved by the City of Berkeley Department of Planning and Development prior to issuance of required project permits. The analysis shall identify existing and post-construction drainage patterns, magnitudes, and durations within the project limits and also identify existing off-site discharge locations, durations, and magnitudes from the project site. The mitigation actions to meeting the performance standard may include conveyance pipeline (minimum 12-inch diameter, reinforced concrete pipe) in the right-of-way, and the pipe shall not be used to attenuate peak flows. The mitigation method shall be designed to operate in conjunction with MRP Provision C3 requirements. The applicant shall make up front payment for City staff and consultant costs related to reviewing the hydrology and hydraulics mitigation analysis.</p> | <p>Conduct a hydrology and hydraulics mitigation analysis</p> | <p>Prior to the issuance of required project permits</p> | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |
| <b>HYD-2: Storm Water Control Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                               |                                                          |                                                                    |                         |      |          |
| <p>Discharges of any water from the project site shall be controlled at all times and shall not exceed pre-project peak flow or duration in existing storm drains and gutters throughout the project life. Applicant shall design and construct the mitigation method developed through the Hydrology and Hydraulic Mitigation Analysis performed in HYD-1 and as approved by the City. The mitigation actions to meet the performance standards may include conveyance within the right-of-way but storage within the right-of-way is not allowed. The identified method(s) shall be</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Develop and install stormwater control measures</p>        | <p>During construction activities</p>                    | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Verify installation of all stormwater control measures</p> | <p>Prior to occupancy clearance</p>                      | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Action Required                                                                  | Monitoring Timing                        | Responsible Agency                                         | Compliance Verification |      |          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------|------------------------------------------------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                  |                                          |                                                            | Initial                 | Date | Comments |
| completely operational and any facilities located within the right-of-way shall be approved by and dedicated to the City prior to issuance of certificate of occupancy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                  |                                          |                                                            |                         |      |          |
| <b>LAND USE AND PLANNING</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>LU-1: Rezone</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                  |                                          |                                                            |                         |      |          |
| Demolition permits shall not be issued unless and until a rezone is approved by the City of Berkeley that would change the zoning on the western portion of the medical office building site from Mixed-Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Rezone a portion of the project site                                             | Prior to issuance of demolition permits  | City of Berkeley<br>Department of Planning and Development |                         |      |          |
| <b>NOISE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>NOI-1: Construction Vibration Reduction Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                  |                                          |                                                            |                         |      |          |
| <p>Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:</p> <ul style="list-style-type: none"> <li>▪ The applicant or contractor shall ensure that construction activities involving vibratory rollers, large bulldozers, or loaded trucks that create a vibration disturbance across the Project’s shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during the regular posted services times at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.</li> <li>▪ The applicant or contractor shall, to the extent technically and economically feasible, limit the use of vibratory rollers, large bulldozers, or loaded trucks within 75 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios (2600 Tenth Street) to no more than 30 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.</li> <li>▪ The applicant or contractor shall, to the extent technically and economically feasible, limit the use of jackhammers within 25 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios to no more than 70 vibration events per day, as defined by the Federal Transit</li> </ul> | Create a construction management plan subject to review and approval by the City | Prior to the issuance of grading permits | City of Berkeley<br>Department of Planning and Development |                         |      |          |

City of Berkeley  
 1050 Parker Street Project  
 Use Permits #ZP2018-0116 and #ZP2018-0117

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Action Required                                                                  | Monitoring Timing                        | Responsible Agency                                         | Compliance Verification |      |          |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                  |                                          |                                                            | Initial                 | Date | Comments |
| Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND. <ul style="list-style-type: none"> <li>▪ The applicant or contractor shall provide tenants of the three residential units atop the Missouri Lounge, the Covenant Worship Center, Fantasy Studios, and residents within a 500-foot radius of the project sites with a notification at least 24 hours prior to vibration-generating construction activities.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>NOI-2: Construction Noise Abatement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                  |                                          |                                                            |                         |      |          |
| Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City: <ol style="list-style-type: none"> <li>1. The applicant or contractor shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.</li> <li>2. The applicant or contractor shall use quiet models of air compressors and other stationary noise sources where technology exists.</li> <li>3. The applicant or contractor shall locate stationary noise-generating equipment as far as feasible from the nearest noise-sensitive receptors.</li> <li>4. The applicant or contractor shall prohibit unnecessary idling of internal combustion engines.</li> <li>5. The applicant or contractor shall construct solid plywood fences around the construction site adjacent to operational businesses, including the Covenant Worship Center (2622 San Pablo Avenue).</li> <li>6. The applicant or contractor shall ensure that construction activities that generate excessive noise that creates noise disturbance across the Project site’s shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during regular posted services at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.</li> <li>7. The applicant or contractor shall ensure that supporting construction activities, including the loading and unloading of materials and truck movements, are limited to the hours of</li> </ol> | Create a construction management plan subject to review and approval by the City | Prior to the issuance of grading permits | City of Berkeley<br>Department of Planning and Development |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action Required | Monitoring Timing | Responsible Agency | Compliance Verification |      |          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------|--------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                 |                   |                    | Initial                 | Date | Comments |
| <p>7:00 a.m. to 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 8:00 p.m. on Saturdays, or as stipulated in the conditions of approval if more restrictive. No construction-related activity shall occur on Sunday or any Federal Holiday without explicit permission from the City of Berkeley.</p> <p>8. The applicant or contractor shall notify adjacent businesses, the Covenant Worship Center, and residents within a 500-foot radius of the project sites of the construction schedule in writing at least 7 days before beginning construction. The applicant or contractor also shall designate a “construction liaison” responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant or contractor shall conspicuously post a telephone number for the liaison on-site.</p> |                 |                   |                    |                         |      |          |

**TRANSPORTATION**

**T-1: Reimbursement Agreement to Facilitate Traffic Improvements**

A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required project permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City’s pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.

**a. Intersection Improvements.** Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection, as determined necessary by the City Engineer.

**b. Signal Installation.** Signalization of the San Pablo

Create a construction management plan subject to review and approval by the City

Prior to the issuance of grading permits

City of Berkeley  
Department of Public Works, Transportation Division

City of Berkeley  
 1050 Parker Street Project  
 Use Permits #ZP2018-0116 and #ZP2018-0117

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                       | Action Required                                                                                 | Monitoring Timing            | Responsible Agency                                                      | Compliance Verification |      |          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------|-------------------------------------------------------------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                    |                                                                                                 |                              |                                                                         | Initial                 | Date | Comments |
| Avenue/Parker Street intersection and coordinated signal timing with the adjacent intersections on San Pablo Avenue.                                                                                                                                                                                               |                                                                                                 |                              |                                                                         |                         |      |          |
| <b>T-2: Driveway Safety</b>                                                                                                                                                                                                                                                                                        |                                                                                                 |                              |                                                                         |                         |      |          |
| The applicant shall provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Tenth and Parker Streets. Improvements shall occur prior to certificate of occupancy. | Provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets | Prior to occupancy clearance | City of Berkeley<br>Department of Public Works, Transportation Division |                         |      |          |

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

UPHOLD THE APPEAL AND APPROVE USE PERMIT #ZP2018-0117 (MEDICAL OFFICE BUILDING, 1050 PARKER STREET) TO ALLOW THE 60,670 SQUARE-FOOT BUILDING TO BE USED ENTIRELY FOR MEDICAL OFFICES BASED ON THE FINDINGS AND CONDITIONS PRESENTED BY STAFF TO THE ZONING ADJUSTMENTS BOARD (ZAB) ON JANUARY 24, 2019, FOR A MODIFICATION TO USE PERMIT #ZP2016-0170. APPROVAL OF USE PERMIT #ZP2018-0117 IS CONTINGENT ON ZAB APPROVAL OF USE PERMIT #ZP2018-0116 FOR OFF-SITE PARKING

WHEREAS, on June 4, 2018 Christopher Barlow with Wareham Property Group representing 2621 Tenth Street, LLC and Pardee I, LLC (“applicant”) filed an application for a Use Permit for a modification to Use Permit #ZP2016-0170 to allow the 60,670 square-foot building to be used entirely for medical offices at 1050 Parker Street within the West Berkley Commercial (C-W) Zoning District; and

WHEREAS, on August 22, 2018, staff deemed this application complete and determined that as the project site is included on a list compiled pursuant to Section 65962.5 of the Government Code, and preparations of a Draft Initial Study was begun to determine potential significant effects of the project; and

WHEREAS, on September 4, 2018 an Initial Study and Notice of Intent to Adopt a Draft Initial Study and Mitigated Negative Declaration an Initial Study released for public review and comment and the 30-day public review period began; and

WHEREAS, on October 4, 2018, the public review period concluded and none of the comments received on the Draft Initial Study constituted new information that warranted recirculation of the Draft Initial Study. Comments received did not identify new impacts nor result in a substantial increase in the severity of impacts; and

WHEREAS, on October 19, 2018 a Final Mitigated Negative Declaration and Response to Comments was issued; and

WHEREAS, on October 10, 2018 staff posted the Zoning Adjustments Board (ZAB) Notice of Public Hearing at the site in three locations and mailed 297 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, October 25, 2018 the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and continued the hearing to December 12, 2018; and

WHEREAS, on December 4, 2018, City Council conducted a public hearing on the proposed General Plan and Zoning Amendments at the 1050 Parker Street site and continued the public hearing to December 11, 2108; and

WHEREAS, on December 11, 2018, City Council conducted a public hearing on the proposed General Plan and Zoning Amendments at the 1050 Parker Street site and adopted the first reading of the General Plan and Zoning amendments; and

WHEREAS, on December 12, 2018, the ZAB public hearing on the project was continued without discussion as the City Council had not yet acted on the General Plan and Zoning Amendments at the 1050 Parker Street site; and

WHEREAS, on January 9, staff posted the ZAB Notice of Public Hearing at the site in three locations and mailed 485 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on January 22, 2018, City Council adopted the second reading of the General Plan and Zoning Amendments at the 1050 Parker Street site; and

WHEREAS, on January 24, 2019, the ZAB re-opened the public hearing in accordance with BMC Section 23B.32.030, and approved the application with modified conditions of approval; and

WHEREAS, on February 1, 2019, staff issued the notice of the ZAB decision; and

WHEREAS, on February 4, 2019 the applicant filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on March 20, 2019 the submitted a follow-up letter regarding his appeal of the 1050 Parker and Initial Study – Mitigated Negative Declaration (IS-MND) portions of the ZAB actions with the City Clerk; and

WHEREAS, on or before April 16, 2019, staff posted the public hearing notice at the site in three locations and mailed notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on April 30, 2019, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings in Exhibit A to uphold the appeal and approves Use Permit # ZP2018-0117, subject to the conditions of approval in Exhibit A and the project plans in Exhibit B.

Exhibits

A: Findings and Conditions

B: Project Plans

## ATTACHMENT 2 EXHIBIT A

## FINDINGS AND CONDITIONS

APRIL 30, 2019

**1050 Parker Street Medical Office Building**

Use Permit #ZP2018-0117 for the modification of Use Permit #ZP2016-0170 to allow for a previously approved, but not yet constructed, 60,670 square-foot building with 20,300 square feet of medical office use and 40,300 square feet of research and development use to be used entirely for medical offices. This project is in conjunction with construction of an off-site parking lot to provide for a portion the required parking (Use Permit #ZP2018-0116). A total of 115 automobile parking spaces and 46 bicycle parking spaces would be provided on the medical office site; an additional 88 automobile parking spaces would be provided at the off-site parking lot.

**1050 Parker Street**

~~Use Permit #ZP2016-0170 to construct a 60,670 square-foot, three-story building with 20,370 square-foot medical office and 40,300 square-foot research and development uses on the second and third floors, and a 750 square-foot quick-service restaurant on the ground floor, with 117 automobile parking spaces and 46 bicycle parking spaces.~~

**PERMITS REQUIRED TO BE MODIFIED:**

- Use Permit under BMC Section 23E.64.030 to establish a medical office use with more than 5,000 square feet in the C-W District;
- Use Permit under BMC Section 23E.64.050.B.1 to construct more than 5,000 square feet of new floor area in the C-W District;

**PERMITS PREVIOUSLY GRANTED:**

- Use Permit under BMC Section 23E.64.030 to establish a medical office use with more than 5,000 square feet in the C-W District;
- Use Permit under BMC Section 23E.64.050.B.1 to construct more than 5,000 square feet of new floor area in the C-W District;
- ~~Administrative Use Permit under BMC Sections 23E.64.080.J and 23E.80.080.E to allow for the substitution of bicycle or motorcycle parking spaces in place of up to 10% of the required automobile parking spaces;~~
- ~~Administrative Use Permit under BMC Section 23E.80.030 to establish a research and development use with more than 20,000 square feet in the MU-LI District;~~
- ~~Use Permit under BMC Section 23E.80.050.D to construct more than 20,000 square feet of new floor area in the MU-LI District;~~

- Administrative Use Permit under BMC Section 23E.04.040.A to install fences greater than six feet in height;
- Administrative Use Permit under BMC Section 23E.04.020.C to construct two mechanical penthouses and one elevator penthouse that would exceed the C-W and the MU-L District height limit;
- Administrative Use Permit under BMC Section 23E.28.080.B to locate ground level parking space within 20 feet of a street frontage; and
- Zoning Certificate under BMC Section 23E.64.030 to establish a quick service restaurant of less than 1,500 square feet in C-W District.

## **I. CEQA FINDINGS**

- ~~1. The Notice of Intent (NOI) to adopt a CEQA Mitigated Negative Declaration and Initial Study (IS-MND) were published on October 12, 2017, and the public review period ended at 5:00 P.M. on November 13, 2017. The Draft IS-MND was with the Alameda County Clerk and was submitted to the State Clearinghouse (SCH #2017102038) for distribution to interested state and regional agencies.~~

The Notice of Intent (NOI) to adopt a CEQA Mitigated Negative Declaration and Initial Study (IS-MND) were published on September 4, 2018, and the public review period ended at 5:00 P.M. on October 4, 2018. The Draft IS-MND was with the Alameda County Clerk and was submitted to the State Clearinghouse (SCH #2018092001) for distribution to interested state and regional agencies.

The Zoning Adjustments Board has considered the proposed Mitigated Negative Declaration together with any comments received during the public review process, and finds, on the basis of the whole record before it, that: (1) no potentially significant effects were identified that could not be addressed by implementation of the mitigation measures and the City's standard conditions of approval which will avoid or reduce the effects to a point where no significant effects will occur, (2) there is no substantial evidence the project will have a significant effect on the environment, and (3) the mitigated negative declaration reflects the lead agency's independent judgment and analysis. The record of proceedings upon which this decision is based is located at the Permit Service Center, 1947 Center Street, 2<sup>nd</sup> Floor, Berkeley, California 94704.

## **II. FINDINGS FOR APPROVAL**

### **a. REQUIRED FINDINGS FOR USE PERMIT ZP #2018-0117**

1. As required by Section 23B.32.040.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - The proposed project is an infill development project that will add 60,670 square feet of medical office and research and development use in a location that is planned for commercial development. The project will replace a vacant commercial site and

increase the employee population, bringing more activity to the street and sidewalk along San Pablo Avenue. ~~Furthermore, the project is designed to conform with the applicable zoning requirements and development standards that apply to the project site;~~ Furthermore, the project complies with the development standards in the West Berkeley Commercial zoning district. Implementation of Mitigation Measures LU-1 would ensure that the proposed use of the sites would not conflict with zoning regulations;

- The project is consistent with, and supports implementation of, relevant policies set out in the adopted West Berkeley Plan in that it will, a) further enhance the San Pablo Avenue commercial corridor with intensification and mixed-use development, b) visually improve the San Pablo Avenue by replacing a vacant property with a new commercial office building with three stories along the San Pablo Avenue frontage, strengthening the “streetwall” of buildings along the corridor, c) enhance the pedestrian experience and commercial activity in the area by creating approximately 750 square feet of quick-service restaurant space on the ground floor, d) add employment and medical care services to the San Pablo Avenue corridor, adjacent to public transit services and, thereby, contributing to the further implementation of the West Berkeley Plan;
- The project will not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply. The parking survey and traffic impact analysis prepared for the project complies with the City of Berkeley Guidelines for Development of Traffic Impact Report and the Caltrans Guide for the Preparation of Traffic Impact Studies. The traffic report estimated that the proposed project would generate ~~136403~~ AM peak hour vehicle trips and ~~184403~~ PM peak hour trips. Based on this study, and the City’s threshold of significance, this level of additional traffic would significantly impact nearby intersections. This impact will be reduced to a less than significant level with the implementation of mitigation measures as determined by the Initial Study-Mitigated Negative Declaration. The project is required to provide 115 vehicle and 46 bicycle parking spaces on-site, with the remaining required 88 vehicle parking spaces being provided at the off-site parking lot; ~~The project is required to provide 117 vehicle and 46 bicycle parking spaces;~~
- The shadow studies submitted as part of the application illustrate studies the proposed three-story 44-foot building will increase shadows on adjacent properties when compared to a lack of shadows cast by the vacant lot. The abutting commercial building with three residential units to the north (2600 San Pablo Avenue [Missouri Lounge]) and to the building to the west (2600 Tenth Street [Fantasy Studios]) will experience shading specifically from this project. ~~Fantasy Studios 2600 Tenth Street~~ will encounter shading from the project year round. However, the area of shading will be limited to the east facing façade of the building and will only occur in the morning. ~~Missouri Lounge 2600 San Pablo Avenue~~ will experience shading primarily in the winter. However, the area of shading will be limited to the south facing façade of the building and will primarily occur in the evening. Such shading impacts are to be expected in an urbanized area along a major corridor and are not considered significant;
- The immediate surrounding neighborhood includes properties zoned for C-W to the east, northeast, and southeast, and properties zoned for MU-LI to the north and west.

Businesses in the immediate vicinity include research and development labs, offices and media studios, a bank, restaurants and commercial retail, place of worship, and light industrial and automobile services. The project site has General Plan designations of Manufacturing and Avenue Commercial, and is one block south of the Dwight and San Pablo development node in the West Berkeley Plan. This area of Berkeley is characterized by retail, commercial, and mixed use activity along San Pablo Avenue, easily accessible for employees, customers, and residents by mass transit or automobile. Appropriate uses for these areas include: a balance of both smaller and larger commercial retail and food service, larger spaces for medium sized and larger light manufacturers, offices, and laboratory development. The project's proposed land use, therefore, will be consistent with surrounding development and contribute to the continued evolution of the corridor;

- The project is subject to the City's standard conditions of approval regarding construction noise and biological resources, cultural resources, 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.
2. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.1, the Zoning Adjustments Board finds that the project will be compatible with the purposes of the C-W West Berkeley Zoning District. The project would create space for medical offices that would largely serve the surrounding neighborhood.
- The project is consistent with Purpose B of the C-W Zoning District because it will replace a vacant lot with new medical office business space and a neighborhood serving quick service café on Pablo Avenue, bringing more activity to the street and sidewalk along this node corridor; and
  - The project is consistent with Purpose H of the C-W Zoning District, which calls for appropriately intense development in underutilized portions of commercial streets, in that it will replace a vacant lot with a 3-story medical office building, including 750 square feet of quick-service restaurant space.
- ~~3. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.1, the Zoning Adjustments Board finds that the project will be compatible with the purposes of the MU-LI Zoning District. The project would create space for research and development businesses that would bring employment to the surrounding neighborhood.~~
- ~~• The project is consistent with Purpose F and G of the MU-LI Zoning District because it will replace a vacant lot with new research and development office and laboratory space which will not unduly interfere with light manufacturing uses and/or building stock and is compatible with the surrounding area businesses; and~~

- ~~• The project is consistent with Purpose I of the MU-LI Zoning District because the proposed quick service restaurant/retail space will provide for convenient commercial services for nearby employees and residents which contribute toward maintaining or enhancing the economic viability of the businesses in the district.~~
- 4. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.2, the City finds that the project is compatible with surrounding uses and buildings, because the project will not conflict with the operations in adjoining commercial buildings, and will provide potential customers for some of these uses and for other commercial operation in the area. In addition, the project has been designed to minimize potential conflicts with the adjoining businesses.
- 5. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.3, the City finds that the project is consistent with the adopted West Berkeley Plan because it will enhance the San Pablo Avenue commercial corridor by providing commercial storefronts along San Pablo Avenue. Furthermore, with intensification through medical office growth, the project is responsive to the West Berkeley Plan's creation of a more intensive corridor. The project will also visually improve this stretch of San Pablo Avenue by developing a vacant lot and surface parking area with a new three-story building along the San Pablo Avenue frontage, strengthening the "streetwall" of buildings along the corridor.
- 6. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.4, the City finds that the project will be supportive of an increase in the continuity of service facilities at the ground level because the project will provide storefront space for a quick-service café, replacing a vacant lot, thereby enhancing the existing and evolving urban fabric of San Pablo Avenue.
- 7. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.5, the City finds that the project will be of an intensity of development that does not underutilize the property. The project meets the development standards allowed by the C-W zoning regulations. Implementation of Mitigation Measures LU-1 would ensure that the proposed use of the sites would not conflict with zoning regulations.
- 8. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.6, the City finds that the project will meet applicable performance standards for off-site impacts related to stormwater runoff, construction noise and vibration, and traffic, with the implementation of required mitigation measures found to be necessary through the Initial Study-Mitigated Negative Declaration. The project will meet applicable performance standards during operation in that its use will not generate significant levels of noise, glare, dust, vibration, hazardous materials, etc. because, as a medical office and research and development project, it will not involve any manufacturing or industrial activities with the potential to generate off-site impacts typically involving regulation through performance standards. Potential construction period impacts, including noise and dust control, are subject to standard conditions of approval as set forth below.
- 9. Pursuant to Berkeley Municipal Code Section 23E.64.090.B.7, and based on the Traffic Impact Analysis submitted as part of the application, the City finds that a Reimbursement Agreement shall need to be established between the applicant and the City in order to facilitate necessary traffic improvements. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the

proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City's pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement. To ensure driveway safety, the applicant shall provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Tenth and Parker Streets. With the implementation of the required mitigation measures, project impacts will be reduced to less than significant levels. ~~Parking is further discussed in Finding IV below.~~

10. Pursuant to Berkeley Municipal Code Section 23E.64.090.C, the City finds that the proposed project will support the development of a strong neighborhood-serving medical office and pedestrian oriented environment at this location. The new employees and visitors will provide customers for other nearby commercial businesses.

### **III. REQUIRED FINDINGS FOR ROOF-TOP PROJECTIONS**

Pursuant to BMC Section 23E.04.020.C, the Zoning Adjustments Board finds that the two mechanical penthouses will be 14 feet above the roof level, and the elevator penthouse will be 18 feet above the roof level, which would exceed the maximum district height limit (4550 feet) by approximately 4 and 9 feet, ~~9 and 13 feet~~, respectively. The rooftop features would be setback a minimum of 28 feet from edge of the building, resulting in a minimal line-of-sight impact; therefore the rooftop projections may be allowed with an Administrative Use Permit, because:

1. The parapet will not provide floor area and is thus not subject to the 15 percent of habitable space limit.
2. The mechanical penthouses and elevator penthouse will only provide uninhabitable space and access to the roof for maintenance requirements. The average floor area of all of the building's floors is 26,306 square feet, and 15 percent of this total is 3,946 square feet. The total area of the elevator room/stair access is roughly 3,812 square feet, which is less than the 15 percent maximum (or 3,946) square feet.

### **IV. REQUIRED FINDINGS FOR PARKING REDUCTION**



~~Pursuant to BMC 23E.64.080.J and 23E.80.080.E, the Zoning Adjustments Board finds reduction of required automobile parking would not lead to an undue shortage of auto parking spaces and that it can be reasonably expected that there will be demand for the bicycle/motorcycle parking spaces because:~~

- ~~1. There are a number of AC Transit bus stops within 0.25 mile of the project site, with the closet one approximately 150 feet from the project site at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). The Dwight and San Pablo development node is approximately 750 feet (one block) north of the project site, and contains three AC Transit bus stops. There are three BART stations within two miles of the project site: North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east).~~
  - ~~2. The proposed mixed use project includes a neighborhood serving use (a Food Service Establishment).~~
  - ~~3. The 10 percent reduction in automobile parking would result in 117 required parking spaces. The 10 percent addition to bicycle parking would result in 45 required spaces. The project would contain a total of 46 bicycle parking spaces, which would exceed the bicycle parking requirement by one space.~~
  - ~~4. In addition, the parking requirement modification will meet the purposes of the district related to improvement and support for alternative transportation, pedestrian improvements and activity, or similar policies, in that the project would include transportation demand management strategies including providing transit passes, bicycle parking spaces, and a car share parking space.~~
  - ~~5. The ease of bicycling in the neighborhood, the availability of goods and services nearby, and the proximity of transit, combined with the inherent high cost of car ownership, will reduce auto use and parking demand.~~
-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**9. Indemnification Agreement**

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

**VI. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

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

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

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

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

11. Compliance with Conditions and Environmental Mitigations. All building permits for this project are subject to verification of compliance to the adopted Mitigation Monitoring and Reporting Program for this project (Attachment 1), applicable Mitigations required for the IS/MND, and all Conditions of Approval contained herein. 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 the adopted Mitigation Monitoring and Reporting Program for this project, applicable Mitigations required for the IS-MND, and all Conditions of Approval. 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.
12. 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.
13. Parcel Merger. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
14. Percent for Art: Consistent with BMC §23C.23, prior to issuance of a building permit 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.
15. Affordable Housing Mitigation Fee: Consistent with BMC §22.20.065, the applicant provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF if applicable.
16. Encroachment Permit: To apply, a completed Encroachment Permit application, the adopted environmental document, and five (5) sets of plans clearly indicating State ROW must be submitted to: Office of Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic related measures, such as the Transportation Management Plan, should be incorporated into the construction plans prior to the encroachment permit process. See the website link below for more information.  
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>
17. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, (5) commitment to notify neighbors at least four days in advance of authorized extended work hours and the reason for extended hours, and (6) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

- 18. 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. In addition the requirements detailed in Mitigation Measures NOI-1 and NOI-2, 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:
- Construction equipment should be well maintained and used judiciously to be as quiet as practical.
  - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
  - 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.
  - 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.
  - Prohibit unnecessary idling of internal combustion engines.
  - If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
  - 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.
  - 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.
  - Route construction related traffic along major roadways and away from sensitive receptors where feasible.
- 19. 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 and 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. The study will establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls. The study shall 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. The applicant's Geotechnical Investigation shall be peer reviewed by a qualified professional.

- 20. **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.
- 21. **Fee Deferrals.** **Prior to issuance of any building permit**, all zoning project application fees that were deferred at the time of application submittal shall be paid in full.
- 22. **Affordable Housing.** As required by Resolution No. 66,617-N.S., adopted June 3, 2014, Owner shall offset the estimated impacts of the project on affordable housing according to the following formulas:

| USE                                                               | AFFORDABLE UNITS per SQ.FT.          | FEE                          |
|-------------------------------------------------------------------|--------------------------------------|------------------------------|
| Office, Research + Development, Restaurant/Retail, Hotel          | 1 unit per 52,859 gross square feet  | \$4.50 per gross square foot |
| Industrial/Manufacturing, Warehouse/Storage (except self-storage) | 1 unit per 105,719 gross square feet | \$2.25 per gross square foot |
| Self-Storage                                                      | 1 unit per 54,432 gross square feet  | \$4.37 per gross square foot |

The requirement may be satisfied by:

**In-Lieu Fee** - Owner shall pay an equivalent in-lieu impact fee in the amounts and according to the schedule listed below

|                              |          |
|------------------------------|----------|
| Prior to Building Permit     | \$91,005 |
| Prior to Occupancy Permit    | \$91,005 |
| 1 Year from Occupancy Permit | \$91,005 |

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. Some payments carry

interest from the date they would normally be due. Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

23. **Child Care.** As required by Resolution No. 66,618-N.S., adopted June 3, 2014, Owner shall offset the estimated impacts of the project on affordable child care according to the following formulas:

| USE                       | FEE                          |
|---------------------------|------------------------------|
| Office, Restaurant/Retail | \$1.25 per gross square foot |
| Industrial/Manufacturing  | \$0.75 per gross square foot |
| Hotel/lodging             | \$1.50 per gross square foot |
| Warehouse/Storage         | \$0.62 per gross square foot |
| Research & Development    | \$0.80 per gross square foot |

**In-Lieu Fee.** Owner shall pay a fee into the City’s Child Care Operating Subsidy account in the amounts and according to the schedule listed below.

|                              |                                           |
|------------------------------|-------------------------------------------|
| Prior to Building Permit     | <del>\$19,234</del> <u>\$25,279</u>       |
| Prior to Occupancy Permit    | <del>\$19,234</del> <u>\$25,279</u>       |
| 1 Year from Occupancy Permit | <del>\$19,234.50</del> <u>\$25,279.50</u> |

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. Some payments carry interest from the date they would normally be due. Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

24. **Green Building Certification.** The applicant shall submit documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation shall include proof of payment of the registration/application fee to the organization administering the green building certification system (e.g. USGBC/GBCI for LEED, Build It Green for GreenPoint Rated, etc.), a copy of the updated green building checklist that reflects anticipated points, and a statement from the appropriate project team professional (e.g. LEED Accredited Professional, GreenPoint Rater, etc.) verifying that the project is on track for certification at the required level or above. The submitted green building checklist must be a type that is appropriate for the project and a version that is being accepted by the organization granting the green building certification at the time of building permit application. Whenever applicable, measures from the green building checklist shall be incorporated and noted on site plans.

25. **Savings By Design.** The applicant shall submit documentation to the project planner verifying that an application to the [Savings By Design](#) program (either the [Whole Building form](#) or the [Systems Approach form](#)) was submitted to PG&E. This documentation shall include a copy of

follow-up documentation between PG&E and the applicant, including a Savings By Design Energy Efficiency Form with a completed Preliminary Savings Estimate.

26. Electric Vehicle (EV) Charging. At least 10% of the project parking spaces for residential parking and 3% of the parking spaces for non-residential parking shall be pre-wired to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, as specified by the Office of Energy and Sustainable Development. Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable pre-wiring requirement. Pre-wiring for EV charging and EV charging station installations shall be noted on site plans.
27. 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).
28. Water Efficient Landscaping. Applicant shall provide an updated Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that will not be fully met at the project. Landscape improvements shall be consistent with the current versions of the State's Water Efficient Landscape Ordinance (WELO) and the East Bay Municipal Utility District's Section 31: Water Efficiency Requirements.
29. Construction and Demolition. Applicant shall submit a Waste Diversion Form and Waste Diversion Plan that meet the diversion requirements of BMC Chapters 19.24 and 19.37.
30. 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.
31. Parking for Disabled Persons. Per BMC Section 23E.28.040.D of the Zoning Ordinance, "Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces."
32. First Source Agreement. The applicant and/or end user(s) shall enter into a First Source Agreement with the City of Berkeley. First Source promotes the hiring of local residents on local projects. The agreement requires contractors/employers to engage in good faith efforts to hire locally, including utilizing graduates of local job training programs. Please call (510) 981-4970 for further information, or visit the City's Employment Programs office at 2180 Milvia, 1<sup>st</sup> Floor.
33. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:



## A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:
  - All new commercial, industrial and mixed use developments and all large improvement projects.
  - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
  - EMA is available online at:
  - [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

## B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

## C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in

elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

**Prior to Construction:**

**34. 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.

**35. 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:

1. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
2. 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 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:
  - A. 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.

- B. 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.

**During Construction:**

**36. 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.

**37. 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, 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 or paleontologist to assess the significance of the find.

38. Halt Work/Unanticipated Discovery of Tribal Cultural Resources (Ongoing throughout demolition, grading, and/or construction). 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
39. 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.
40. 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.
41. Avoid Disturbance of Nesting Birds (Ongoing throughout demolition, grading, and/or construction). Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than

14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

42. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
43. 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.
44. 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.

- 45. 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.
- 46. Extreme Construction Noise.** Construction activities that may generate extreme noise (noise greater than 90 dBA) at nearby sensitive receptors must be limited to the hours between 8 a.m. and 5 p.m., Monday through Friday. Any work that may generate extreme noise at nearby sensitive receptors outside of these hours, or that needs to occur on a Saturday, must first go through the approval and notification process described in SCA-36. Additionally, if complaints regarding noise are received from occupants of buildings potentially exposed to extreme noise during project construction, the noise liaison shall implement noise monitoring, if appropriate and feasible, to determine and document whether the measures instituted to correct the problem are effective. The results of any noise monitoring conducted, as well as a description of the noise reduction measures implemented, shall be provided to the Zoning Officer for review.
- 47. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City’s National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City’s storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future

- revisions to the City's overall stormwater quality ordinances. This review shall be 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. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
  - K. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.

- L. 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.
- M. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

**48. Public Works - Construction.** Construction activities that involve one or more acres of land disturbance must comply with the State-wide general permit requiring owner to (1) notify the State; (2) prepare and implement a Stormwater Pollution Prevention Plan (SWPPP); and (3) monitor the effectiveness of the plan. Additional information may be found online at <http://www.swrcb.ca.gov>. As part of the permit submittal, the Public Works Department will need a) a copy of the "Notice of Intent" filed with the State Water Resources Control Board (SWRCB)/Division of Water Quality; b) the Waste Discharger Identification (WDID) number issued by the SWRCB for the project; c) a copy of the SWWPP prepared for each phase of the project; and d) the name of the individual who will be responsible for monitoring the site for compliance to the approved SWPPP.

**49. 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:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- 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.
- 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.
- 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.
- 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.

50. 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.
51. 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.
52. 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.
53. 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.
54. 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.
55. 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:**

56. Compliance with Conditions and Environmental Mitigation Measures. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit. Occupancy is subject to verification of compliance to these Conditions of Approval as well as the Mitigation Monitoring and Reporting Program.
57. 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 ~~June 29, 2017~~ August 30, 2018, except as modified by conditions of approval.
58. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

- 59. Green Building Certification.** The applicant shall submit updated documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation expected at this stage includes proof of submission of the final application materials and payment of the certification fee. If this submission has not yet occurred, a detailed explanation and timeline indicating when it will happen must be submitted to the Zoning Officer for review and approval. Once awarded by the organization administering the green building certification system, the applicant shall forward a copy of the certification award to the Zoning Officer.
- 60. Savings By Design.** The applicant shall provide the project planner with an updated Savings By Design Energy Efficiency Form that includes a completed Final Savings for the project. If the applicant has requested that PG&E complete this form and PG&E is unable to do so prior to occupancy permit or final inspection approval, the applicant may satisfy this condition by submitting documentation that PG&E intends to submit the form to the project planner with the expected date.

**At All Times:**

- 61. 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.
- 62. 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.
- 63. Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review and Landmarks Preservation Commission approval.
- 64. 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.
- 65. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 66. Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 A.M. to 10:00 P.M. daily.
- 67. Bike Parking.** ~~Secure and on-site bike parking for at least 46 bicycles shall be provided for the building.~~
- 68. Transportation Demand Management.** A Transportation Demand Management compliance report shall be submitted to the Transportation Division Manager, on a form acceptable to the City, prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is in compliance with the applicable requirements and the following:

- A. Transportation Information Display. The building permit plans shall incorporate a transportation information display in the ~~residential~~medical office building lobby (and lounges, break rooms and other common areas, if applicable) to provide all ~~residential building occupants~~ with information regarding: 1) Albany, Berkeley, Oakland and Emeryville biking and walking maps; 2) directions to BART & AMTRAK; 3) AC Transit and West Berkeley Shuttle route maps, schedules and fares; and 4) NextBus, 511 and car-share contact information. Building management will ensure that all information regarding transit and alternative transportation is kept current, and that this information is provided to all ~~residents, commercial tenants and employees~~employees and building visitors, on an annual basis.
- B. West Berkeley Shuttle. Applicant shall fully participate in either (i) the Berkeley Gateway Transportation Management Association (GTMA), or (ii) another private, non-profit agency responsible for administering a West Berkeley Shuttle to North Berkeley and Ashby BART Stations serving West Berkeley and the members participating in the West Berkeley transportation Management Association (WBTMA). Full participation in either the GTMA or the WBTMA requires (i) a one-time start-up payment ~~of \$20,000~~ to either the GTMA or the WBTMA to establish shuttle services; (ii) annual payments to provide project's fair share of service ~~estimated for initial operating years to be no less than \$20,000 a year~~; and (iii) participation in the governance of the non-profit on a pro-bono basis.

Prior to the issuance of certificate of occupancy, Applicant shall provide evidence to the Zoning Officer that it has executed a Membership Agreement with either the GTMA or the WBTMA in accordance with the policies, rules and regulations of the organization, and the above.

Applicant, its successors and assignees, shall remain a member of the GTMA or WBTMA, or equivalent, for as long as the GTMA or WBTMA or its successor or assignee operates a shuttle from West Berkeley to BART, or its successors.

- C. CarShare Required. Car share application fees, membership fees, and monthly dues shall be paid in full for all participating employees.
- D. Bike Parking. Secure and on-site bike parking for at least 46 bicycles shall be provided for the building.
- E. Alameda County Guaranteed Ride Home program. Encourage enrollment by all qualifying employees in the Alameda County Guaranteed Ride Home program and submit an annual statement indicating number of participating employees.
- F. Pre-Loaded Clipper Cards. Provide annual transit pass subsidies in the form of pre-loaded Clipper Cards (or other acceptable substitute) for each ~~residential unit~~employee until such time that applicant's fair share contribution to the West Berkeley Shuttle program is made, and service commences and if and when the West Berkeley Shuttle is not in operation.
- G. 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.

- H. Food Service Operation. The food service operation, if qualifying for participation in the Alameda County Guaranteed Ride Home program (or successor program), shall participate in the "Guaranteed Ride Home" program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency. Enrollment shall be encouraged by providing Guarantee Ride Home information to all employees. An affidavit/statement indicating number of participating employees shall be provided annually to the Transportation Division Manager.

### **FOOD SERVICE CONDITIONS**

(These requirements are in addition to any other requirements under the City's Building, Health or Fire Codes or by agencies such as the Alcoholic Beverage Control Department of the State of California. The applicant is responsible for contacting these and other departments and agencies to identify and secure all applicable permits and licenses).

69. Changes in the nature of the operation including, but not limited to, the addition of seating, changes in hours (except decreased hours in compliance with applicable ABC regulations), and the addition of live entertainment, shall require modification of this permit subject to approval by the Zoning Adjustments Board.
70. The approved floor plan, including the number of seats, shall be followed and the operation shall be conducted as presented to the Board. The maximum occupancy shall be as specified in the application unless otherwise required by applicable regulations.
71. Changes to the building's facade, including doors or windows, site plans, landscaping, signage, and awnings are subject to Design Review and approval prior to issuance of a building permit.
72. The hours of operation of the restaurant portion of the business shall be limited to the District hours. Hours of operation refer to arrival of the first patron and departure of the last patron. Any change in the hours of operation (except decreased hours in compliance with applicable ABC regulations) shall be approved by the Zoning Adjustments Board. Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.
73. Cooking odors, noise, exterior lighting and operation of any parking area shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.
74. Smoke and odor control equipment approved by the City Environmental Health Division and providing adequate protection to residential uses near the restaurant shall be installed (or prior installation verified) prior to issuance of an Occupancy Permit.

75. Garbage and trash containers that are suitably enclosed and screened from view shall be provided subject to approval of the Zoning Officer, the Health Department and, where applicable, the Design Review Planner. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall provide separate bins or cans for the placement of such cans or bottles to ensure recycling of such containers.
76. Containers used for the dispensing of prepared food shall identify the establishment. Polystyrene foam food packing is prohibited by Section 11.60.030 of the Berkeley Municipal Code.
77. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall recycle such containers. The operator of the restaurant shall place a waste receptacle near the entry way and shall insure that garbage on the sidewalk in front of the establishment and within 50 feet thereof will be picked up periodically during each day, so that the sidewalk remains clean.
78. Posting Requirements. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
79. Subject to Review. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

#### Conditions added at ZAB Hearing

80. DRC Conditions Prior to Final Design Review. The following recommendation and conditions shall be incorporated in the final project design:
- Final Color scheme will be reviewed at FDR. Color accents are too dark. Provide an alternate for further review.
  - Brown color for the accent panels is not successful. Look at eliminating this color or making it more subtle. Review further at FDR.
  - Accents could be stronger at retail.
  - Look at soffits as another opportunity for accent colors.
  - Provide transformer and trash enclosure at FDR, as well as complete fence details.
  - **The Off-Site Parking Lot (ZP#2018-0116) Landscape Plans shall be reviewed in conjunction with the architectural design review for the Medical Office Building.**
- ~~81. Prior to Issuance of the certificate of occupancy, the applicant shall provide assurance for funding improvements for up to two (2) intersections based on traffic performance evaluations at up to four (4) intersections, at the discretion of the City Engineer. The funds shall be held for a period of three years from date of occupancy. Should the funds not be needed for intersection improvements after three years, said funds shall be released back to the applicant.~~
81. Prior to issuance of the certificate of occupancy, the applicant shall provide assurance for funding improvements based on traffic performance evaluations at the intersection of Tenth

Street and Dwight Way. The funds shall be held for a period of three years from date of occupancy. Should the funds not be needed for intersection improvements after three years, said funds shall be released back to the applicant.

- ~~82. Annual traffic performance monitoring shall occur at up to four (4) intersections at the discretion of the City Engineer. It shall be at the discretion of the City Engineer to determine appropriate traffic performance improvement measures, beyond those required under the Mitigation Monitoring and Reporting Program, to be implemented at the expense of the applicant at up to two (2) intersections. Monitoring requirements shall include:~~
- ~~A. First monitoring shall take place prior to Occupancy to establish Baseline conditions. Monitoring shall take place annually thereafter, for a period of three (3) years.~~
  - ~~B. Average Daily Trip traffic counts on Parker between 10<sup>th</sup> Street and San Pablo Avenue to determine the peak traffic hours.~~
  - ~~C. Intersection Peak Hour turning movement counts (average over two consecutive days) including bike and pedestrians.~~
  - ~~D. Traffic performance analysis shall include standard traffic control warrant analysis, as well delay and pedestrian warrants for uncontrolled intersections.~~
  - ~~E. At the discretion of the City Engineer, the following intersections shall be monitored:
 
    - ~~a. 10<sup>th</sup> Street and Dwight Way;~~
    - ~~b. 9<sup>th</sup> Street and Parker Street;~~
    - ~~c. Carleton Street and Mathew Street; and~~
    - ~~d. 9<sup>th</sup> Street and Dwight Street.~~~~
- 82. After the issuance of certificate of occupancy, annual traffic performance monitoring shall occur at Tenth Street and Dwight Way for a period of three years. It shall be at the discretion of the City Engineer to determine appropriate traffic performance improvement measures, such as additional signage and road markings, beyond those required under the Mitigation Monitoring and Reporting Program, to be implemented at the expense of the applicant. Monitoring requirements shall include:**
- A. First monitoring shall take place prior to Occupancy to establish Baseline conditions. Monitoring shall take place annually thereafter, for a period of three (3) years.**
  - B. Average Daily Trip traffic counts on Dwight Way between Tenth Street and San Pablo Avenue to determine the peak traffic hours.**
  - C. Intersection Peak Hour turning movement counts (average over two consecutive days) including bike and pedestrians.**
  - D. Traffic performance analysis shall include standard traffic control warrant analysis, as well delay and pedestrian warrants for uncontrolled intersections.**
- 83. After the issuance of certificate of occupancy and prior to the implementation of Mitigation Measure T-1.a., as detailed in the Mitigation Monitoring and Reporting Program, annual traffic performance monitoring shall occur at San Pablo Avenue and Dwight Way for a period of three years. It shall be at the discretion of the City Engineer to determine the need for dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection. Monitoring requirements shall include:**
- A. First monitoring shall take place prior to Occupancy to establish Baseline conditions. Monitoring shall take place annually thereafter, for a period of three (3) years.**
  - B. Average Daily Trip traffic counts on Dwight Way between Tenth Street and Byron Street to determine the peak traffic hours**

- C. Intersection Peak Hour turning movement counts (average over two consecutive days) including bike and pedestrians
  - D. Traffic performance analysis shall include standard traffic control warrant analysis, as well delay and pedestrian warrants for uncontrolled intersections
84. Prior to the issuance of any permits, the applicant shall present evidence that the require rezone has been processed and approved by City Council. The City Council Resolution number shall be prominently displayed on all plan sheets.
85. Prior to the issuance of any permits, the applicant shall present evidence that Use Permit #ZP2018-0116 has been approved. Proof of the decision shall be prominently displayed on all plan sheets.
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| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action Required                                               | Monitoring Timing                                        | Responsible Agency                                                 | Compliance Verification |      |          |
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| <b>HYDROLOGY AND WATER QUALITY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                               |                                                          |                                                                    |                         |      |          |
| <b>HYD-1: Hydrology and Hydraulic Mitigation Analysis</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                               |                                                          |                                                                    |                         |      |          |
| <p>The project shall not increase from pre-project to post-construction conditions peak flow and flow duration to existing gutters, and shall not raise from pre-project to post-construction the hydraulic grade line in existing storm drains at all times throughout the life of the project. The applicant shall demonstrate through a hydrology and hydraulics mitigation analysis to show how this performance standard will be achieved and used to provide the basis of design for the implementing this mitigation.</p> <p>The hydrology and hydraulics mitigation analysis shall be submitted to and approved by the City of Berkeley Department of Planning and Development prior to issuance of required project permits. The analysis shall identify existing and post-construction drainage patterns, magnitudes, and durations within the project limits and also identify existing off-site discharge locations, durations, and magnitudes from the project site. The mitigation actions to meeting the performance standard may include conveyance pipeline (minimum 12-inch diameter, reinforced concrete pipe) in the right-of-way, and the pipe shall not be used to attenuate peak flows. The mitigation method shall be designed to operate in conjunction with MRP Provision C3 requirements. The applicant shall make up front payment for City staff and consultant costs related to reviewing the hydrology and hydraulics mitigation analysis.</p> | <p>Conduct a hydrology and hydraulics mitigation analysis</p> | <p>Prior to the issuance of required project permits</p> | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |
| <b>HYD-2: Storm Water Control Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                               |                                                          |                                                                    |                         |      |          |
| <p>Discharges of any water from the project site shall be controlled at all times and shall not exceed pre-project peak flow or duration in existing storm drains and gutters throughout the project life. Applicant shall design and construct the mitigation method developed through the Hydrology and Hydraulic Mitigation Analysis performed in HYD-1 and as approved by the City. The mitigation actions to meet the performance standards may include conveyance within the right-of-way but storage within the right-of-way is not allowed. The identified method(s) shall be</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Develop and install stormwater control measures</p>        | <p>During construction activities</p>                    | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Verify installation of all stormwater control measures</p> | <p>Prior to occupancy clearance</p>                      | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |



| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Action Required                                                                  | Monitoring Timing                        | Responsible Agency                                         | Compliance Verification |      |          |
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| completely operational and any facilities located within the right-of-way shall be approved by and dedicated to the City prior to issuance of certificate of occupancy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                  |                                          |                                                            |                         |      |          |
| <b>LAND USE AND PLANNING</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>LU-1: Rezone</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                  |                                          |                                                            |                         |      |          |
| Demolition permits shall not be issued unless and until a rezone is approved by the City of Berkeley that would change the zoning on the western portion of the medical office building site from Mixed-Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Rezone a portion of the project site                                             | Prior to issuance of demolition permits  | City of Berkeley<br>Department of Planning and Development |                         |      |          |
| <b>NOISE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>NOI-1: Construction Vibration Reduction Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                  |                                          |                                                            |                         |      |          |
| <p>Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:</p> <ul style="list-style-type: none"> <li>▪ The applicant or contractor shall ensure that construction activities involving vibratory rollers, large bulldozers, or loaded trucks that create a vibration disturbance across the Project’s shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during the regular posted services times at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.</li> <li>▪ The applicant or contractor shall, to the extent technically and economically feasible, limit the use of vibratory rollers, large bulldozers, or loaded trucks within 75 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios (2600 Tenth Street) to no more than 30 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.</li> <li>▪ The applicant or contractor shall, to the extent technically and economically feasible, limit the use of jackhammers within 25 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios to no more than 70 vibration events per day, as defined by the Federal Transit</li> </ul> | Create a construction management plan subject to review and approval by the City | Prior to the issuance of grading permits | City of Berkeley<br>Department of Planning and Development |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Action Required                                                                         | Monitoring Timing                               | Responsible Agency                                                 | Compliance Verification |      |          |
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| <p>Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.</p> <ul style="list-style-type: none"> <li>▪ The applicant or contractor shall provide tenants of the three residential units atop the Missouri Lounge, the Covenant Worship Center, Fantasy Studios, and residents within a 500-foot radius of the project sites with a notification at least 24 hours prior to vibration-generating construction activities.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                         |                                                 |                                                                    |                         |      |          |
| <b>NOI-2: Construction Noise Abatement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                         |                                                 |                                                                    |                         |      |          |
| <p>Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:</p> <ol style="list-style-type: none"> <li>1. The applicant or contractor shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.</li> <li>2. The applicant or contractor shall use quiet models of air compressors and other stationary noise sources where technology exists.</li> <li>3. The applicant or contractor shall locate stationary noise-generating equipment as far as feasible from the nearest noise-sensitive receptors.</li> <li>4. The applicant or contractor shall prohibit unnecessary idling of internal combustion engines.</li> <li>5. The applicant or contractor shall construct solid plywood fences around the construction site adjacent to operational businesses, including the Covenant Worship Center (2622 San Pablo Avenue).</li> <li>6. The applicant or contractor shall ensure that construction activities that generate excessive noise that creates noise disturbance across the Project site's shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during regular posted services at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.</li> <li>7. The applicant or contractor shall ensure that supporting construction activities, including the loading and unloading of materials and truck movements, are limited to the hours of</li> </ol> | <p>Create a construction management plan subject to review and approval by the City</p> | <p>Prior to the issuance of grading permits</p> | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action Required | Monitoring Timing | Responsible Agency | Compliance Verification |      |          |
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| <p>7:00 a.m. to 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 8:00 p.m. on Saturdays, or as stipulated in the conditions of approval if more restrictive. No construction-related activity shall occur on Sunday or any Federal Holiday without explicit permission from the City of Berkeley.</p> <p>8. The applicant or contractor shall notify adjacent businesses, the Covenant Worship Center, and residents within a 500-foot radius of the project sites of the construction schedule in writing at least 7 days before beginning construction. The applicant or contractor also shall designate a “construction liaison” responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant or contractor shall conspicuously post a telephone number for the liaison on-site.</p> |                 |                   |                    |                         |      |          |

**TRANSPORTATION**

**T-1: Reimbursement Agreement to Facilitate Traffic Improvements**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                         |                                                 |                                                                                 |
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| <p>A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required project permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City’s pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.</p> <p><b>a. Intersection Improvements.</b> Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection, as determined necessary by the City Engineer.</p> <p><b>b. Signal Installation.</b> Signalization of the San Pablo</p> | <p>Create a construction management plan subject to review and approval by the City</p> | <p>Prior to the issuance of grading permits</p> | <p>City of Berkeley<br/>Department of Public Works, Transportation Division</p> |
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| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                       | Action Required                                                                                 | Monitoring Timing            | Responsible Agency                                                      | Compliance Verification |      |          |
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| Avenue/Parker Street intersection and coordinated signal timing with the adjacent intersections on San Pablo Avenue.                                                                                                                                                                                               |                                                                                                 |                              |                                                                         |                         |      |          |
| <b>T-2: Driveway Safety</b>                                                                                                                                                                                                                                                                                        |                                                                                                 |                              |                                                                         |                         |      |          |
| The applicant shall provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Tenth and Parker Streets. Improvements shall occur prior to certificate of occupancy. | Provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets | Prior to occupancy clearance | City of Berkeley<br>Department of Public Works, Transportation Division |                         |      |          |

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**APPLICABLE CODES:**

- 2016 BUILDING STANDARDS ADMINISTRATIVE CODE, PART 1, TITLE 24 C.C.R.
  - 2016 CALIFORNIA BUILDING CODE (CBC), PART 2, TITLE 24 C.C.R.
  - 2016 CALIFORNIA ELECTRICAL CODE (CEC), PART 3, TITLE 24 C.C.R.
  - 2016 CALIFORNIA MECHANICAL CODE (CMC), PART 4, TITLE 24 C.C.R.
  - 2016 CALIFORNIA PLUMBING CODE (CPC), PART 5, TITLE 24 C.C.R.
  - 2016 CALIFORNIA ENERGY CODE (CEC), PART 6, TITLE 24 C.C.R.
  - 2016 CALIFORNIA FIRE CODE, PART 9, TITLE 24 C.C.R.
  - 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN), PART 11, TITLE 24 C.C.R.
  - 2016 CALIFORNIA REFERENCED STANDARDS, PART 12, TITLE 24 C.C.R.
  - TITLE 19 C.C.R., PUBLIC SAFETY, STATE FIRE MARSHAL REGULATIONS
  - 2010 ADA STANDARDS FOR ACCESSIBLE DESIGN CITY OF BERKELEY MUNICIPAL CODE
- PARTIAL LIST OF APPLICABLE STANDARDS**
- NFPA 13 AUTOMATIC SPRINKLER SYSTEMS 2013 EDITION
  - NFPA 14 STANDPIPE SYSTEMS (CA AMENDED) 2013 EDITION
  - NFPA 17A WET CHEMICAL SYSTEMS 2013 EDITION
  - NFPA 20 STATIONARY PUMPS 2013 EDITION
  - NFPA 24 PRIVATE FIRE MAINS (CA AMENDED) 2013 EDITION
  - NFPA 72 NATIONAL FIRE ALARM CODE (CA AMENDED) 2013 EDITION
  - NFPA 80 FIRE DOOR AND OTHER OPENING PROTECTIVES 2013 EDITION
  - NFPA 1200 CLEAR AGENT FIRE EXTINGUISHING SYSTEMS 2013 EDITION
- REFERENCE CODE SECTION FOR NFPA STANDARDS -- 2013 CBC (SFM) CHAPTER 35. SEE CHAPTER 35 FOR STATE OF CALIFORNIA AMENDMENTS TO NFPA STANDARDS.**

**General Architectural Drawing Notes:**

- VERIFY DIMENSIONS AND EXISTING CONDITIONS BEFORE COMMENCING WORK. REPORT DISCREPANCIES TO THE ARCHITECT PRIOR TO PROCEEDING WITH AFFECTED WORK.
- BUILDING FLOOR PLAN DIMENSIONS ARE REFERENCED FROM STRUCTURAL GRID, FACE OF CONCRETE, FACE OF MASONRY, OR FACE OF FINISHED SURFACE, UNLESS NOTED OTHERWISE.
- REFLECTED CEILING PLAN DIMENSIONS ARE REFERENCED FROM FINISHED SURFACES UNLESS NOTED OTHERWISE. CEILING HEIGHTS ARE DIMENSIONED FROM FLOOR TO FINISHED CEILING HEIGHT.
- CASEWORK, PLUMBING FIXTURES, TOILET PARTITIONS, AND OTHER FIXTURES AND EQUIPMENT ARE DIMENSIONED FROM FINISHED SURFACES UNLESS NOTED OTHERWISE.
- DIMENSIONS NOTED AS "FIELD VERIFY" SHALL BE CHECKED AT THE SITE BY THE CONTRACTOR AND REVIEWED WITH THE ARCHITECT BEFORE INCORPORATING INTO THE WORK.
- DIMENSIONS NOTED AS "CLEAR" REQUIRE SPECIFIC COORDINATION BETWEEN DISCIPLINES AND/OR MANUFACTURERS.
- DRAWINGS NOTED AS "N.T.S." ARE NOT TO SCALE. DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS TAKE PRECEDENCE. IF CLARIFICATION IS REQUIRED IN ORDER TO DETERMINE THE INTENT OF THE CONTRACT DOCUMENTS, CONTACT THE ARCHITECT.
- NOTES OR DIMENSIONS LABELED "TYPICAL" SHALL APPLY TO SITUATIONS THAT ARE THE SAME OR SIMILAR.

**PROJECT DESCRIPTION**

The site, approximately 1.6 acres, is an irregularly shaped split zoned parcel with frontage on San Pablo Avenue, Parker Street and 10th Street in Berkeley, California. This 3 story building project consists of office space (Occupancy: B) and parking on the ground level. Retail space and a pocket park are provided in San Pablo Ave. in order to match the surrounding neighborhood in terms of building scale and design. Additional surface parking and landscaping will occupy the remainder of the site. The general configuration of the building is "L" shape with simple variation in form.

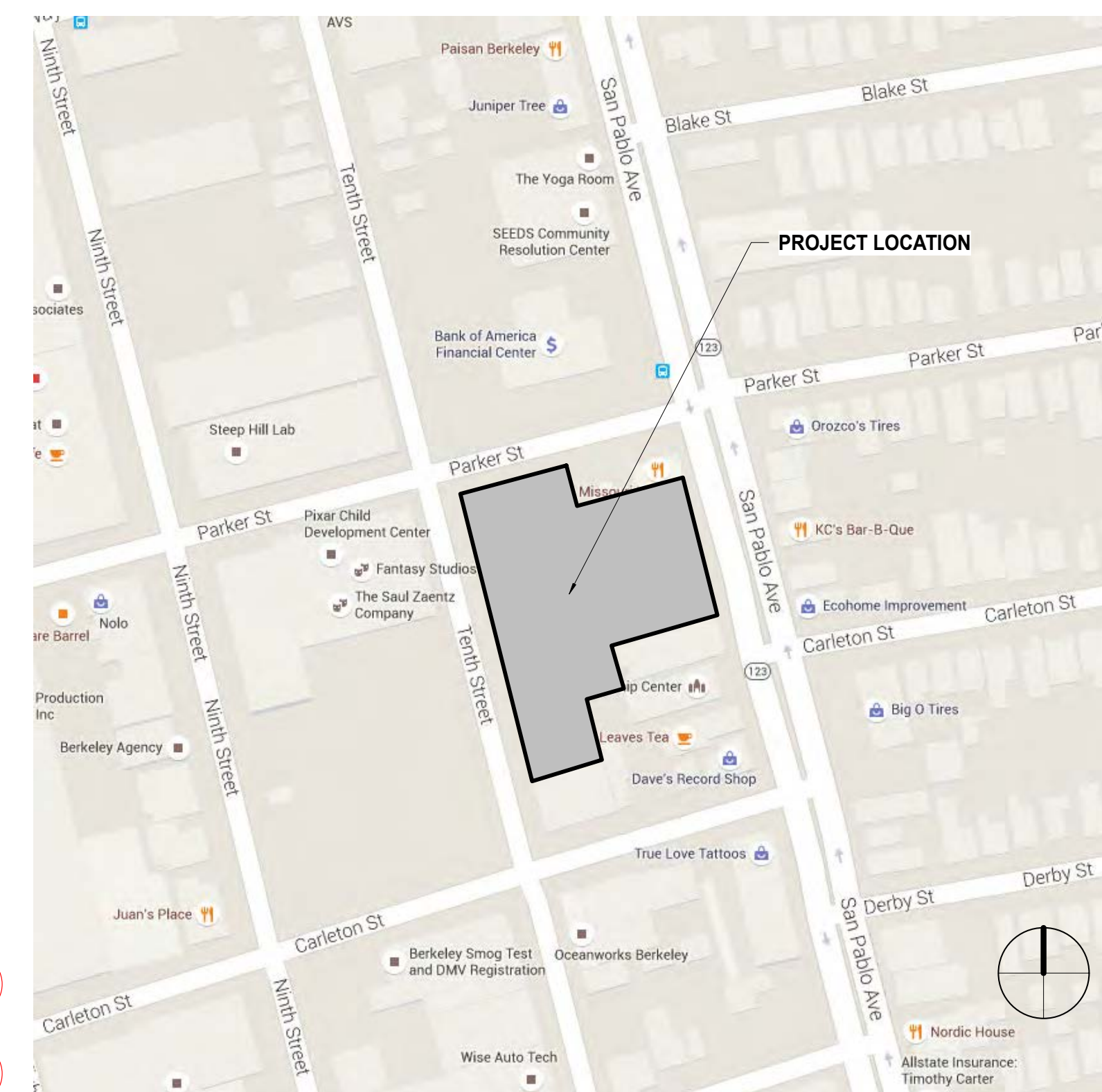
**PROJECT INFORMATION**

**SITE INFORMATION**  
 ADDRESS: 2621 Tenth Street Berkeley, CA  
**APN:** 054-7863-10, 054-1763-3-3, 054-1763-1-3 C-W  
**ZONING:**  
 TOTAL LOT AREA: 68,331 SF

**DRAWING LIST**

- G0.0 PROJECT INFORMATION**
- ARCHITECTURE**
- A0.1 VICINITY MAP
  - A1.0 SITE PLAN
  - A1.1 PHOTO MONTAGE PERSPECTIVES
  - A1.2 PHOTO MONTAGE PERSPECTIVES
  - A1.3 SHADOW STUDIES
  - A1.4 SHADOW STUDIES
  - A1.5 STREET STRIP ELEVATIONS
  - A1.6 AERIAL VIEWS
  - A1.7 SAN PABLO FRONTAGE
  - A1.8 SAN PABLO FRONTAGE
  - A1.9 NORTHWEST CORNER
  - A1.10 LOBBY VIEWS
  - A1.11 MECHANICAL PENTHOUSE VIEWS
  - A1.12 MECHANICAL PENTHOUSE VIEWS
  - A1.13 REAR ENTRY VIEWS
  - A2.0 GROUND FLOOR PLAN
  - A2.1 SECOND FLOOR PLAN
  - A2.2 THIRD FLOOR PLAN
  - A2.3 ROOF PLAN
  - A2.4 BIKE PARKING PLAN
  - A2.5 ENLARGED PLAN @ SAN PABLO AVE.
  - A3.0 EXTERIOR ELEVATIONS
  - A3.1 BUILDING SECTIONS
- CIVIL**
- C0.0 TOPOGRAPHIC SURVEY
  - C1.0 EXISTING CONDITIONS PLAN
  - C2.0 CONCEPTUAL GRADING PLAN
- LANDSCAPE**
- L0.1 MATERIALS SCHEDULE
  - L0.2 PLANT SCHEDULE
  - L1.0 LANDSCAPE PLAN
  - L1.1 LEVEL 2-3 TERRACE PLAN
  - L2.0 SHADE CANOPY PLAN

**PROJECT LOCATION**



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**2621 TENTH STREET/ 1050 PARKER ST. BERKELEY, CA**

2621 Tenth St. / 1050 Parker St. Berkeley, CA

**owner:**  
 2621 TENTH STREET, LLC  
 1120 NYE STREET, SUITE 400  
 SAN RAFAEL, CA 94901  
 415.457.4964

**architect:**  
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 LIVERMORE, CA 94551  
 925.245.8788

**landscape architect:**  
**STUDIO FIVE DESIGN**  
 25 SAN ANSELMO AVENUE  
 SAN ANSELMO, CA 94960  
 415.524.8517

**MATERIALS GRAPHICS**

- 02 SITE CONSTRUCTION**
  - EARTH (existing)
  - EARTH (backfill)
  - DRAINAGE FILL
- 03 CONCRETE**
  - CAST-IN-PLACE CONCRETE
  - PRECAST CONCRETE
- 04 MASONRY**
  - BRICK
  - CONCRETE MASONRY UNITS
  - GLASS BLOCK
  - STONE
  - CAST STONE
  - GROUT
- 05 METALS**
  - ALUMINUM
  - STEEL
- 06 WOODS AND PLASTICS**
  - CONTINUOUS WOOD
  - INTERMITTENT WOOD
  - FINISH WOOD
  - HARDBOARD
  - MEDIUM DENSITY FIBER BOARD (MDF)
  - PARTICLE BOARD
  - PLYWOOD
  - SOLID SURFACE MATERIAL
- 07 THERMAL & MOISTURE PROTECTION**
  - BATT INSULATION
  - LOOSE FILL INSULATION
  - RIGID INSULATION
- 08 GLAZING**
  - GLASS
- 09 FINISHES**
  - LATH AND PLASTER
  - GYPSUM BOARD

**MATERIALS & GRAPHIC SYMBOLS**

- 01 GENERAL**
  - NEW WALL
  - EXISTING WALL TO BE REMOVED
  - EXISTING WALL
  - BUILDING/DETAIL SECTION
  - DETAIL REFERENCE
  - EXTERIOR ELEVATION TAG
  - INTERIOR ELEVATION TAG
  - BREAK LINE
  - ROOM TAG
  - INTERIOR PARTITION TYPE SYMBOL
  - WINDOW TYPE SYMBOL
  - BENCHMARK/SPOT ELEV. SYMBOL
  - COLUMN LINE/GRID INDICATOR
  - REVISION INDICATOR
  - DOOR TAG
  - FLOOR LEVEL SYMBOL
  - CEILING HEIGHT SYMBOL
  - NORTH ARROWS
  - DIMENSION
  - ALIGN TWO WALLS OR OBJECTS

**PROJECT DIRECTORY**

**OWNER**  
 2621 TENTH STREET, LLC  
 1120 NYE STREET, SUITE 400  
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**APPLICANT**  
 CHRISTOPHER BARLOW  
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**LANDSCAPE ARCHITECT**  
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 TIPPING STRUCTURAL ENGINEERS  
 1906 SHATTUCK AVENUE  
 BERKELEY, CA 94704  
 510.549.1906

**MEP ENGINEER**  
 INTERFACE ENGINEERING  
 135 MAIN STREET, SUITE 400  
 SAN FRANCISCO, CA 94105  
 415.489.3215

**GEOTECH ENGINEER**  
 LANGAN TREADWELL ROLLO  
 4030 MOORPARK AVENUE, SUITE 210  
 SAN JOSE, CA 94117  
 408.551.6700

**TRAFFIC CONSULTANT**  
 FEHR & PEERS  
 2201 BROADWAY, SUITE 400  
 OAKLAND, CA 94612  
 510.834.3200

**BUILDING AREA**

|              | TOTAL            |
|--------------|------------------|
| GROUND       | 9,920 sf         |
| LEVEL 2      | 27,100 sf        |
| LEVEL 3      | 23,650 sf        |
| <b>TOTAL</b> | <b>60,670 sf</b> |

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| Number | Revision Description | Date     |
|--------|----------------------|----------|
| 1      | Zoning Submission    | 06/28/16 |
| 2      | Revision #1          | 09/13/16 |
| 3      | Revision #2          | 12/05/16 |
| 4      | Revision #3          | 02/27/17 |
| 5      | Revision #4          | 06/29/17 |
| 6      | Rezoning             | 06/04/18 |

Project No: 1116-0040  
 Date: 08/30/2018  
 Sheet:

**PROJECT INFORMATION**

**G0.0**

**ZONING APPLICATION**

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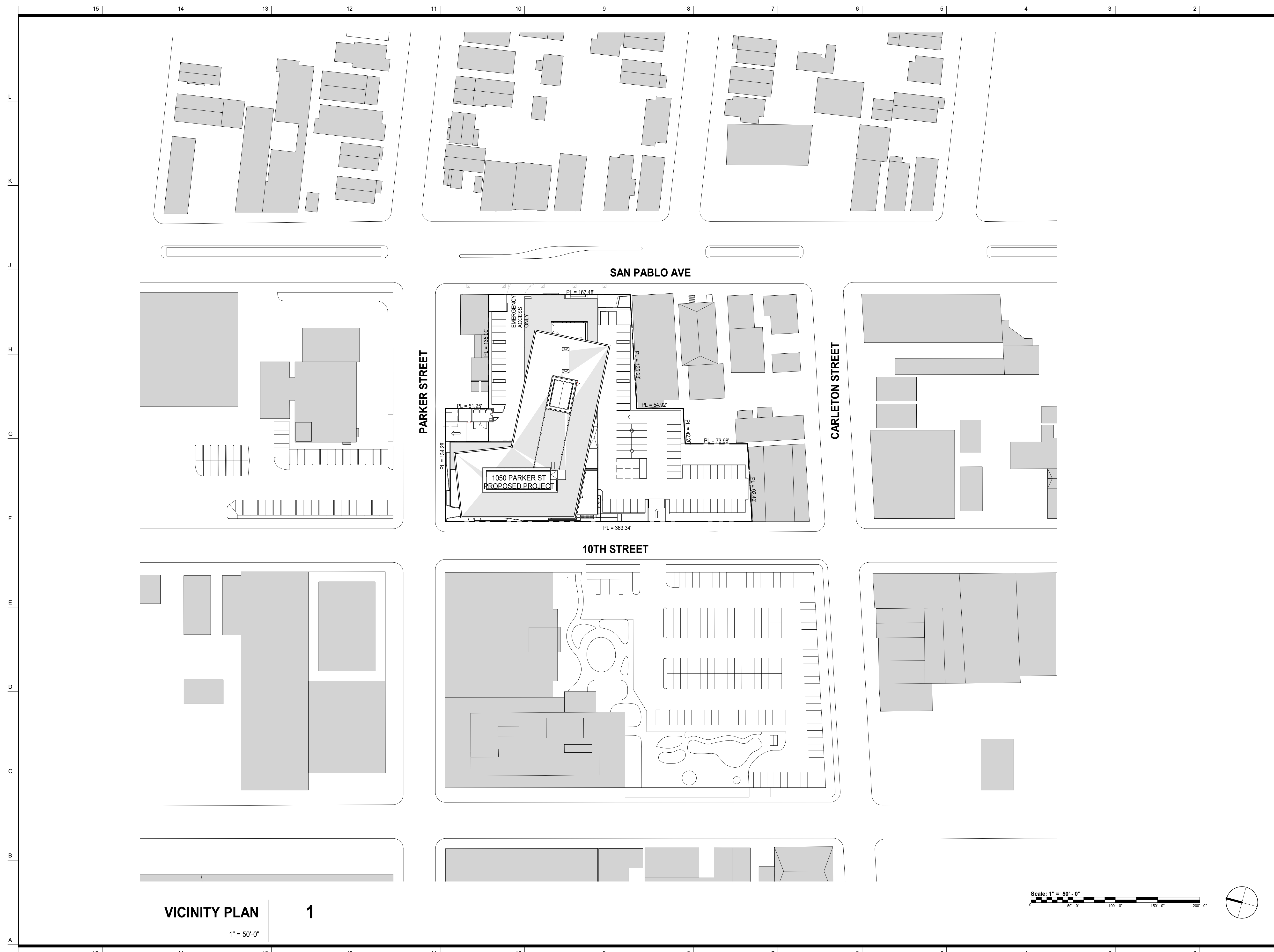
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|--------|----------------------|----------|
| 4      | Revision #3          | 02/27/17 |
| 5      | Revision #4          | 08/29/17 |

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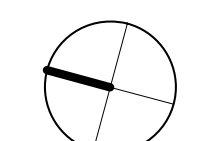
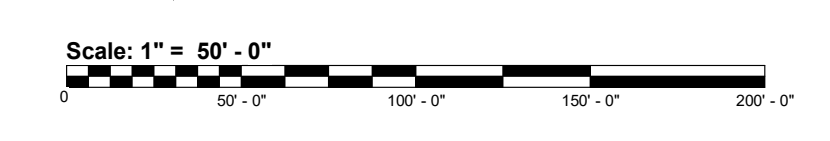
VICINITY MAP

**A0.1**

ZONING APPLICATION



**VICINITY PLAN 1**  
1" = 50'-0"



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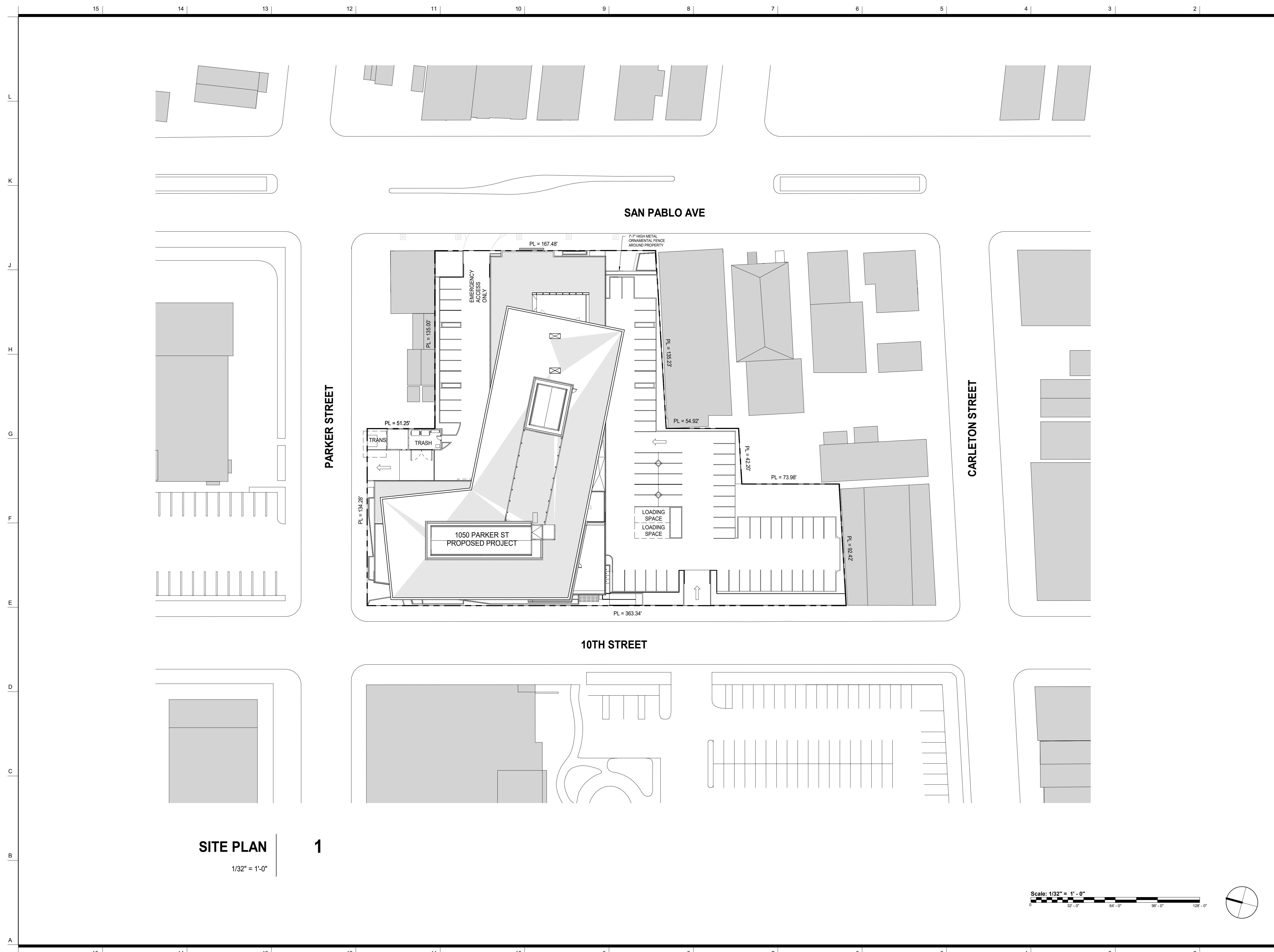
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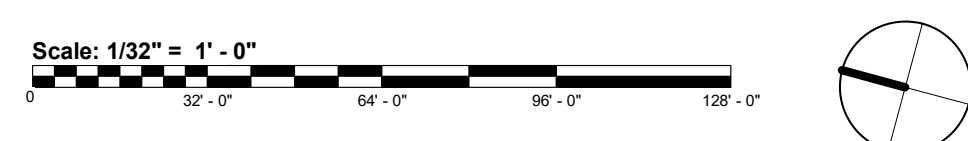
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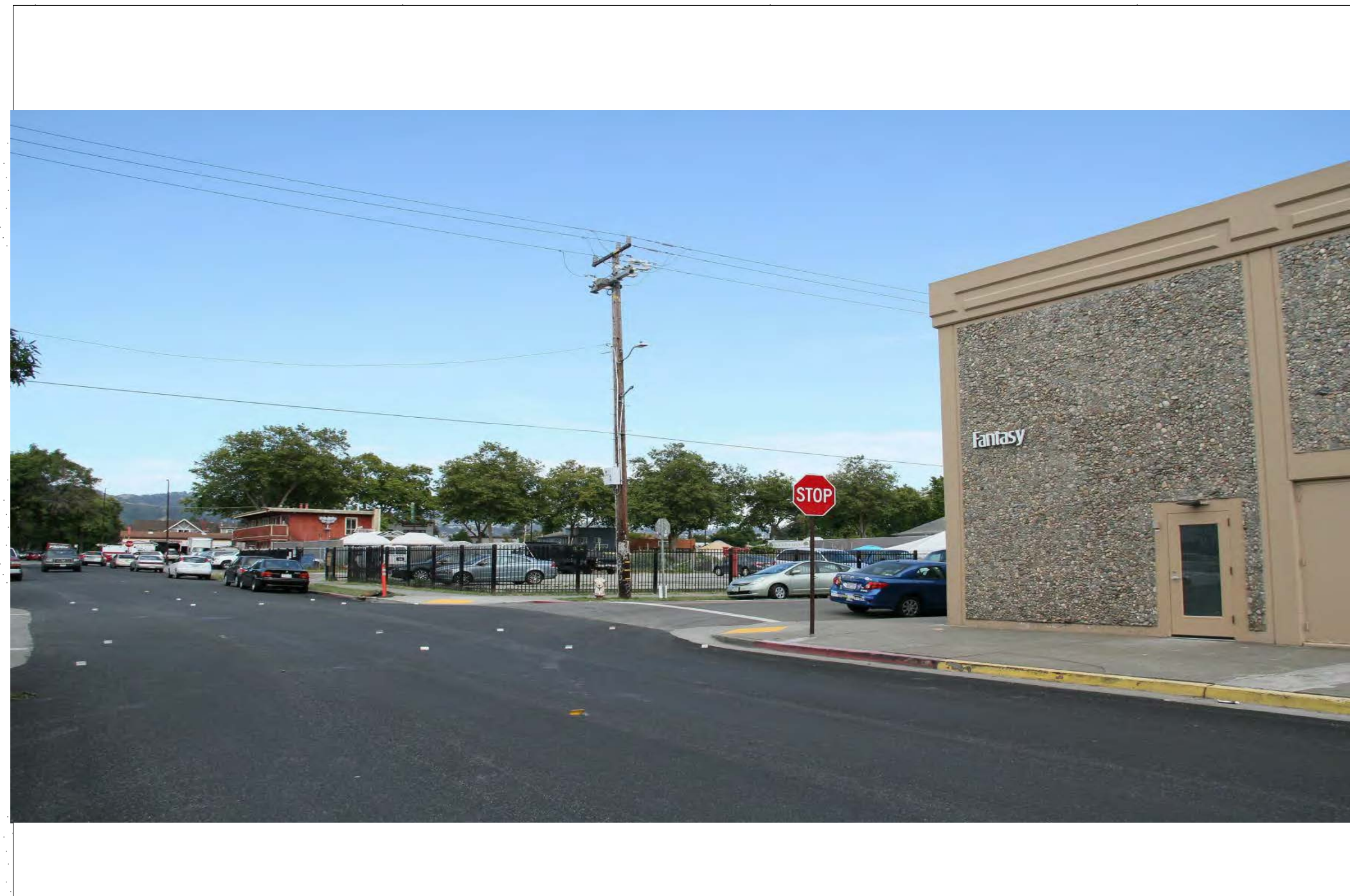
SITE PLAN  
**A1.0**  
 ZONING APPLICATION



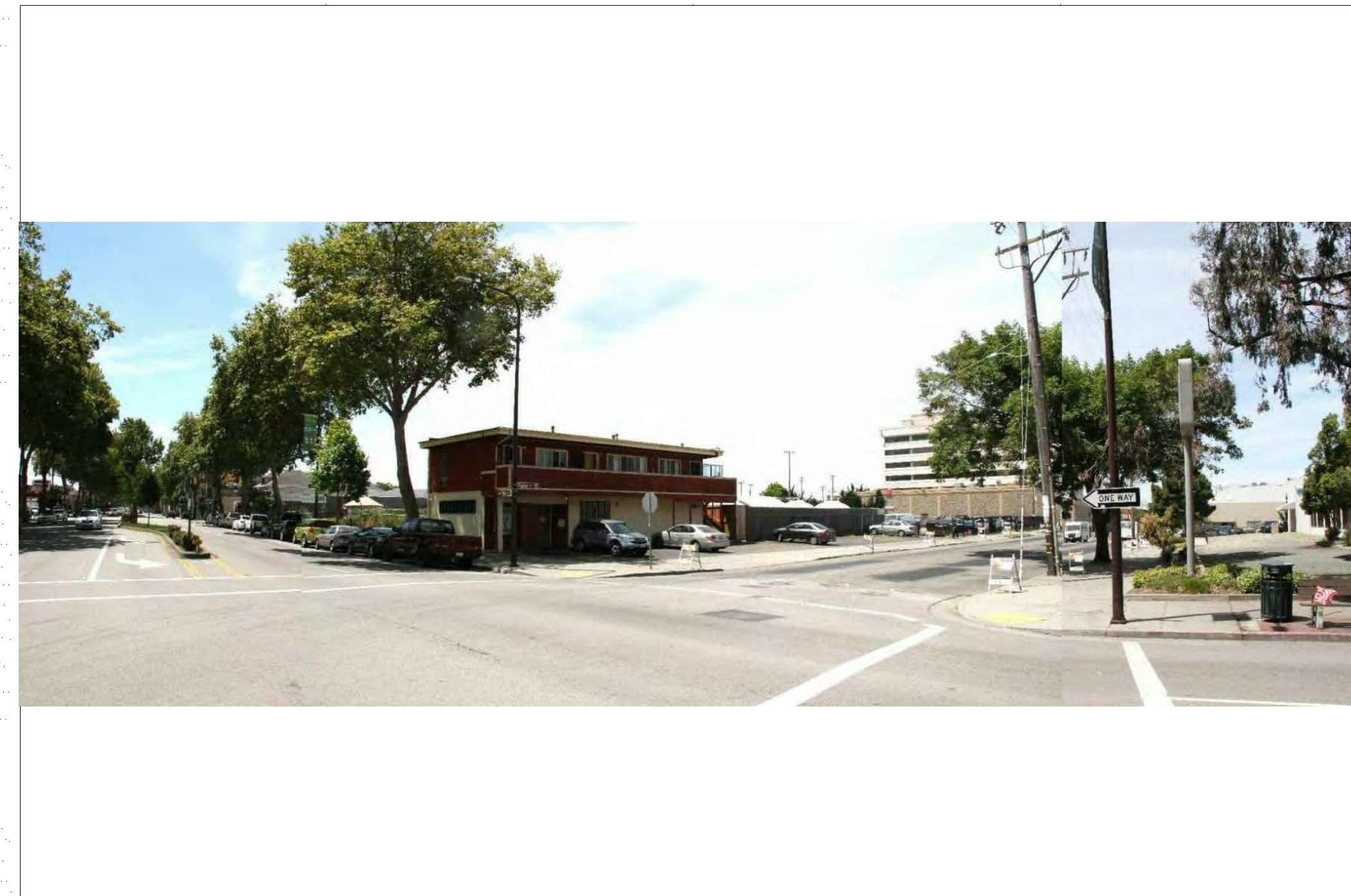
**SITE PLAN 1**  
 1/32" = 1'-0"



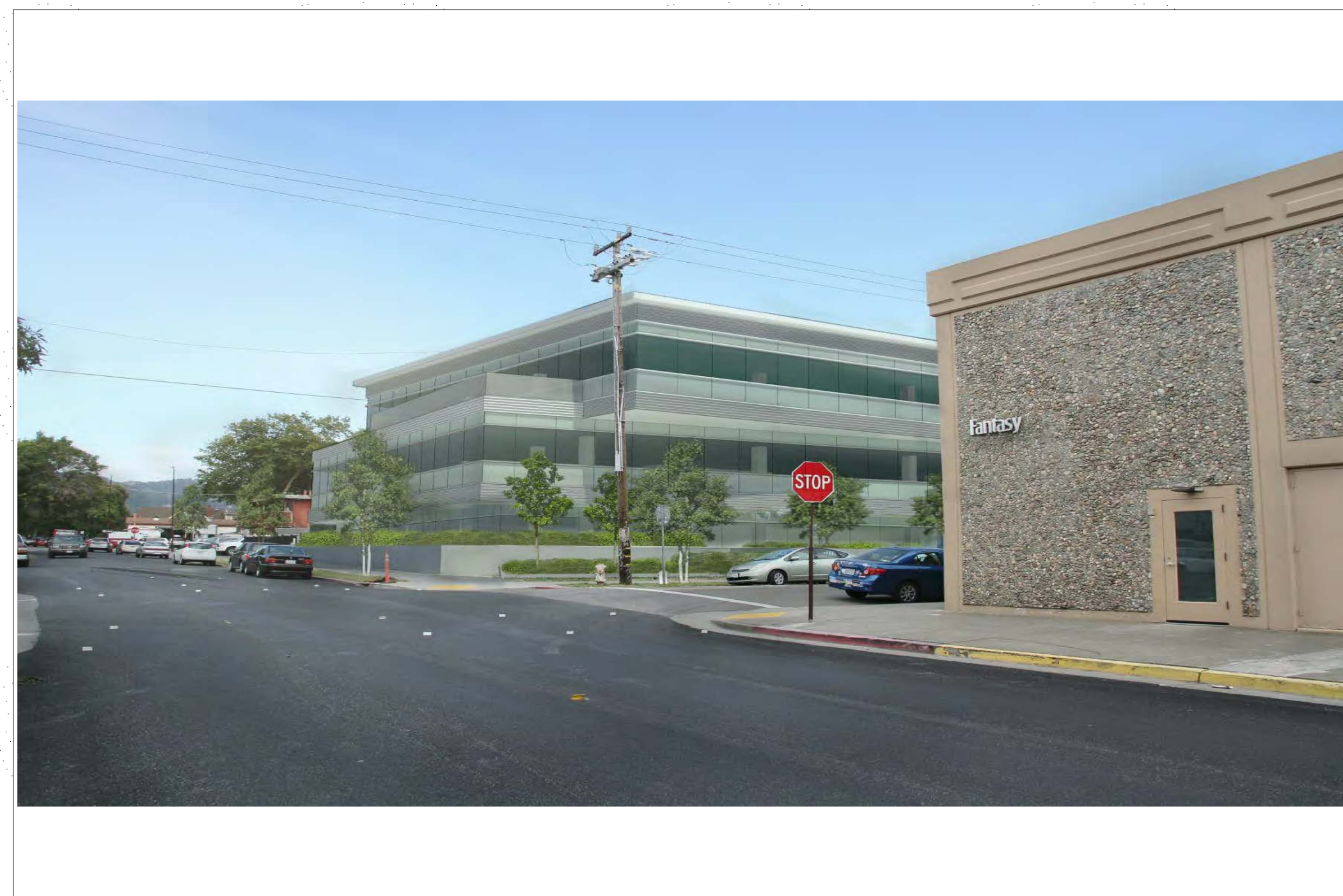




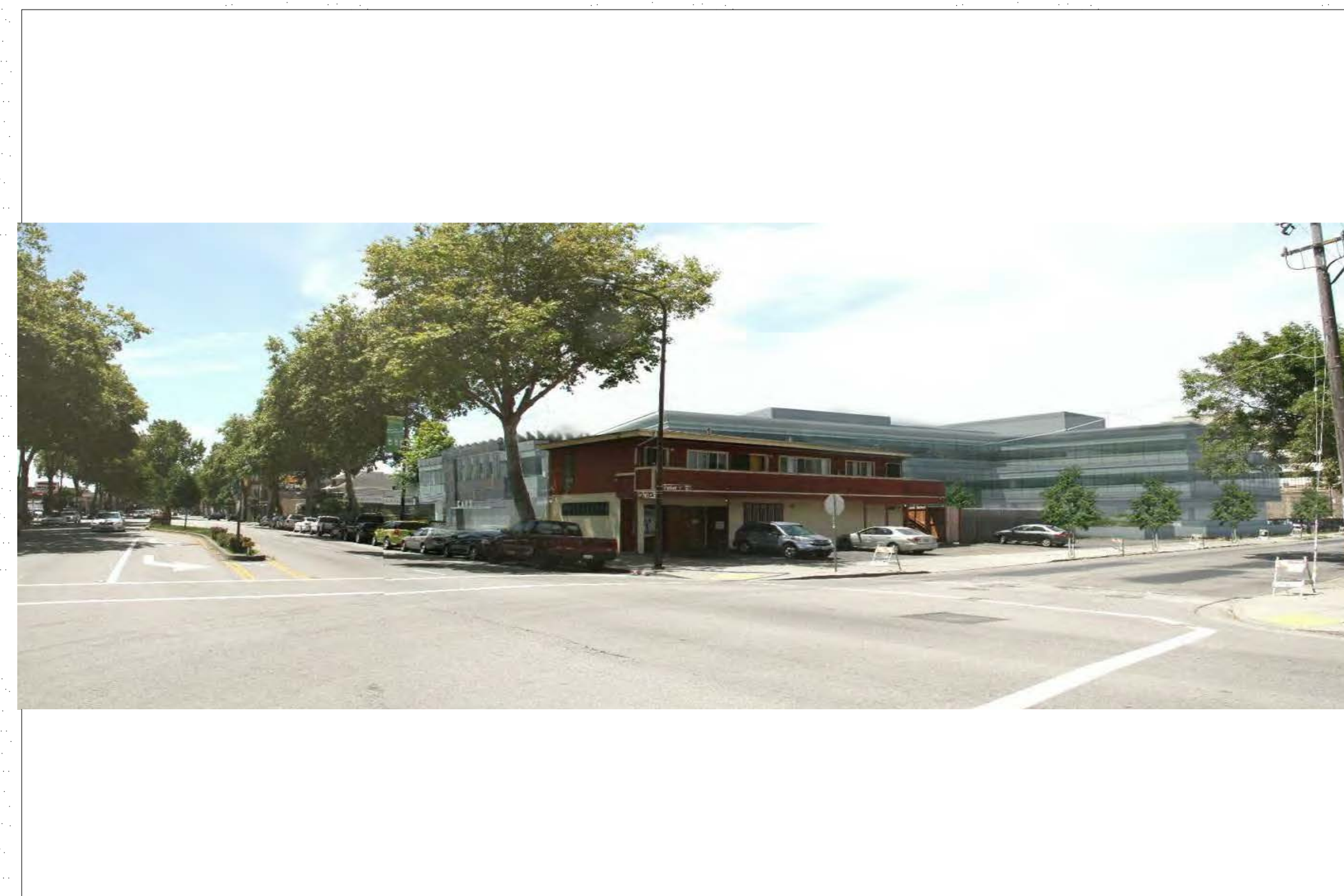
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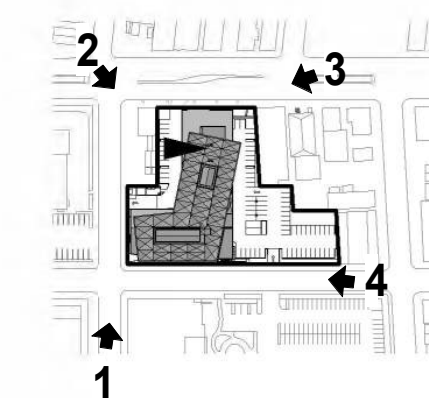
**EXISTING PERSPECTIVE 2** 2  
NOT TO SCALE



**PROPOSED PERSPECTIVE 1** 3  
NOT TO SCALE



**PROPOSED PERSPECTIVE 2** 4  
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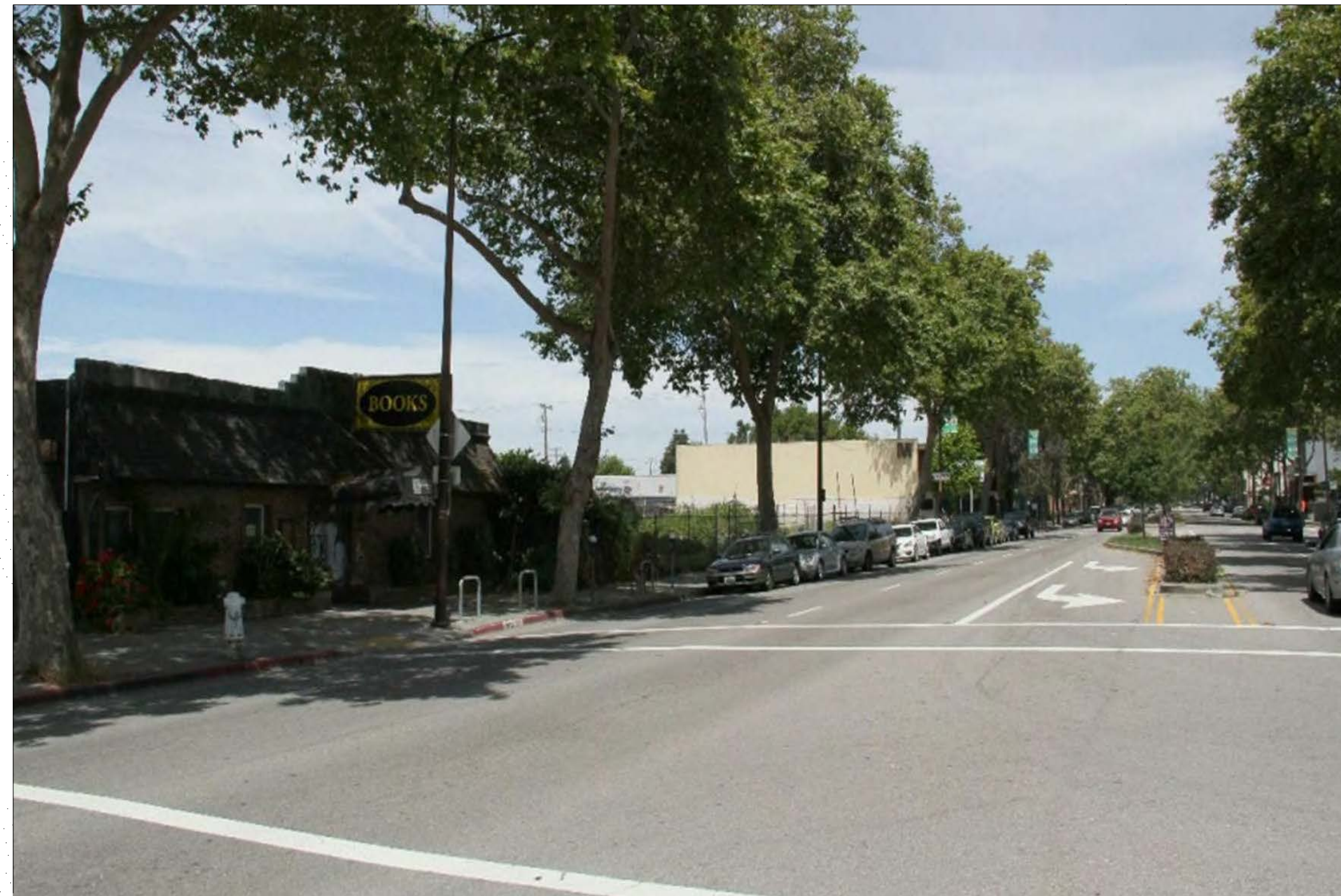
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Date: 08/30/2018  
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PHOTO MONTAGE PERSPECTIVES

**A1.1**

ZONING APPLICATION



**EXISTING PERSPECTIVE 3** 1  
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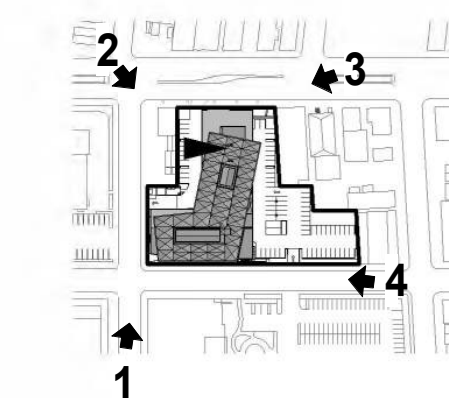
**EXISTING PERSPECTIVE 4** 4  
NOT TO SCALE



**PROPOSED PERSPECTIVE 3** 3  
NOT TO SCALE



**PROPOSED PERSPECTIVE 4** 2  
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Project No: 1116-0040  
Date: 08/30/2018  
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PHOTO MONTAGE PERSPECTIVES

**A1.2**

ZONING APPLICATION

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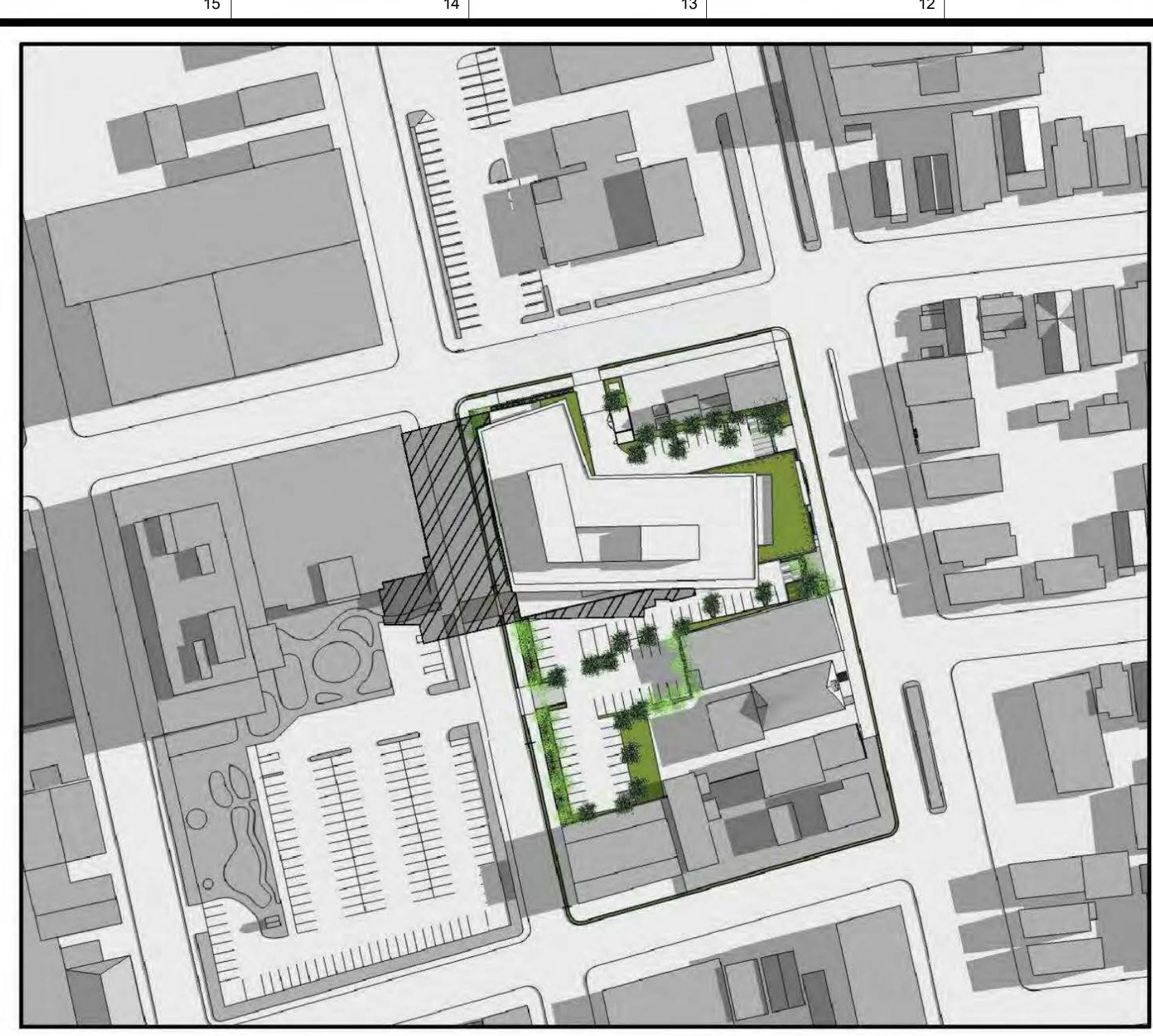
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 Date: 08/30/2018  
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SHADOW STUDIES

**A1.3**

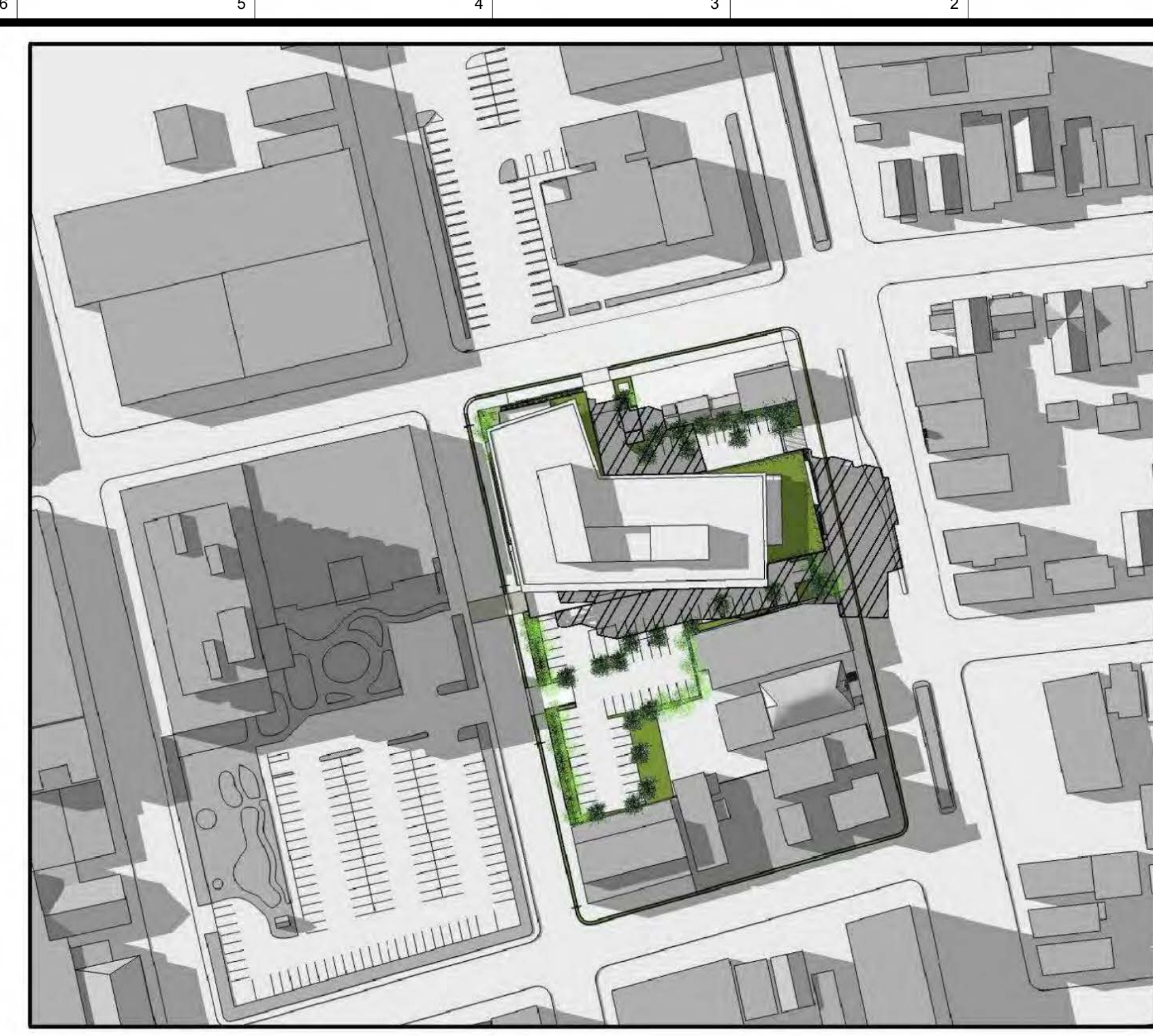
ZONING APPLICATION



**JUNE 21 - 07:47 AM**  
 NEW SHADOW  
 EXISTING SHADOW



**JUNE 21 - 12:00 PM**  
 NEW SHADOW  
 EXISTING SHADOW



**JUNE 21 - 06:35 PM**  
 NEW SHADOW  
 EXISTING SHADOW



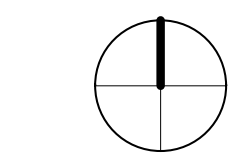
**DECEMBER 21 - 09:21 AM**  
 NEW SHADOW  
 EXISTING SHADOW



**DECEMBER 21 - 12:00 PM**  
 NEW SHADOW  
 EXISTING SHADOW



**DECEMBER 21 - 2:54 PM**  
 NEW SHADOW  
 EXISTING SHADOW



L  
K  
J  
H  
G  
F  
E  
D  
C  
B  
A

15 | 14 | 13 | 12 | 11 | 10 | 9 | 8 | 7 | 6 | 5 | 4 | 3 | 2 | 1

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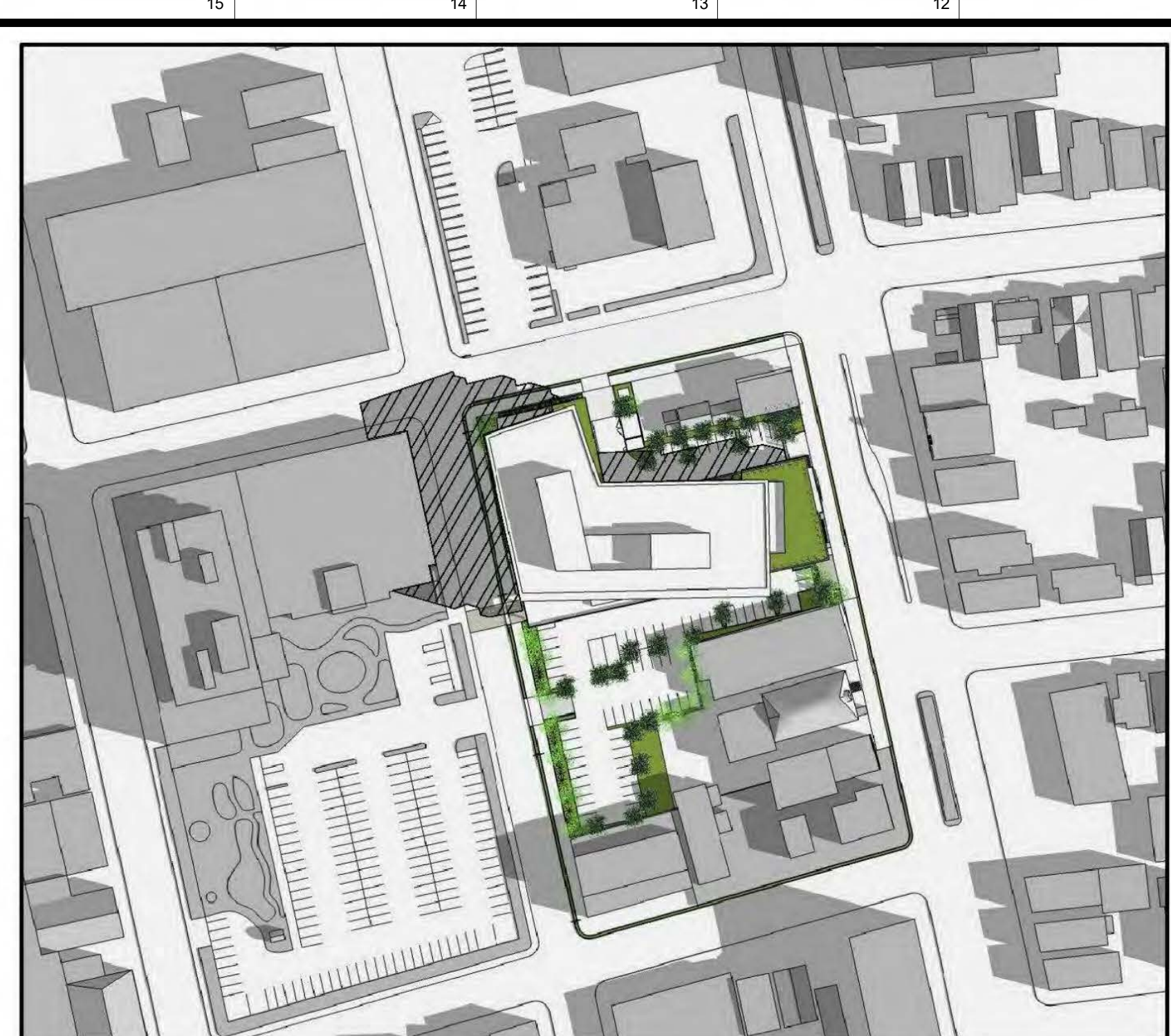
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Project No: 1116-0040  
Date: 08/30/2018  
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SHADOW STUDIES

**A1.4**

ZONING APPLICATION



SEPTEMBER 15 - 08:51 AM

NEW SHADOW  
EXISTING SHADOW



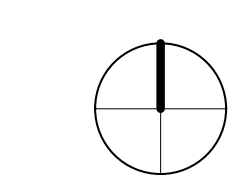
SEPTEMBER 15 - 12:00 PM

NEW SHADOW  
EXISTING SHADOW



SEPTEMBER 15 - 05:16 PM

NEW SHADOW  
EXISTING SHADOW



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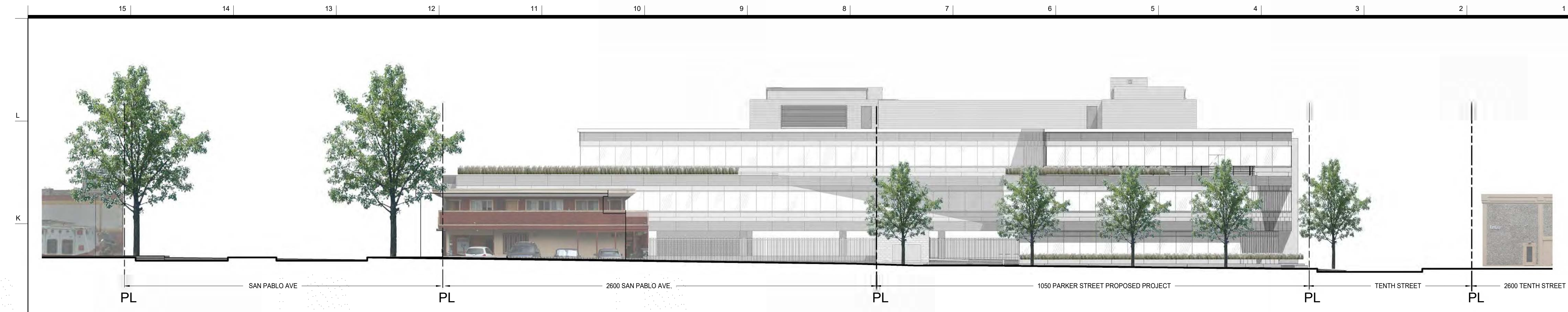
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 Date: 08/30/2018  
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STREET STRIP ELEVATIONS

**A1.5**

ZONING APPLICATION



**STREET ELEVATION - NORTH**

**1**

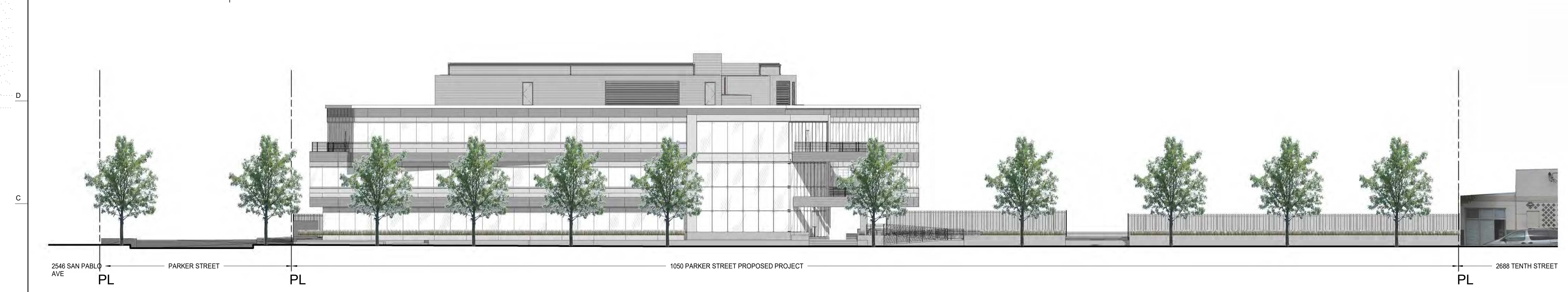
1/16" = 1'-0"



**STREET ELEVATION - EAST**

**2**

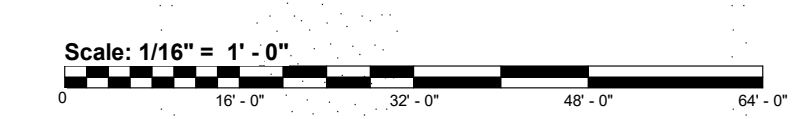
1/16" = 1'-0"



**STREET ELEVATION - WEST**

**3**

1/16" = 1'-0"





**VIEW OF SOUTHWEST CORNER** | **1**  
NOT TO SCALE



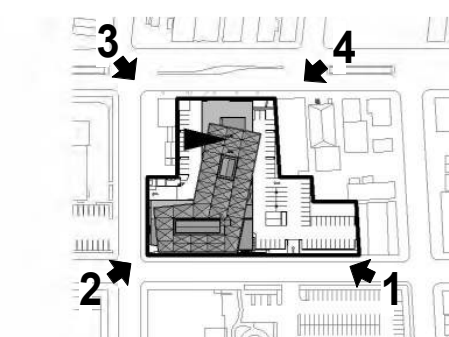
**VIEW OF NORTHWEST CORNER** | **2**  
NOT TO SCALE



**VIEW OF NORTHEAST CORNER** | **3**  
NOT TO SCALE



**VIEW OF SOUTHEAST CORNER** | **4**  
NOT TO SCALE



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| 3      | Revision #2          | 12/05/16 |
| 4      | Revision #3          | 02/27/17 |
| 5      | Revision #4          | 06/29/17 |

Project No: 1116-0040  
Date: 08/30/2018  
Sheet:

AERIAL VIEWS  
**A1.6**  
ZONING APPLICATION



**AERIAL VIEW FROM SAN PABLO AVENUE** | **1**  
NOT TO SCALE



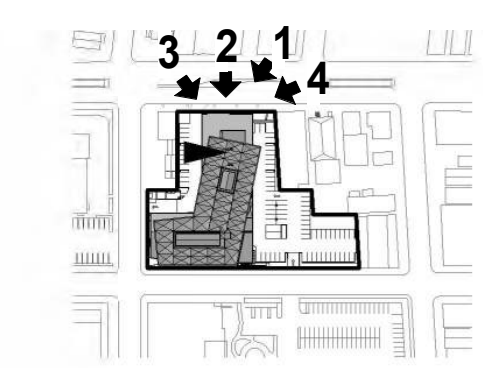
**PERSPECTIVE FROM SAN PABLO AVENUE** | **2**  
NOT TO SCALE



**PERSPECTIVE FROM NORTHEAST** | **3**  
NOT TO SCALE



**PERSPECTIVE FROM SOUTHEAST** | **4**  
NOT TO SCALE



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architect:  
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925.245.8788

landscape architect:  
**STUDIO FIVE DESIGN**  
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415.524.8517

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SAN PABLO FRONTAGE

**A1.7**

ZONING APPLICATION



**VIEW TO POCKET PARK & OUTDOOR SEATING**  
NOT TO SCALE

1



**VIEW TO POCKET PARK & PEDESTRIAN ENTRY**  
NOT TO SCALE

2



**VIEW TO EMERGENCY ACCESS GATE**  
NOT TO SCALE

3



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SAN PABLO FRONTAGE

**A1.8**

ZONING APPLICATION





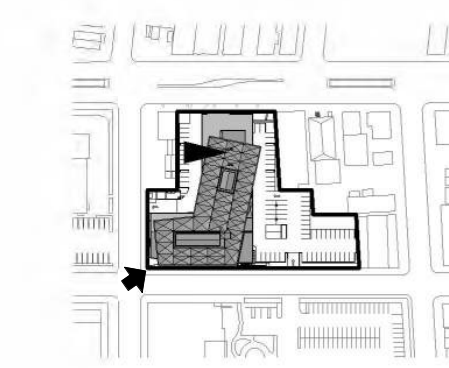
**AERIAL VIEW OF NORTHWEST POCKET PARK** | **1**  
NOT TO SCALE



**VIEW OF NORTHWEST POCKET PARK** | **2**  
NOT TO SCALE



**VIEW TO CORNER PARK** | **3**  
NOT TO SCALE



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Date: 08/30/2018  
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NORTHWEST CORNER

**A1.9**

ZONING APPLICATION



**VIEW OF ENTRY** | **1**  
NOT TO SCALE



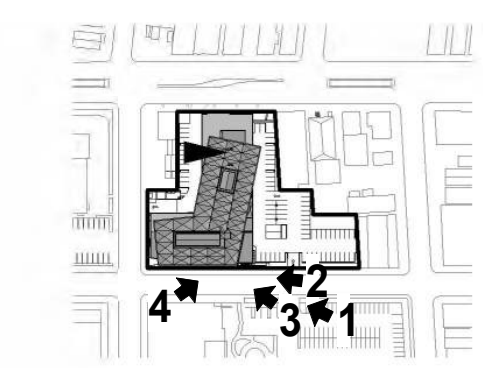
**STREET LEVEL VIEW FROM 10TH STREET** | **2**  
NOT TO SCALE



**STREET LEVEL VIEW FROM 10TH STREET** | **3**  
NOT TO SCALE



**STREET LEVEL VIEW FROM 10TH STREET** | **4**  
NOT TO SCALE



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LOBBY VIEWS  
**A1.10**  
ZONING APPLICATION



**VIEW 1\_BEFORE** | **1**  
NOT TO SCALE



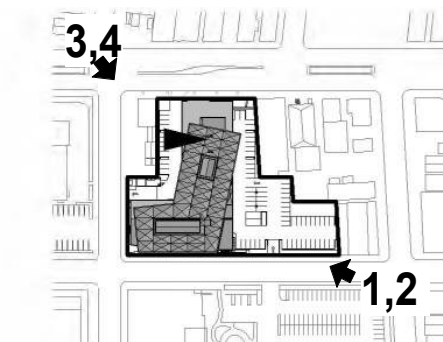
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**VIEW 2\_BEFORE** | **3**  
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**VIEW 2\_AFTER** | **4**  
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MECHANICAL PENTHOUSE VIEWS

**A1.11**

ZONING APPLICATION



**VIEW 3\_BEFORE** | **1**  
NOT TO SCALE



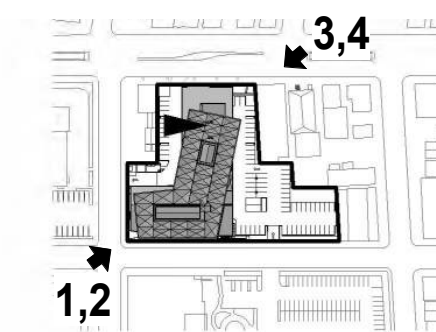
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**VIEW 4\_BEFORE** | **3**  
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**VIEW 4\_AFTER** | **4**  
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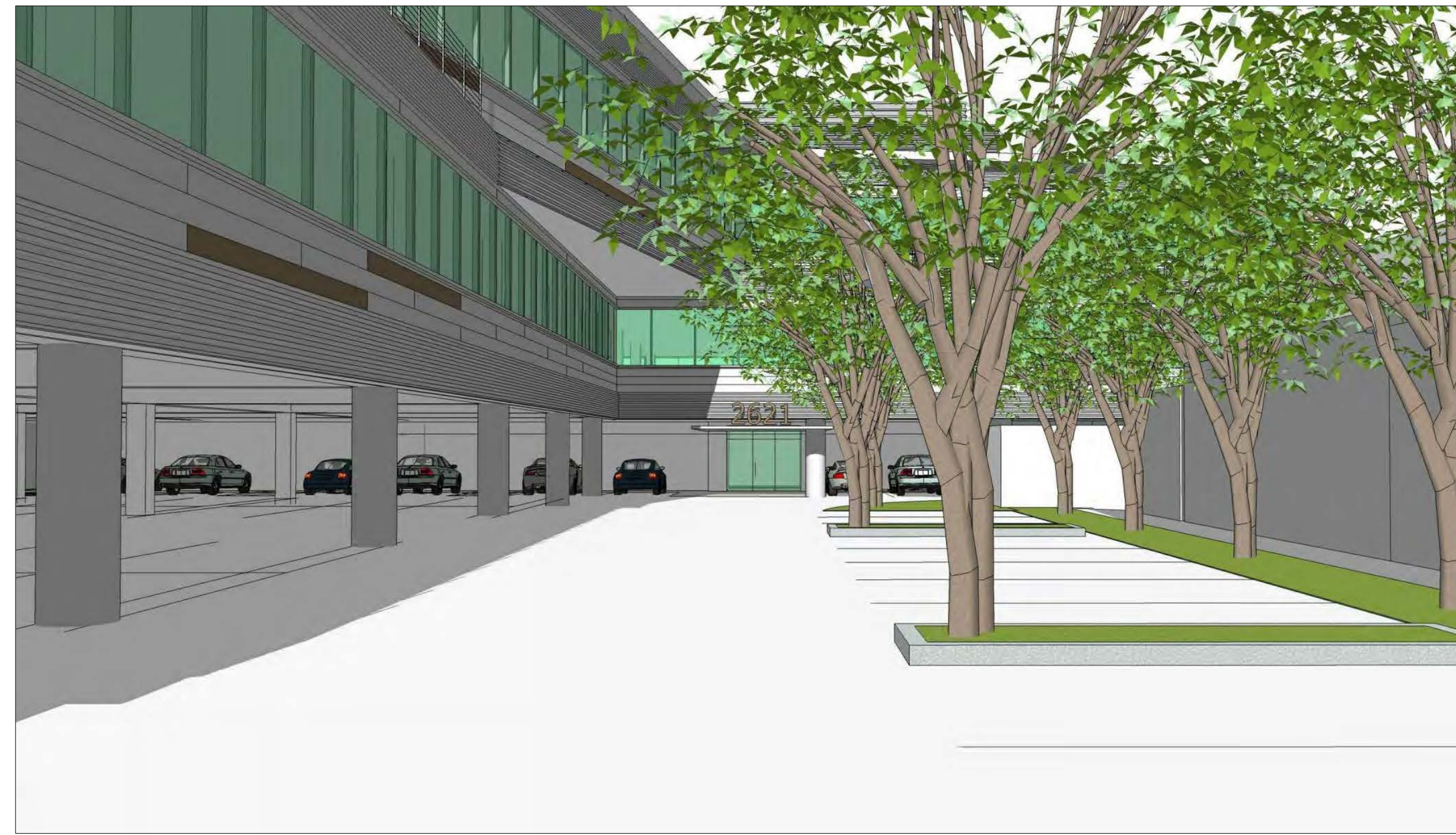
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Date: 08/30/2018  
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MECHANICAL PENTHOUSE VIEWS

**A1.12**

ZONING APPLICATION



VIEW OF REAR ENTRY 1  
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VIEW OF REAR ENTRY 2  
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REAR ENTRY VIEWS

**A1.13**

ZONING APPLICATION

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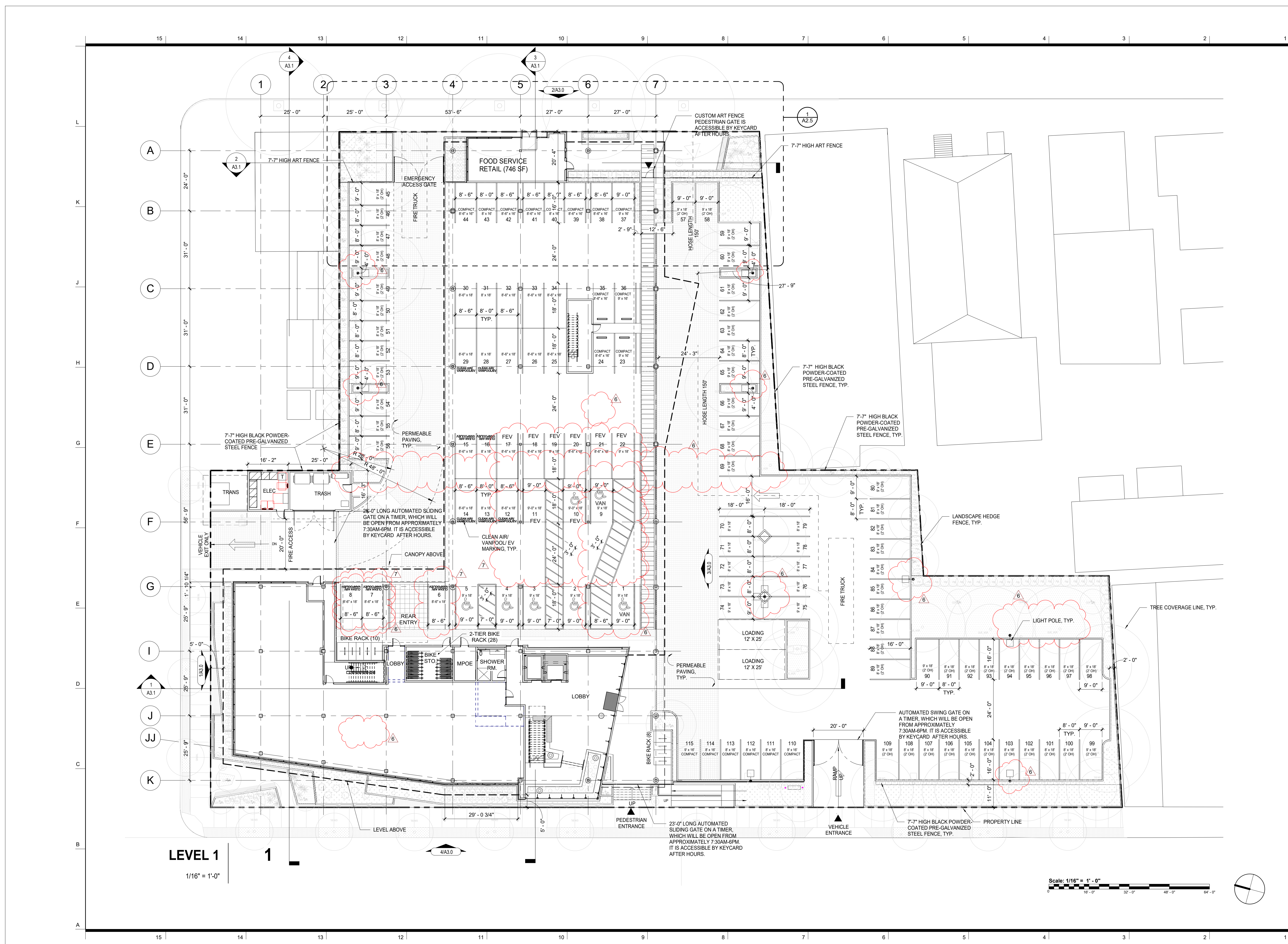
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| 2      | Revision #1          | 09/13/16 |
| 3      | Revision #2          | 12/05/16 |
| 4      | Revision #3          | 02/27/17 |
| 5      | Revision #4          | 06/29/17 |
| 6      | Rezoning             | 06/04/18 |
| 7      | Rezoning             | 08/30/18 |

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GROUND FLOOR PLAN

**A2.0**

ZONING APPLICATION



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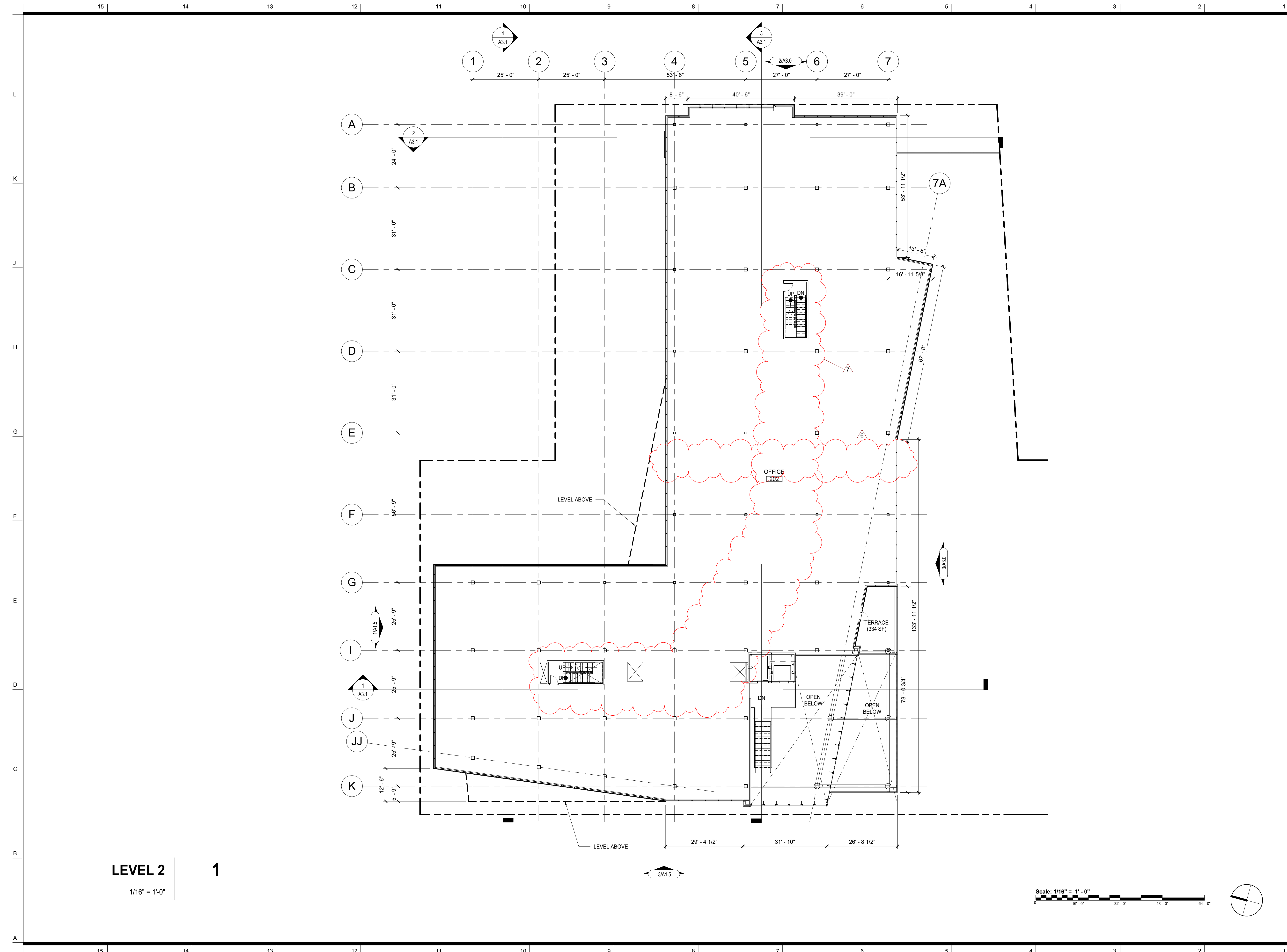
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| 7      | Rezoning             | 09/30/18 |

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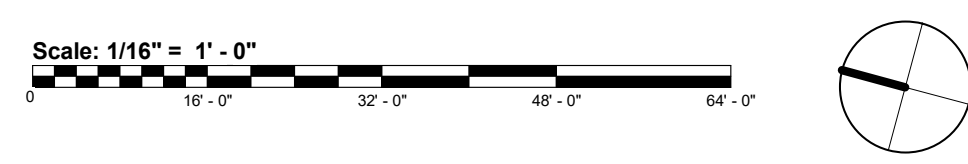
SECOND FLOOR PLAN

**A2.1**

ZONING APPLICATION



**LEVEL 2** | **1**  
 1/16" = 1'-0"



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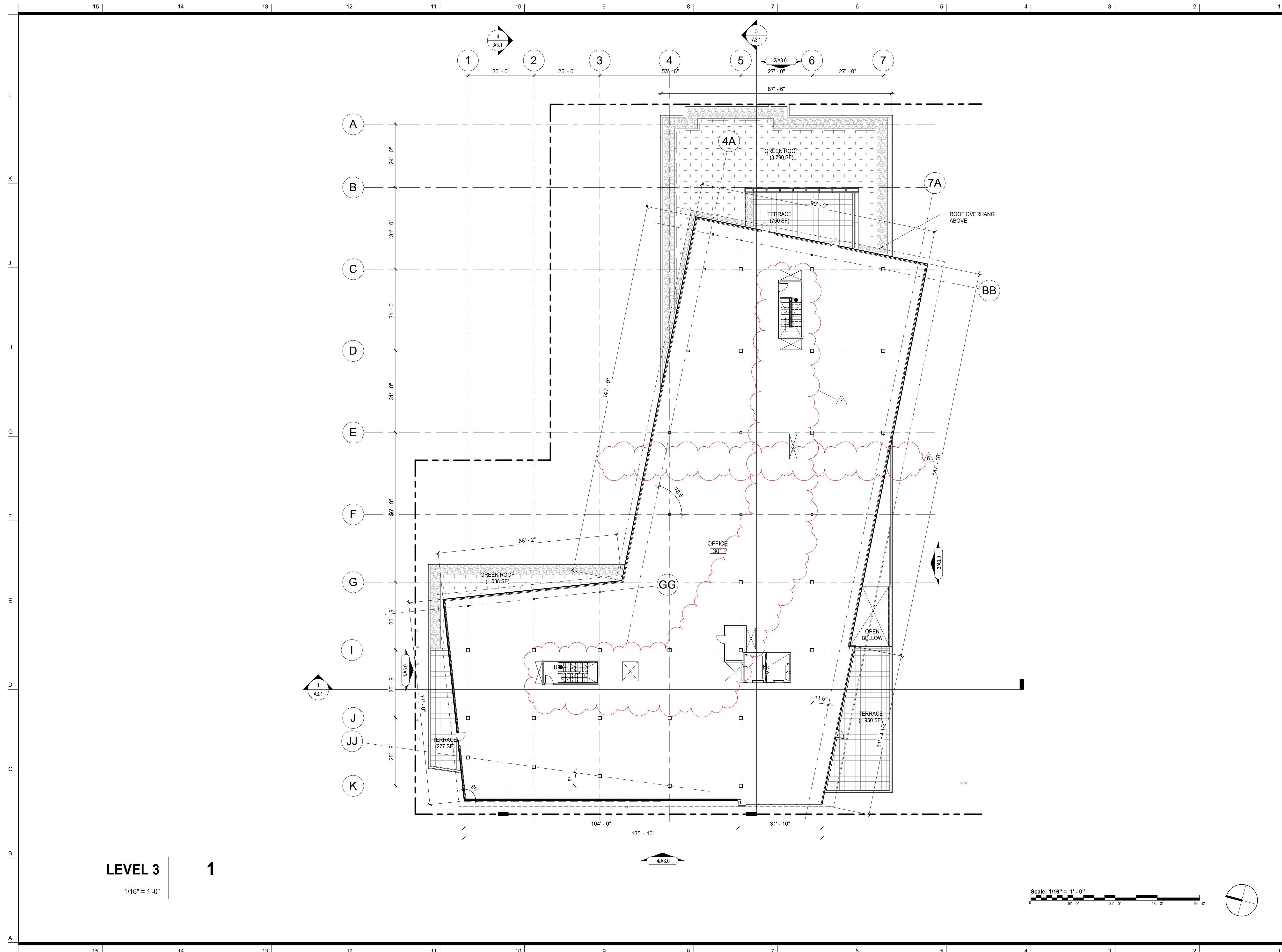
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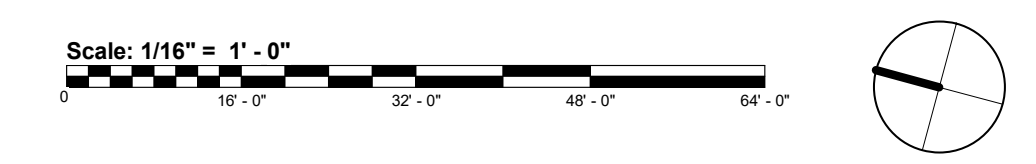
THIRD FLOOR PLAN

**A2.2**

ZONING APPLICATION



**LEVEL 3** | **1**  
 1/16" = 1'-0"





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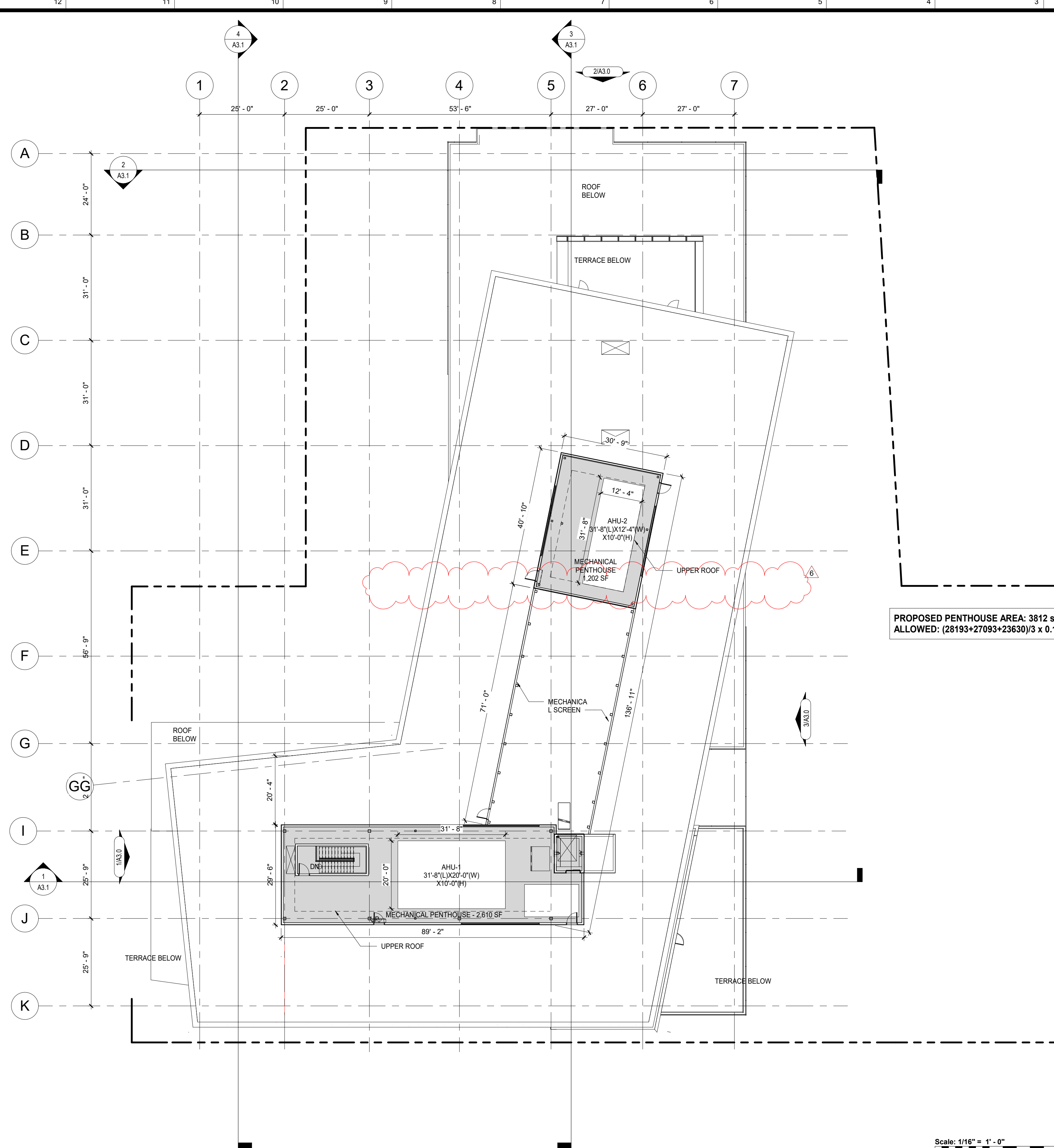
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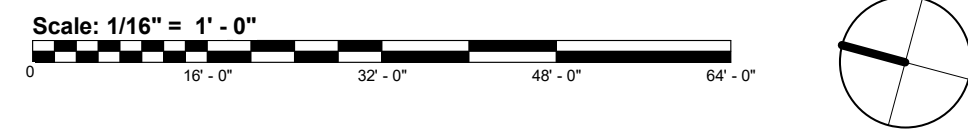
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 Date: 08/30/2018  
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ROOF PLAN  
**A2.3**  
 ZONING APPLICATION



**PROPOSED PENTHOUSE AREA: 3812 sf (1202+2610)**  
**ALLOWED: (28193+27093+23630)/3 x 0.15=3946 sf**

**ROOF PLAN**  
 1  
 1/16" = 1'-0"



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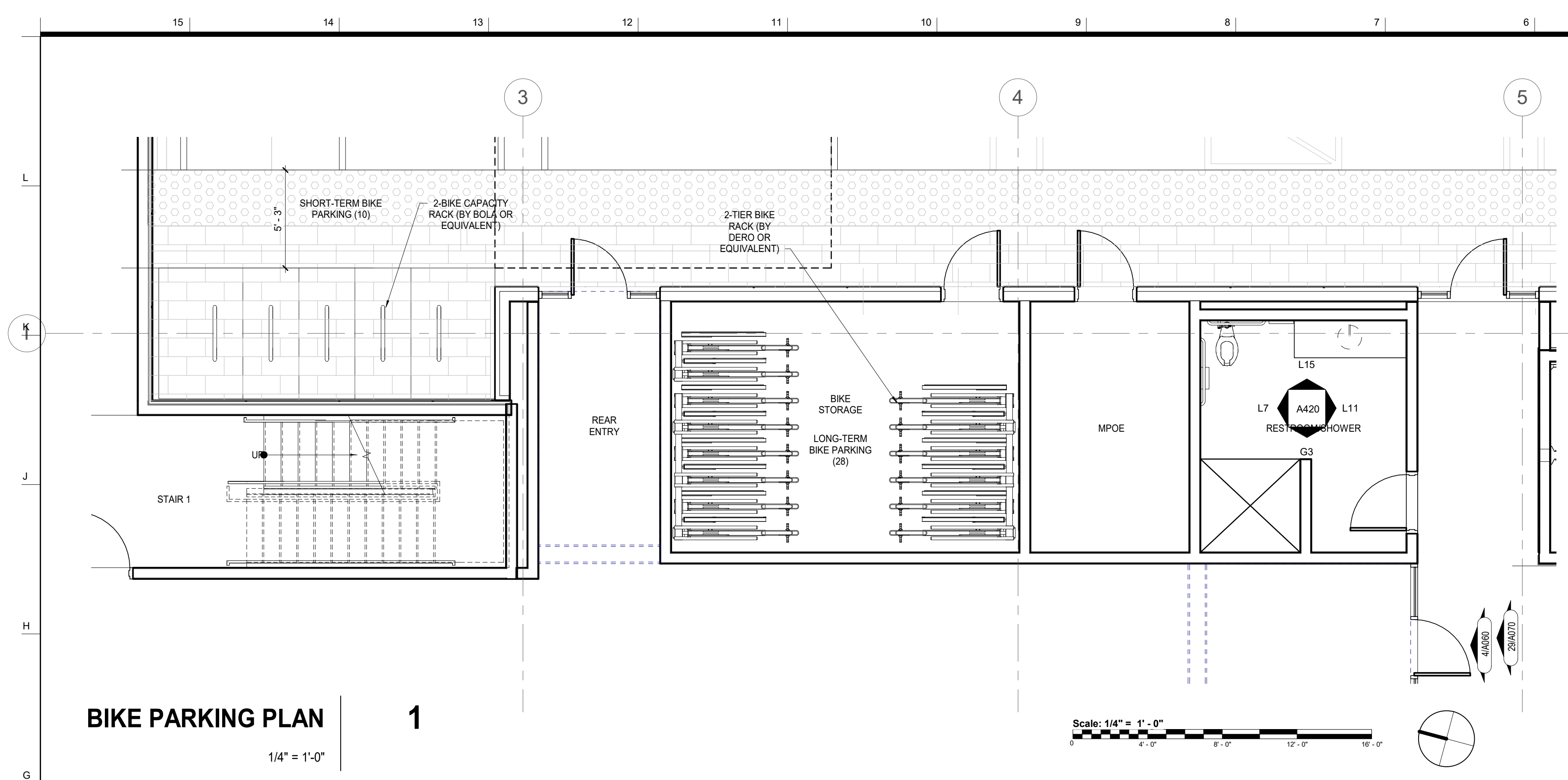
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Date: 08/30/2018  
Sheet:

BIKE PARKING PLAN

**A2.4**

ZONING APPLICATION



**BIKE PARKING PLAN 1**  
1/4" = 1'-0"

**landscape forms®**

**BOLA®**  
Product Data Sheet

An artful solution for bicycle storage and security that meets Association of Pedestrian and Bicycle and Professionals (APBP) recommendations. BOLA's understated design doesn't conflict with other site elements. An artful solution for bicycle storage and security that meets Association of Pedestrian and Bicycle and Professionals (APBP) recommendations. BOLA's understated design doesn't conflict with other site elements.

|  | STYLE | DEPTH | WIDTH | HEIGHT | PRODUCT WEIGHT |
|--|-------|-------|-------|--------|----------------|
|  | Bola  | 15"   | 30.5" | 32"    | 115lb          |

**Bike Rack**

- Capacity: 2 bikes
- Bike racks made of 1.5" o.d., 100' wall stainless steel tubing, with a #4 satin electrocoat finish on bare stainless steel.
- Bike is also available in powdercoated steel.
- Bike must be unhooked.
- Bike an secure two-bicycles parked parallel to the rack.
- The bicycles can be hooked in opposite directions, or in the same direction. The racks provide level, point contact to prevent the bicycle from tipping over.
- A standard D-shaped bike lock can secure both a wheel and the frame.

**Finishes**

- All metal parts are finished with Landscape Forms' proprietary Paragard® polymeric powdercoat, a hard yet flexible finish that resists chipping, peeling and fading.
- Call for standard color chart.

**To Specify**

- Select bike rack style. Specify powdercoat color or stainless steel.

Designed by Erihan Karan, IDRA  
All Landscape Forms bike rack material guidelines established by the Association of Pedestrian and Bicycle Professionals.

Visit our [landscapeforms.com](http://landscapeforms.com) for more information. Specifications are subject to change without notice.  
Landscape Forms supports the Landscape Architecture Foundation at the Second Century level.  
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**DERO DECKER™**

**The Next Level of Parking**

The Dero Decker™ takes bike parking to the next level – literally. By stacking bikes on a two-tiered system, capacity doubles. Unlike other two-tier systems, our lift-assist top trays slide down inches from the ground, thus requiring only minimal lifting of the bike into the tray. The Dero Decker™ has a front wheel safety locking lever and tray dampers to provide safe lowering of upper trays. The vertical load trays also reduce the required aisle space, giving the Dero Decker™ the smallest footprint on the market.

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**DERO DECKER™**

- Sturdy red handle grips
- Lift-assist trays
- Dampers for gentle lowering of trays
- Hinged levers hold bikes firmly in place
- U-lock compatible
- Smallest footprint

**FINISH OPTIONS**

Galvanized Stainless

**Powder Coat**

|             |            |            |             |           |            |
|-------------|------------|------------|-------------|-----------|------------|
| White       | Black      | Dark Grey  | Light Grey  | Red       | Yellow     |
| Orange      | Blue       | Green      | Light Blue  | Dark Blue | Dark Green |
| Light Green | Light Blue | Dark Brown | Light Brown | Black     | Dark Grey  |
| Dark Purple | Dark Blue  | Dark Red   | Dark Green  | Dark Blue | Dark Green |

www.dero.com | 1-888-337-6729

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**DERO DECKER™**  
Submittal Sheet

**CAPACITY** Modular 2-Tiered System in sections of 4, 8, 12, 16 or 24. One bike per upper tray; one bike per lower tray.

**MATERIALS** Upright: 4" ID square tube  
Upright base: 1/2" plate  
Crossbar: 4" ID square tube  
Centerlever: 2" x 4" ID tube  
Centerlever base: 1/2" plate  
Trays: 1/8" plate, 1/2" round bar

**FINISHES**

- Galvanized An after fabrication hot dipped galvanized finish to our standard option.
- Powder Coat Our powder coat finish assures a high level of adhesion and durability by following these steps:  
1. Sandblast  
2. Epoxy primer electrostatically applied  
3. Final Black TGIC polyester powder coat.
- Stainless Stainless Steel: 304 grade stainless steel material finished in either a high polished shine or a satin finish.

**MOUNT OPTIONS**

- Surface Each upright has two "N" plate feet that accept 3/8" hex-legs anchors.

**SETBACKS** See following page

U-lock compatible

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2621 Tenth St. / 1050 Parker St. Berkeley, CA

owner:  
**2621 TENTH STREET, LLC**  
 1120 NYE STREET, SUITE 400  
 SAN RAFAEL, CA 94901  
 415.457.4964

architect:  
**GOULD EVANS**  
 95 BRADY STREET  
 SAN FRANCISCO, CA 94103  
 415.503.1411  
 www.gouldevans.com

civil engineer:  
**KIER & WRIGHT**  
 2850 COLLIER CANYON ROAD  
 LIVERMORE, CA 94551  
 925.245.8788

landscape architect:  
**STUDIO FIVE DESIGN**  
 25 SAN ANSELMO AVENUE  
 SAN ANSELMO, CA 94960  
 415.524.8517

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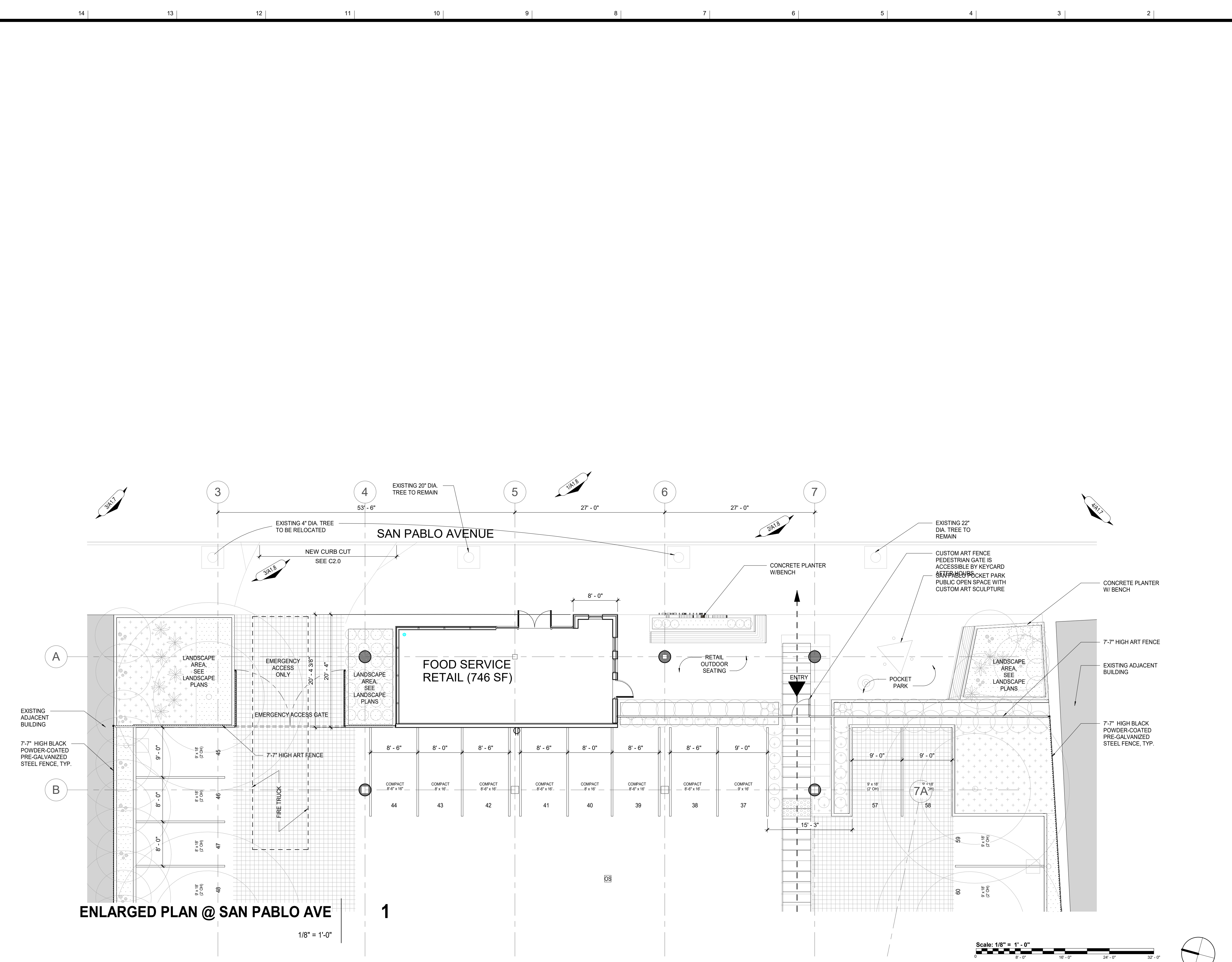
| Number | Revision Description | Date     |
|--------|----------------------|----------|
| 3      | Revision #2          | 12/05/16 |
| 4      | Revision #3          | 02/27/17 |
| 5      | Revision #4          | 06/29/17 |

Project No: 1116-0040  
 Date: 08/30/2018  
 Sheet:

ENLARGED PLAN @ SAN PABLO AVE.

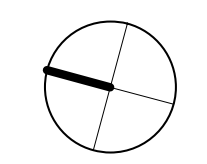
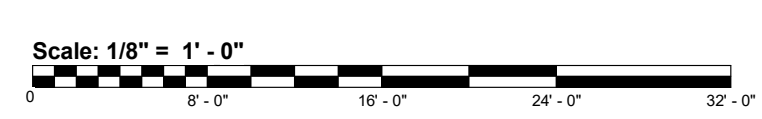
**A2.5**

ZONING APPLICATION



**ENLARGED PLAN @ SAN PABLO AVE**

1/8" = 1'-0"



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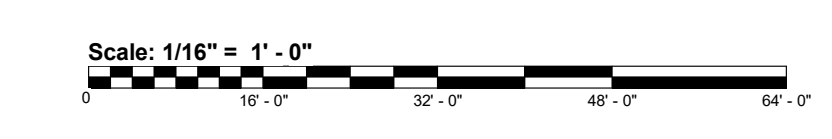
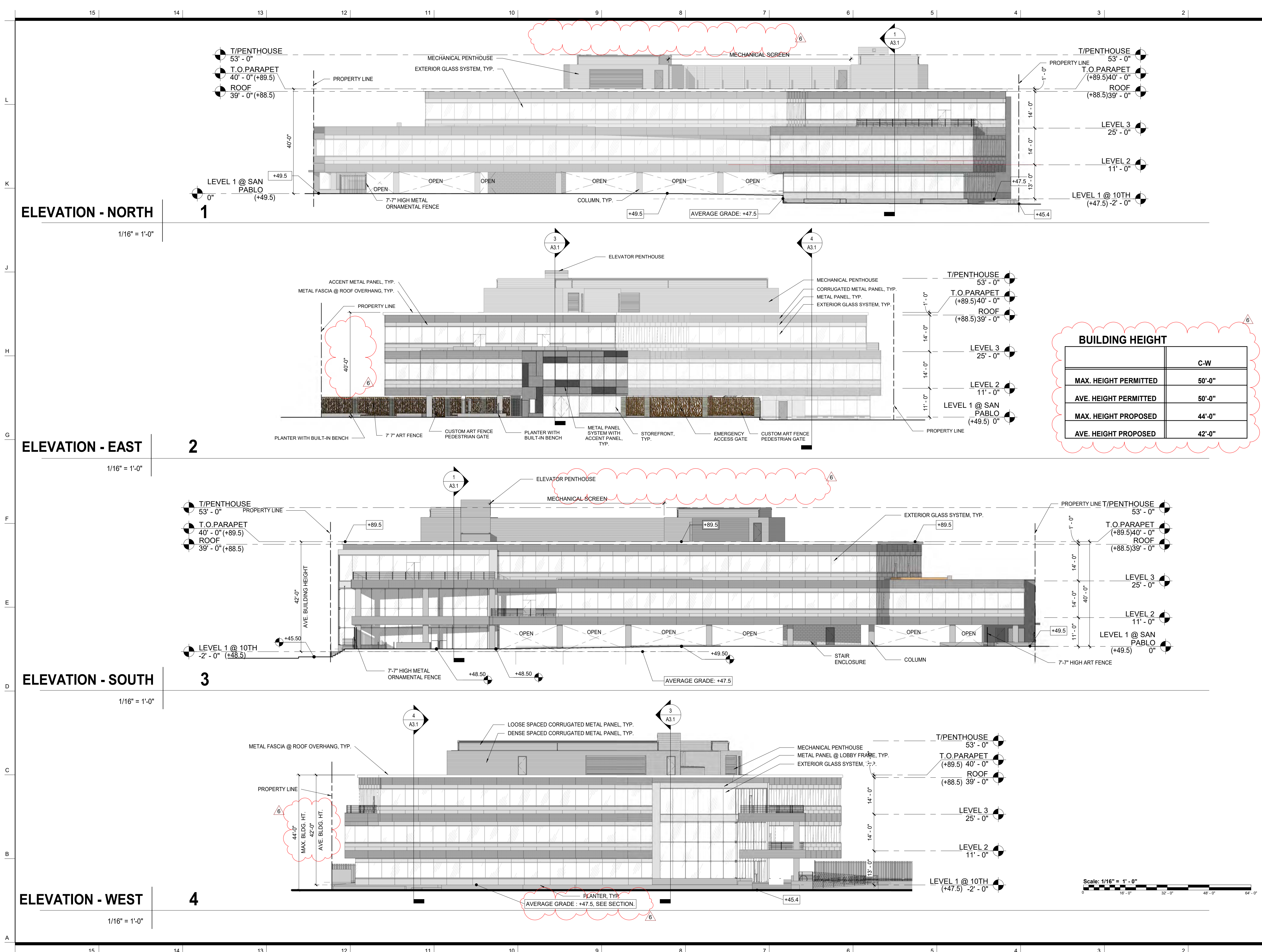
| Number | Revision Description | Date     |
|--------|----------------------|----------|
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| 2      | Revision #1          | 09/13/16 |
| 3      | Revision #2          | 12/05/16 |
| 4      | Revision #3          | 02/27/17 |
| 6      | Rezoning             | 06/04/18 |

Project No: 1116-0040  
Date: 08/30/2018  
Sheet:

EXTERIOR ELEVATIONS

**A3.0**

ZONING APPLICATION



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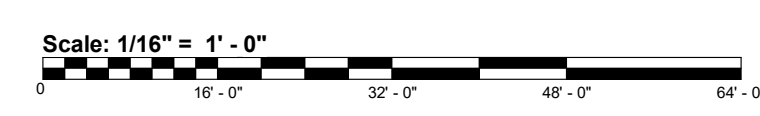
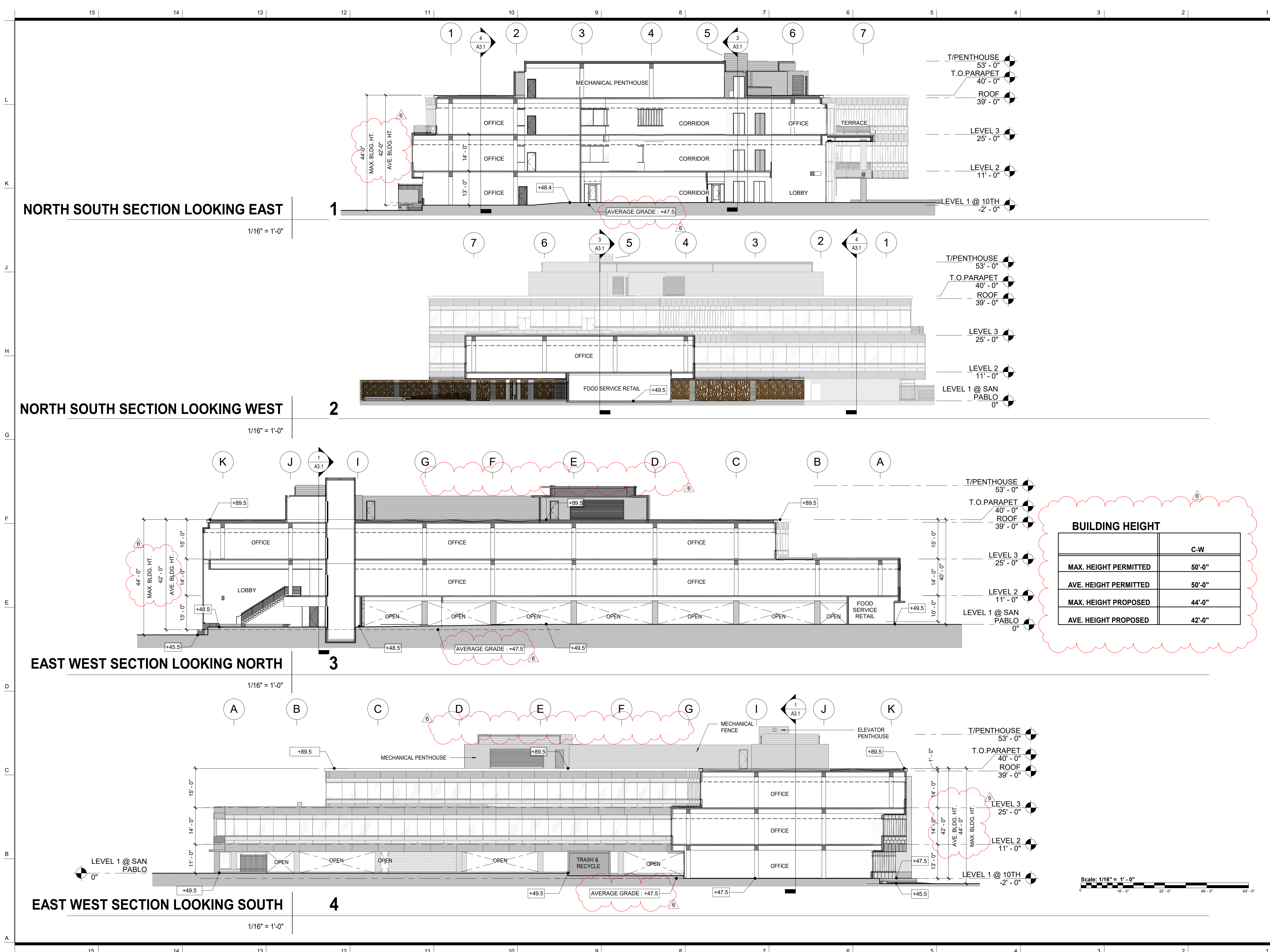
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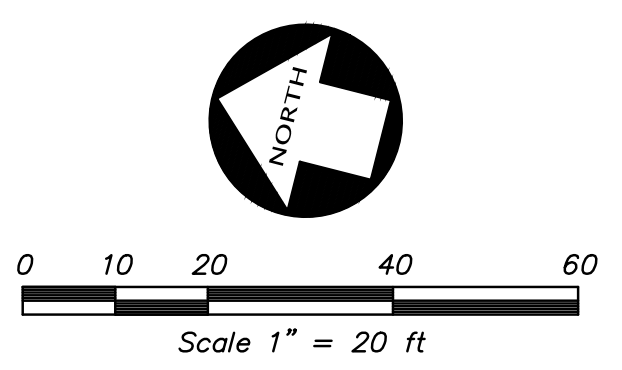
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Date: 08/30/2018  
Sheet:

BUILDING SECTIONS

**A3.1**

ZONING APPLICATION





NOTES

1. THIS PLOT WAS PREPARED FROM INFORMATION FURNISHED IN A PRELIMINARY TITLE REPORT, PREPARED BY OLD REPUBLIC TITLE COMPANY, DATED MAY 2, 2016, NUMBER 0227017908-MP. NO LIABILITY IS ASSUMED FOR MATTERS OF RECORD NOT STATED IN SAID PRELIMINARY TITLE REPORT THAT MAY AFFECT THE TITLE LINES, OR EXCEPTIONS, OR EASEMENTS OF THE PROPERTY.
2. ALL DISTANCES AND ELEVATIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
3. THE TYPES, LOCATIONS, SIZES AND/OR DEPTHS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS TOPOGRAPHIC SURVEY WERE OBTAINED FROM SOURCES OF VARYING RELIABILITY. THE CONTRACTOR IS CAUTIONED THAT ONLY ACTUAL EXCAVATION WILL REVEAL THE TYPES, EXTENT, SIZES, LOCATIONS AND DEPTHS OF SUCH UNDERGROUND UTILITIES. (A REASONABLE EFFORT HAS BEEN MADE TO LOCATE AND DELINEATE ALL KNOWN UNDERGROUND UTILITIES). HOWEVER, THE ENGINEER CAN ASSUME NO RESPONSIBILITY FOR THE COMPLETENESS OR ACCURACY OF ITS DELINEATION OF SUCH UNDERGROUND UTILITIES WHICH MAY BE ENCOUNTERED, BUT WHICH ARE NOT SHOWN ON THESE DRAWINGS.
4. BENCHMARK: CITY OF BERKELEY BENCHMARK 2755W547, CUT SQUARE ON THE TOP OF CURB ON THE NORTH SIDE OF CATCH BASIN AT THE SOUTHEAST CURB RETURN AT THE SOUTHWEST CORNER OF PARKER STREET AND 8TH STREET. ELEVATION= 35.58
5. BASIS OF BEARINGS:  
THE BEARING OF N 72° 28' 57"E TAKEN ON THE MONUMENT LINE OF CARLETON AVENUE AS SHOWN ON THAT CERTAIN TRACT MAP NUMBER 7483 FILED FOR RECORD ON JULY 7, 2004, IN BOOK 275 OF MAPS AT PAGE 86 & 87, OFFICIAL RECORDS OF ALAMEDA COUNTY WAS TAKEN AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.
6. THE AERIAL MAPPING WAS PREPARED USING COMPUTER ASSISTED, PHOTOGRAMMETRIC METHODS BY RADMAN AERIAL SURVEYS, IN SACRAMENTO CALIFORNIA. JOB NUMBER 160044. IN AREAS OF DENSE VEGETATION, ACCURACY OF CONTOURS MAY DEVIATE FROM ACCEPTED ACCURACY STANDARDS. DATE OF PHOTOGRAPHY 5-31-16, ORIGINAL COMPILED MAP SCALE 1"=40', CONTOUR INTERVAL 1 FOOT. THE GRID IS BASED ON A LOCAL, ASSUMED COORDINATE SYSTEM. CONTROL SURVEY PERFORMED BY KIER & WRIGHT, LIVERMORE, CA.  
NOTE: DASHED CONTOURS REPRESENT OBSCURED GROUND AND MAY NOT MEET NATIONAL MAP ACCURACY STANDARDS.
7. A REQUEST WAS MADE TO PG&E AND ZAYO FOR INFORMATION REGARDING THE LOCATION OF THEIR ELECTRICAL FACILITIES AND FIBER OPTIC LINES NEAR THIS SITE. AS OF JUNE 17, 2016, THEY HAD NOT RESPONDED WITH THIS INFORMATION. UNTIL WE RECEIVE THIS INFORMATION AND ARE ABLE TO DELINEATE THE ELECTRICAL FACILITIES AND FIBER OPTIC LINES, ALL PARTIES SHOULD CONSIDER THIS SURVEY AS PRELIMINARY WITH REGARDS TO THE LOCATION OF THE UTILITY FACILITIES AND FIBER OPTIC LINES. UPON RECEIPT OF THIS INFORMATION KIER & WRIGHT WILL UPDATE THIS SURVEY AND REISSUE IT.

NOTE: THERE ARE FIBER OPTIC LINES RUNNING NORTH AND SOUTH ON 10TH STREET. WE ARE CURRENTLY ACQUIRING MORE INFORMATION TO ACCURATELY PLACE THE FIBER LINES

LEGEND

- BUILDING LINE
- CONCRETE CURB & GUTTER
- CONTOUR LINE
- DRIVEWAY
- EDGE OF PAVEMENT
- ELECTRIC LINE
- FIBER OPTIC LINE
- FENCE LINE
- GAS LINE-VALVE & METER
- LOT LINE
- MONUMENT/MONUMENT LINE
- OVERHEAD POWER LINE
- PROPERTY LINE
- SANITARY SEWER-MANHOLE & CLEANOUT
- SIDEWALK
- SPOT ELEVATION
- STORM DRAIN-MANHOLE & CATCH BASIN
- TELECOM LINE
- WATER LINE & VALVE
- AUTOMATIC SPRINKLER RISER
- BACKFLOW PREVENTION DEVICE
- BLOWOFF VALVE
- ELECTROLER
- FIRE DEPARTMENT CONNECTION
- FIRE HYDRANT
- FLAG POLE
- GUY ANCHOR
- GAS METER
- POST INDICATOR VALVE
- POWER POLE/Joint POLE
- TRANSFORMER
- TRAFFIC SIGNAL POLE
- TRAFFIC SIGN
- TREE
- UTILITY BOX
- WATER VALVE
- AUTO SPRINKLER RISER
- BUILDING LINE
- BOLLARD
- DRAIN INLET
- FINISH FLOOR
- FF
- N
- O.R.
- OFFICIAL RECORD
- PAVEMENT
- TOP OF CURB
- DEED OR RECORD DIMENSION
- DEED OR RECORD DIMENSION
- IN CONFLICT WITH SURVEY

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Berkeley, CA**

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**2600 Tenth Street, LLC**  
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San Rafael, CA 94901  
415.457.4964

architect:  
**Gould Evans**  
95 Brady Street  
San Francisco, CA 94103  
415.503.1411  
www.goulddevans.com

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CIVIL ENGINEERS & SURVEYORS, INC.  
2850 Collier Canyon Road Phone (925) 245-8788  
Livermore, California 94551 Fax (925) 245-8796

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| 5      | Revision #4          | 06/29/2017 |

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Date: 06/29/2017  
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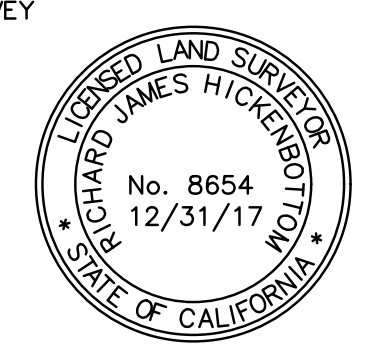
TOPOGRAPHIC SURVEY

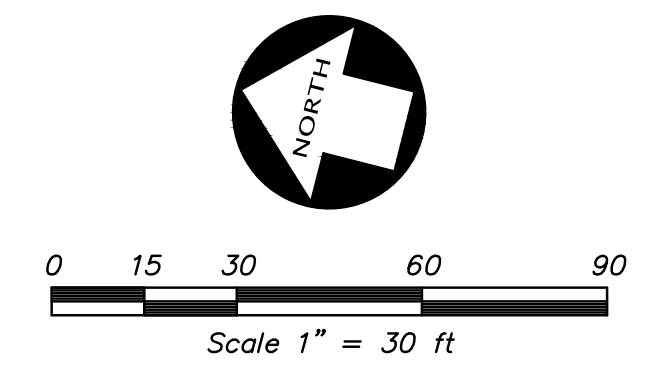
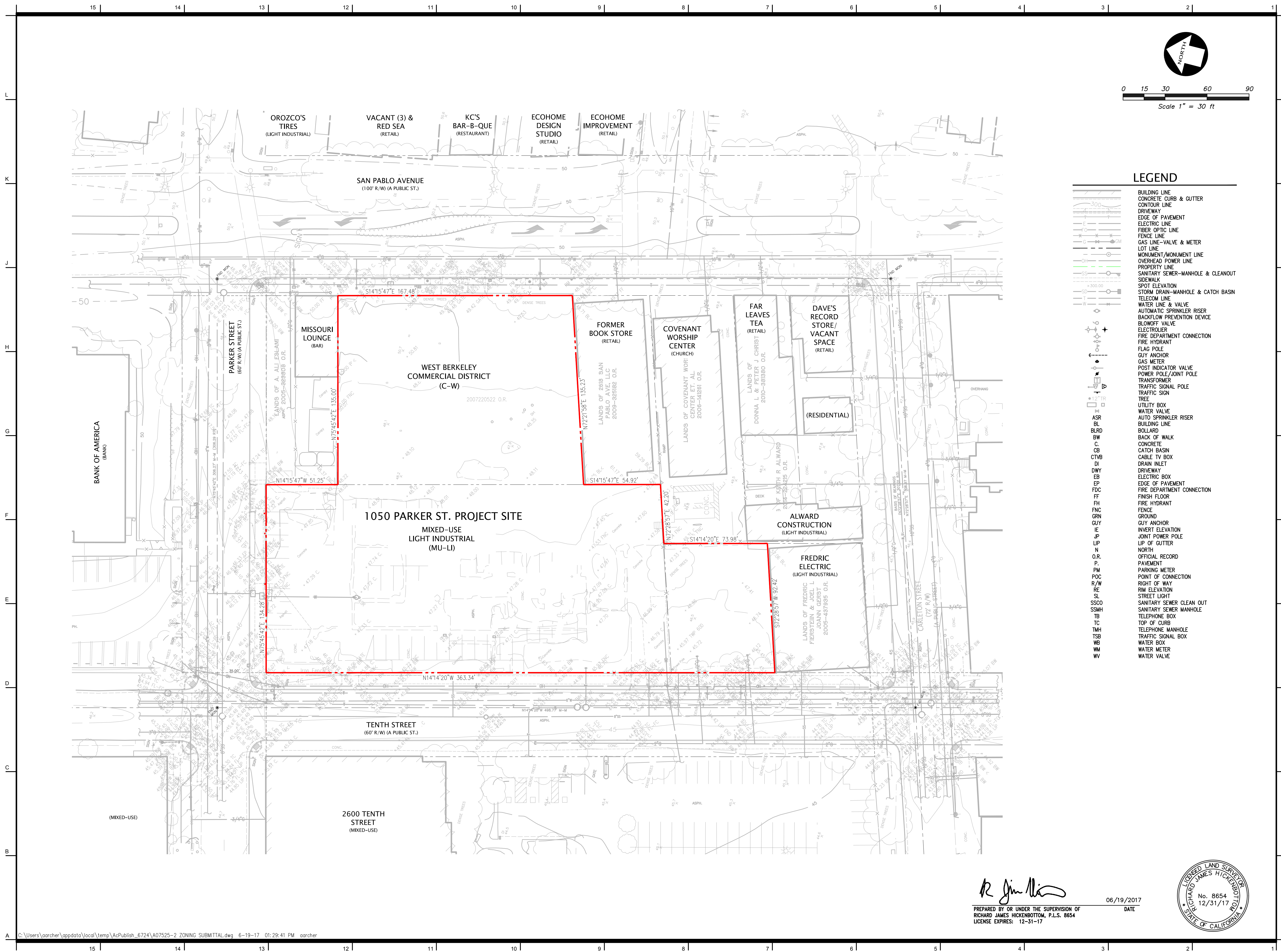
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ZONING APPLICATION

*R Jim M...*  
PREPARED BY OR UNDER THE SUPERVISION OF  
RICHARD JAMES HICKENBOTTOM, P.L.S. 8654  
LICENSE EXPIRES: 12-31-17

06/19/2017  
DATE





**LEGEND**

|          |                                   |
|----------|-----------------------------------|
| [Symbol] | BUILDING LINE                     |
| [Symbol] | CONCRETE CURB & GUTTER            |
| [Symbol] | CONTOUR LINE                      |
| [Symbol] | DRIVEWAY                          |
| [Symbol] | EDGE OF PAVEMENT                  |
| [Symbol] | ELECTRIC LINE                     |
| [Symbol] | FIBER OPTIC LINE                  |
| [Symbol] | FENCE LINE                        |
| [Symbol] | GAS LINE-VALVE & METER            |
| [Symbol] | LOT LINE                          |
| [Symbol] | MONUMENT/MONUMENT LINE            |
| [Symbol] | OVERHEAD POWER LINE               |
| [Symbol] | PROPERTY LINE                     |
| [Symbol] | SANITARY SEWER-MANHOLE & CLEANOUT |
| [Symbol] | SIDEWALK                          |
| [Symbol] | SPOT ELEVATION                    |
| [Symbol] | STORM DRAIN-MANHOLE & CATCH BASIN |
| [Symbol] | TELECOM LINE                      |
| [Symbol] | WATER LINE & VALVE                |
| [Symbol] | AUTOMATIC SPRINKLER RISER         |
| [Symbol] | BACKFLOW PREVENTION DEVICE        |
| [Symbol] | BLOWOFF VALVE                     |
| [Symbol] | ELECTRIC RISER                    |
| [Symbol] | FIRE DEPARTMENT CONNECTION        |
| [Symbol] | FIRE HYDRANT                      |
| [Symbol] | FLAG POLE                         |
| [Symbol] | GUY ANCHOR                        |
| [Symbol] | GAS METER                         |
| [Symbol] | POST INDICATOR VALVE              |
| [Symbol] | POWER POLE/JOINT POLE             |
| [Symbol] | TRANSFORMER                       |
| [Symbol] | TRAFFIC SIGNAL POLE               |
| [Symbol] | TRAFFIC SIGN                      |
| [Symbol] | TREE                              |
| [Symbol] | UTILITY BOX                       |
| [Symbol] | WATER VALVE                       |
| [Symbol] | AUTO SPRINKLER RISER              |
| [Symbol] | BUILDING LINE                     |
| [Symbol] | BOLLARD                           |
| [Symbol] | BACK OF WALK                      |
| [Symbol] | CONCRETE                          |
| [Symbol] | CATCH BASIN                       |
| [Symbol] | CABLE TV BOX                      |
| [Symbol] | DRAIN INLET                       |
| [Symbol] | DRIVEWAY                          |
| [Symbol] | ELECTRIC BOX                      |
| [Symbol] | EDGE OF PAVEMENT                  |
| [Symbol] | FIRE DEPARTMENT CONNECTION        |
| [Symbol] | FINISH FLOOR                      |
| [Symbol] | FIRE HYDRANT                      |
| [Symbol] | FENCE                             |
| [Symbol] | GAS METER                         |
| [Symbol] | GROUND                            |
| [Symbol] | GUY ANCHOR                        |
| [Symbol] | INVERT ELEVATION                  |
| [Symbol] | JOINT POWER POLE                  |
| [Symbol] | LIP OF GUTTER                     |
| [Symbol] | NORTH                             |
| [Symbol] | OFFICIAL RECORD                   |
| [Symbol] | PAVEMENT                          |
| [Symbol] | PARKING METER                     |
| [Symbol] | POINT OF CONNECTION               |
| [Symbol] | RIGHT OF WAY                      |
| [Symbol] | RIM ELEVATION                     |
| [Symbol] | STREET LIGHT                      |
| [Symbol] | SANITARY SEWER CLEAN OUT          |
| [Symbol] | SANITARY SEWER MANHOLE            |
| [Symbol] | TELEPHONE BOX                     |
| [Symbol] | TOP OF CURB                       |
| [Symbol] | TELEPHONE MANHOLE                 |
| [Symbol] | TRAFFIC SIGNAL BOX                |
| [Symbol] | WATER BOX                         |
| [Symbol] | WATER METER                       |
| [Symbol] | WATER VALVE                       |

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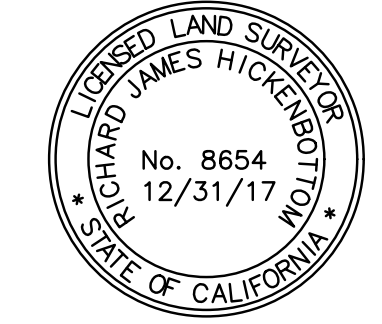
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EXISTING CONDITIONS  
PLAN

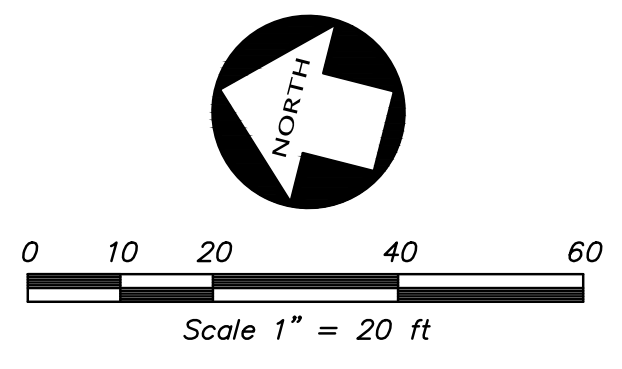
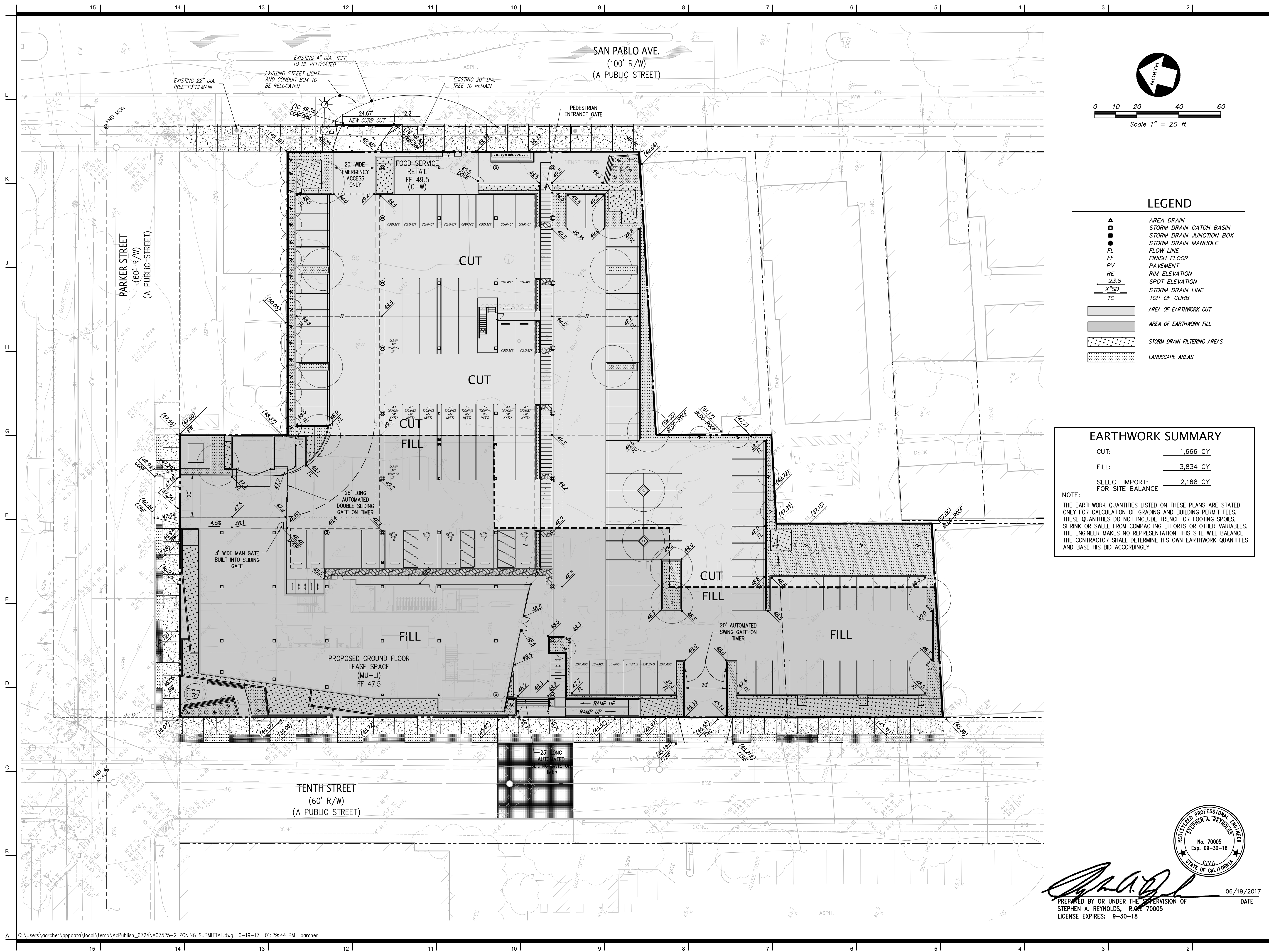
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ZONING APPLICATION

*R. Jim*  
PREPARED BY OR UNDER THE SUPERVISION OF  
RICHARD JAMES HICKENBOTTOM, P.L.S. 8654  
LICENSE EXPIRES: 12-31-17



06/19/2017  
DATE



**LEGEND**

- ▲ AREA DRAIN
- STORM DRAIN CATCH BASIN
- STORM DRAIN JUNCTION BOX
- STORM DRAIN MANHOLE
- FL FLOW LINE
- FF FINISH FLOOR
- PV PAVEMENT
- RE RIM ELEVATION
- 23.8 SPOT ELEVATION
- X"SD STORM DRAIN LINE
- TC TOP OF CURB
- ▨ AREA OF EARTHWORK CUT
- ▩ AREA OF EARTHWORK FILL
- ▤ STORM DRAIN FILTERING AREAS
- ▥ LANDSCAPE AREAS

**EARTHWORK SUMMARY**

|                                    |          |
|------------------------------------|----------|
| CUT:                               | 1,666 CY |
| FILL:                              | 3,834 CY |
| SELECT IMPORT:<br>FOR SITE BALANCE | 2,168 CY |

**NOTE:**  
THE EARTHWORK QUANTITIES LISTED ON THESE PLANS ARE STATED ONLY FOR CALCULATION OF GRADING AND BUILDING PERMIT FEES. THESE QUANTITIES DO NOT INCLUDE TRENCH OR FOOTING SPOILS, SHRINK OR SWELL FROM COMPACTING EFFORTS OR OTHER VARIABLES. THE ENGINEER MAKES NO REPRESENTATION THIS SITE WILL BALANCE. THE CONTRACTOR SHALL DETERMINE HIS OWN EARTHWORK QUANTITIES AND BASE HIS BID ACCORDINGLY.

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| 5      | Revision #4          | 06/29/2017 |

Project No: A07525-2  
Date: 06/29/2017  
Sheet:

**CONCEPTUAL GRADING  
PLAN**

**C2.0**

**ZONING APPLICATION**



*Stephen A. Reynolds*  
PREPARED BY OR UNDER THE SUPERVISION OF  
STEPHEN A. REYNOLDS, R.O.E. 70005  
LICENSE EXPIRES: 9-30-18  
DATE: 06/19/2017

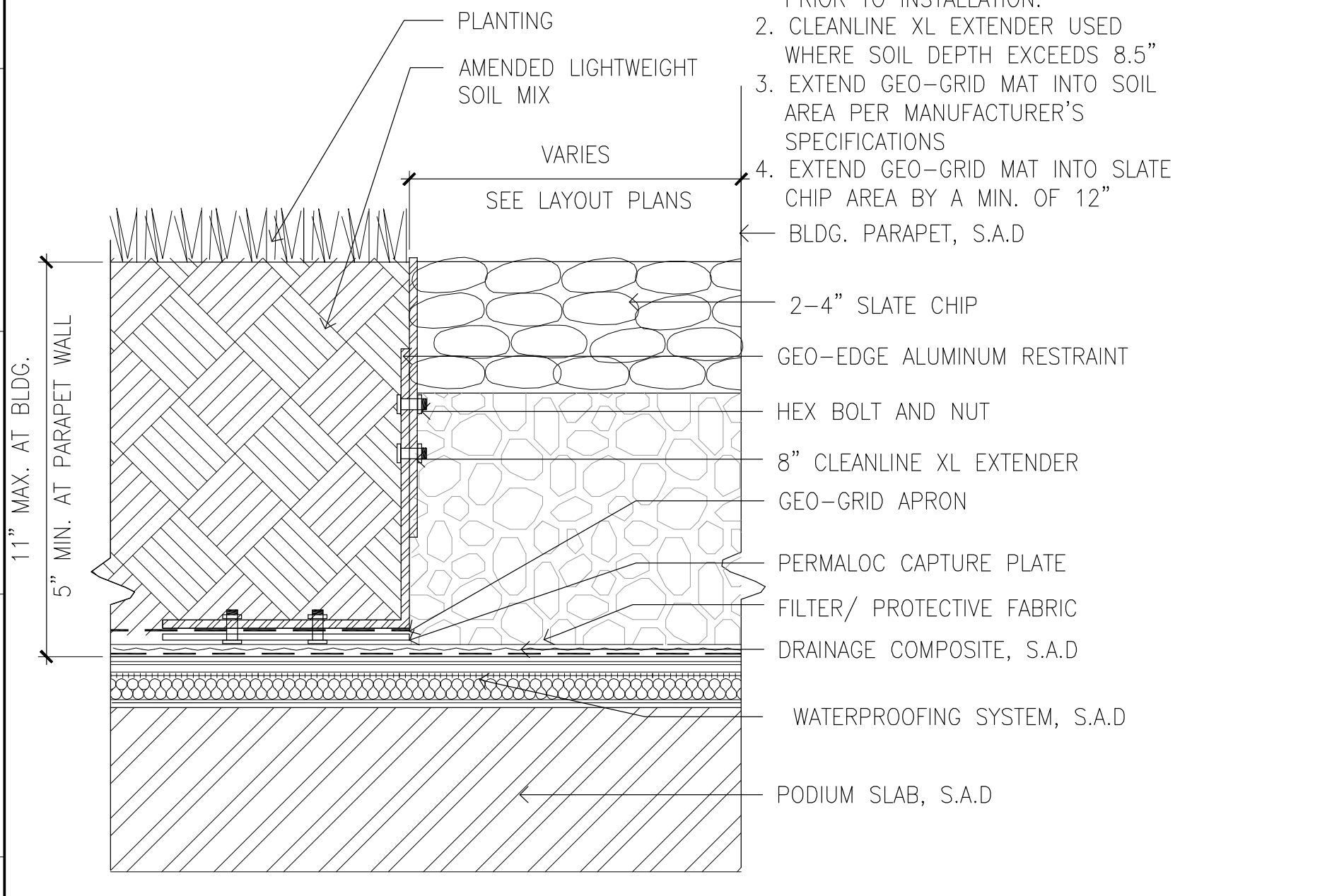


MATERIALS SCHEDULE – 1050 PARKER

| SYMBOL                      | DESCRIPTION                                   | DETAIL                    | PRODUCT/ITEM#                            | FINISH/COLOR                                    | SOURCE/COMMENTS                       |
|-----------------------------|-----------------------------------------------|---------------------------|------------------------------------------|-------------------------------------------------|---------------------------------------|
| <b>PAVING &amp; HEADERS</b> |                                               |                           |                                          |                                                 |                                       |
| A1                          | 4" CONCRETE PAVING – PED.                     | 1/L-5.0                   | P.I.P. CONCRETE, TOOL JOINT              | MED. SAND BLAST/COLOR TO MATCH ARCH.            | TBD                                   |
| A2                          | 4" CONCRETE PAVING – PED.                     | 1/L-5.0                   | P.I.P. CONCRETE, TOOL JOINT              | NATURAL GREY/BROOM FINISH                       | SEE CITY STANDARDS                    |
| A3                          | 6" CONCRETE PAVING – PED.                     | 2/L-5.0                   | P.I.P. CONCRETE, TOOL JOINT              | NATURAL GREY/BROOM FINISH                       | SEE CITY STANDARDS                    |
| A4                          | CONCRETE UNIT PAVER – PED. (ON GRADE)         | 5/L-5.0                   | LARGE FORMAT 18"x36", 8"x16"             | PORCELAIN #4713                                 | STEPSTONE, INC.                       |
| A4a                         | CONCRETE UNIT PAVER – VEH. (ON GRADE)         | 5/L-5.0                   | 4"x4" HOLLAND II PAVER(80MM)             | ANTIQU PEWTER                                   | ACKERSTONE                            |
| A4b                         | CONCRETE UNIT PAVER – PED. (ON GRADE)         | 5/L-5.0                   | 4"x4" HOLLAND II PAVER(60MM)             | ANTIQU PEWTER                                   | ACKERSTONE                            |
| A5                          | TRUNCATED DOME PAVER                          | 10/L-5.0                  | 12"x12" ALIGNED PROFILE                  | CHARCOAL GREY #511                              | STEPSTONE, INC.                       |
| A6                          | 6" CONCRETE PAVING – VEH.                     | S.C.D, SEE CITY STANDARDS | TBD                                      | MED SANDBLAST, INTEGRAL COLOR                   | TBD                                   |
| A7                          | ASPHALT PAVING                                | S.C.D.                    | -                                        | -                                               | -                                     |
| A8                          | DECOMPOSED GRANITE PAVING (NATURAL GROUND)    | 1/L-5.1                   | 3/8" MINUS MATERIAL STABILIZED W/ BINDER | CALIFORNIA GOLD DG, STABILIZER SOLUTIONS BINDER | LYSINGSO OR SIM, STABILIZER SOLUTIONS |
| A9                          | CONCRETE UNIT PAVER – PED (ON STRUCTURE)      | 6/L-5.0                   | 2'X2'                                    | PORCELAIN #4713                                 | STEPSTONE, INC.                       |
|                             | ADD ALT. DECK PANELS (ON STRUCTURE)           | 6/L-5.0                   | BISON PANELS/PEDESTALS                   |                                                 |                                       |
| A10                         | LANDSCAPE HEADER (ON GRADE)                   | 9/L-5.0                   | .125"x4" CLEANLINE                       | BRONZE FINISH                                   | PERMALOC – CLEANLINE                  |
| A11                         | SLATE CHIP/GRAVEL PAVE (ON STRUCTURE)         | 11/L-5.0                  | GREY SLATE CHIPS, 1.5"x2"                | BUCKINGHAM 3"-4"                                | ESCHEGURON SLATE                      |
| A12                         | PAVING EDGE RESTRAINT (ON GRADE)              | 8,12/L-5.0                | 4.5"x4.5" STRUCTUREEDGE                  | BRONZE FINISH                                   | PERMALOC                              |
| A13                         | PAVERS/PLANTING EDGE RESTRAINT (ON STRUCTURE) | 7/L-5.0                   | 4.5"x4.5" STRUCTUREEDGE                  | GEO EDGE W/ CLEAN LINE EXTENDER MILL FINISH     | PERMALOC, GEOMAT                      |

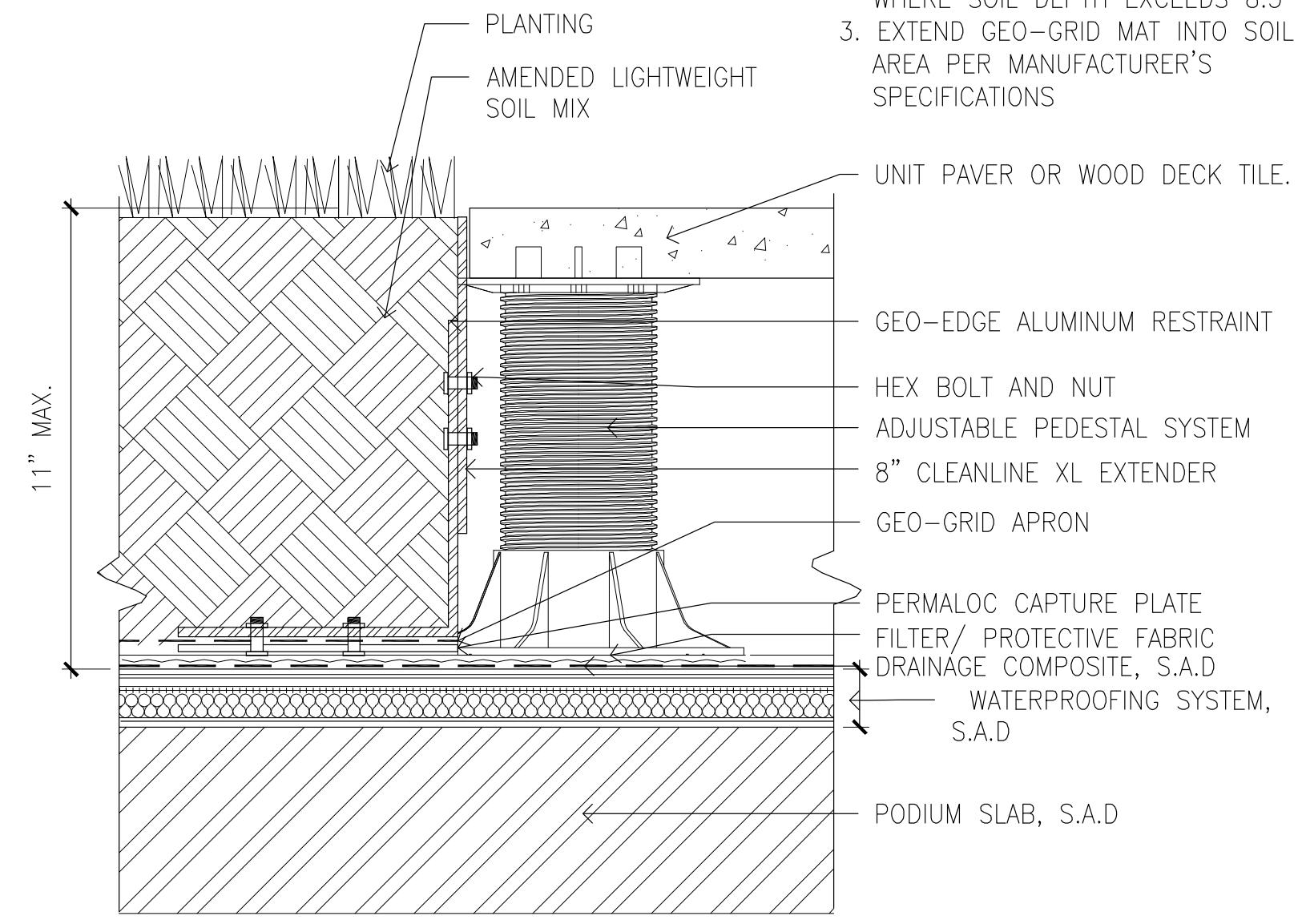
| SYMBOL                               | DESCRIPTION              | DETAIL    | PRODUCT/ITEM#              | FINISH/COLOR                                   | SOURCE/COMMENTS         |
|--------------------------------------|--------------------------|-----------|----------------------------|------------------------------------------------|-------------------------|
| <b>STAIR, WALL, FENCE &amp; CURB</b> |                          |           |                            |                                                |                         |
| B1                                   | 6" CONCRETE CURB         | S.C.D.    | P.I.P. CONCRETE            | NATURAL GREY, BROOM FINISH                     | SEE CITY STANDARDS      |
| B2                                   | PLANTER WALL – RETAINING | X/L-XX    | P.I.P. CONCRETE            | PEWTER, ACID ETCH                              | DAVIS COLOR             |
| B3                                   | PEDESTRIAN GATE          | 9,6/L-5.1 | ART TBD                    | TBD                                            | TBD                     |
| B4                                   | PRIVACY FENCE            | 2/L-5.1   | ARCHITECTURAL PANEL/PICKET | BLACK POWDER-COATED PRE-GALVANIZED STEEL FENCE | OMEGA OR APPROVED EQUAL |
| B5                                   | SITE STAIR               | X/L-XX    | P.I.P. CONCRETE            | PEWTER                                         | DAVIS COLOR             |
| B6                                   | ART FENCE                | 2/L-5.1   | ART TBD                    | TBD                                            | TBD                     |
| B7                                   | VEHICULAR GATE           | X/L-XX    | TBD                        | TBD                                            | TBD                     |

- NOTES:
1. PROVIDE SAMPLE OF EDGING TO LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE FOR APPROVAL PRIOR TO INSTALLATION.
  2. CLEANLINE XL EXTENDER USED WHERE SOIL DEPTH EXCEEDS 8.5"
  3. EXTEND GEO-GRID MAT INTO SOIL AREA PER MANUFACTURER'S SPECIFICATIONS
  4. EXTEND GEO-GRID MAT INTO SLATE CHIP AREA BY A MIN. OF 12" BLDG. PARAPET, S.A.D



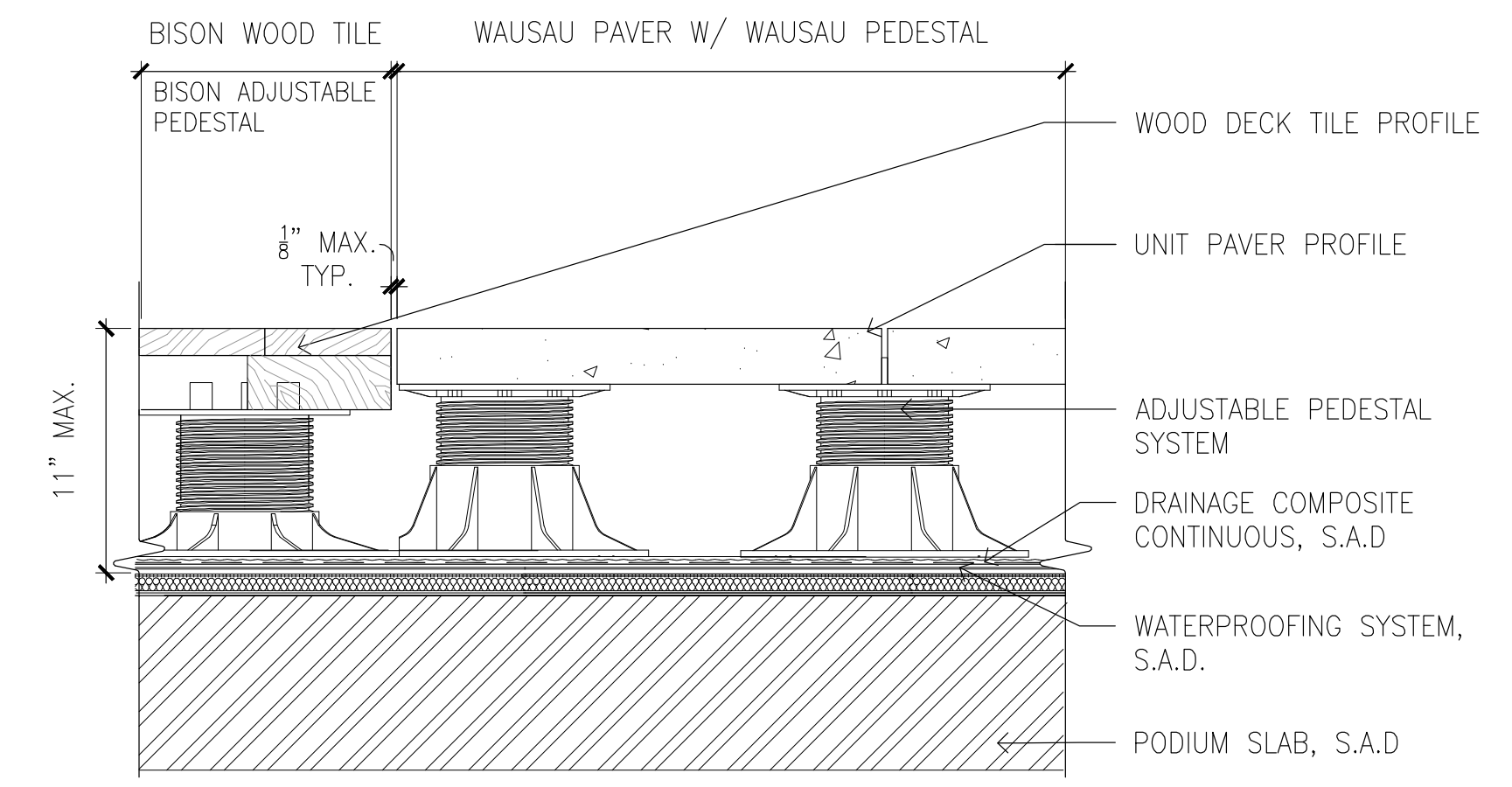
EDGE RESTRAINT @ SLATE CHIP/PLANTING (ON STRUCTURE)  
SCALE: 3"=1'-0"  
pave edge restraint-PLNT-podium.dwg

- NOTE:
1. PROVIDE SAMPLE OF EDGING TO LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE FOR APPROVAL PRIOR TO INSTALLATION
  2. CLEANLINE XL EXTENDER USED WHERE SOIL DEPTH EXCEEDS 8.5"
  3. EXTEND GEO-GRID MAT INTO SOIL AREA PER MANUFACTURER'S SPECIFICATIONS



EDGE RESTRAINT @ PAVERS/PAVING (ON STRUCTURE)  
SCALE: 3"=1'-0"  
pave edge restraint-PAVE-podium.dwg

- NOTE:
1. PEDESTAL SYSTEM TO BE REINFORCED WITH ADDITIONAL PEDESTALS AT ALL POINT LOAD LOCATIONS FOR BENCHES, ETC.
  2. 6 ADJUSTABLE PEDESTALS PER WOOD TILE 4 PEDESTALS FOR CONCRETE PAVER
  3. INSTALLATION MUST BE COMPLETED IN ACCORDANCE WITH BISON INNOVATION AND WAUSAU PRODUCT SPECIFICATIONS
  4. FOR ANY QUESTIONS CONTRACTOR HAS GO TO WWW.BISONIP.COM



PAVER/WOOD TILE (ON STRUCTURE)  
SCALE: 1 1/2" = 1'-0"  
ped pave pod.dwg

| SYMBOL | DESCRIPTION    | DETAIL  | PRODUCT/ITEM# | FINISH/COLOR | SOURCE/COMMENTS |
|--------|----------------|---------|---------------|--------------|-----------------|
| B7     | VEHICULAR GATE | X/L-XX  | TBD           | TBD          | TBD             |
| B8     | 6" FLUSH BAND  | X/L-XX  | TBD           | TBD          | TBD             |
| B9     | RETAINING WALL | 3/L-5.1 | TBD           | TBD          | TBD             |

| SYMBOL                  | DESCRIPTION       | DETAIL   | PRODUCT/ITEM#          | FINISH/COLOR     | SOURCE/COMMENTS    |
|-------------------------|-------------------|----------|------------------------|------------------|--------------------|
| <b>SITE FURNISHINGS</b> |                   |          |                        |                  |                    |
| C1                      | BENCH             | X/L-XX   | HARDWOOD/TUBE STL      | WOOD, POWDERCOAT | CUSTOM FABRICATION |
| C2                      | BIKE RACK         | 12/L-5.1 | BOLA OR APPROVED EQUAL | STAINLESS STEEL  | LANDSCAPE FORMS    |
| C3                      | BIKE LOCKER       | X/L-XX   | DERO                   | POWDERCOAT       | DERO               |
| C4                      | STAIR RAIL        | X/L-XX   | TBD                    | TBD              | TBD                |
| C5                      | RAMP RAIL         | X/L-XX   | TBD                    | TBD              | TBD                |
| C6                      | ART PIECE/SIGNAGE | X/L-XX   | TBD                    | TBD              | TBD                |

| SYMBOL          | DESCRIPTION  | DETAIL | PRODUCT/ITEM#             | FINISH/COLOR | SOURCE/COMMENTS |
|-----------------|--------------|--------|---------------------------|--------------|-----------------|
| <b>DRAINAGE</b> |              |        |                           |              |                 |
| D1              | BIORETENTION | S.C.D. | S.C.D. FOR DRAINAGE PLANS | -            | -               |

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**1050 PARKER ST.  
BERKELEY, CA**

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| Number | Revision Description | Date     |
|--------|----------------------|----------|
| 1      | Zoning Submission    | 06/28/16 |
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| 5      | Revision #4          | 06/29/17 |

Project No 1116-0040  
Date: 06/29/17  
Sheet:

MATERIALS SCHEDULE

**L0.1**

ZONING APPLICATION

PLANT SCHEDULE – 1050 PARKER

| SIZE                              | ID      | BOTANICAL NAME                          | COMMON NAME          | COMMENT             | WUCOL | NATIVE | SPACING  |
|-----------------------------------|---------|-----------------------------------------|----------------------|---------------------|-------|--------|----------|
| <b>TREES</b>                      |         |                                         |                      |                     |       |        |          |
| 24" Box                           | QUE AGR | Quercus agrifolia                       | Coast Live Oak       |                     |       |        | As shown |
| 24" Box                           | QUE VIR | Quercus virginiana                      | Southern Live Oak    |                     |       |        |          |
| 24" Box                           | GIN BIL | Ginkgo biloba 'Autumn Gold'             | Maidenhair Tree      |                     |       |        |          |
| 24" Box                           | CER CAN | Cercis canadensis                       | Eastern Redbud       |                     |       |        |          |
| 24" Box                           | GLE TRI | Gleditsia tricanthos 'skyline'          | Honey Locust         |                     |       |        |          |
| 24" Box                           | ARB MAR | Arbutus marina                          | Strawberry Tree      |                     |       |        |          |
| 24" Box                           | LAG IND | Lagostreomia indica 'Natchez'           | Crape Myrtle         |                     |       |        |          |
| 24" Box                           | ACE RUB | Acer rubrum 'Armstrong'                 | Red Maple            |                     |       |        |          |
| 15 Gal                            | CAR BET | Carpinus betula 'Fastigata'             | European Hornbeam    |                     |       |        |          |
| <b>GROUNDCOVERS/GRASSES/FERNS</b> |         |                                         |                      |                     |       |        |          |
| 1 Gal                             | NC      | Nephrolepis cordifolia                  | Southern Sword Fern  |                     |       |        | 2' O.C.  |
| 4" pot                            | SA      | Sesleria autumnalis                     | Autumn Moor Grass    | Green Roof/Bioswale |       |        | 18" O.C. |
| 1 Gal                             | PCN     | Carex tumilicola                        | Carex                |                     |       |        | 18" O.C. |
| 1 Gal                             | APM     | Arctostaphylos 'Pacific Mist'           | Manzanita            |                     |       |        | 2' O.C.  |
| 1 Gal                             | BPP     | Baccharis 'Pigeon Point'                | Dwarf Coyote Bush    | Bioswale            |       |        | 30" O.C. |
| 1 Gal                             | ADS     | Asparagus densiflorus 'Sprengeri'       | Asparagus fern       |                     |       |        | 24" O.C. |
| 1 Gal                             | NC      | Nephrolepis cordifolia                  | Sword Fern           | Green Roof          |       |        | 36" O.C. |
| 1 Gal                             | CHT     | Chondropetalum tectorum                 | Cape Rush            |                     |       |        | 24" O.C. |
| <b>SHRUBS/PERENNIALS</b>          |         |                                         |                      |                     |       |        |          |
| 15 Gal                            | PIB     | Podocarpus elongatus 'Monmal'           | Icee Blue Podocarpus |                     |       |        |          |
| 15 Gal                            | PL      | Prunus laurocerasus                     | Cherry laurel        |                     |       |        |          |
| 5 Gal                             | SGA     | Salvia greggi 'Alba'                    | White Sage           | Green Roof          |       |        |          |
| 1 Gal                             | SBB     | Salvia sonomensis 'Bees Bliss'          | Taro                 |                     |       |        |          |
| 5 Gal                             | OLE     | Olea europaea 'Little Ollie'            | Little Ollie Olive   | Green Roof          |       |        |          |
| 5 Gal                             | PCN     | Pittosporum crassifolium 'nana'         | Taro                 | Green Roof          |       |        |          |
| 5 Gal                             | CS      | Cistus spp.                             | Rockrose             |                     |       |        |          |
| 1 Gal                             | VB      | Verbena bonariensis                     | Verbena              |                     |       |        |          |
| 1 Gal                             | LS      | Liatris spicata – white/purple          | Gayfeather           | Green Roof          |       |        |          |
| 5 Gal                             | ARS     | Arctostaphylos 'Sunset'                 | Sunset Manzanita     |                     |       |        |          |
| 1 Gal                             | AM      | Achillea millefolium 'white'            | Yarrow               |                     |       |        |          |
| 5 Gal                             | AF      | Anigozanthos flavidus 'red'             | Kangaroo Paw         |                     |       |        |          |
| 1 Gal                             | GL      | Guara lindheimer 'Whirling Butterflies' | Guara                |                     |       |        |          |
| 1 Gal                             | HM      | Heuchera maxima 'Alba'                  | Island Alum Root     | Green Roof          |       |        | 18" O.C. |
| <b>VINES</b>                      |         |                                         |                      |                     |       |        |          |
| 1 Gal                             | FP      | Ficus pumila                            | Fig vine             |                     |       |        |          |
| <b>SUCCULENTS</b>                 |         |                                         |                      |                     |       |        |          |
| 15 Gal                            | YG      | Yucca gloriosus                         | Spanish Dagger       |                     |       |        |          |
| 5 Gal                             | ALO     | Aloe arborescens                        | Aloe                 |                     |       |        |          |
| 1 Gal                             | AJG     | Aeonium canariensis. 'Velvet Rose'      | Aeonium              |                     |       |        |          |
| 1 Gal                             | SM      | Scenecio mandraliscae                   | Blue Fingers         |                     |       |        |          |
| 1 Gal                             | BF      | Bulbine fruiticans                      | Bulbine              |                     |       |        |          |

PLANT LIST INCLUDES:  
SELECTIONS FROM EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) AND ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY PUBLICATIONS.

PUBLICATIONS INCLUDE:  
-PLANTS & LANDSCAPES FOR SUMMER DRY CLIMATES OF SF BAY  
-BAY FRIENDLY GARDENING

NOTE:  
PROPOSED LANDSCAPE DESIGN WILL MEET OR EXCEED CITY OF BERKELEY WATER EFFICIENT LANDSCAPE ORDINANCE



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**1050 PARKER ST.  
BERKELEY, CA**

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architect:  
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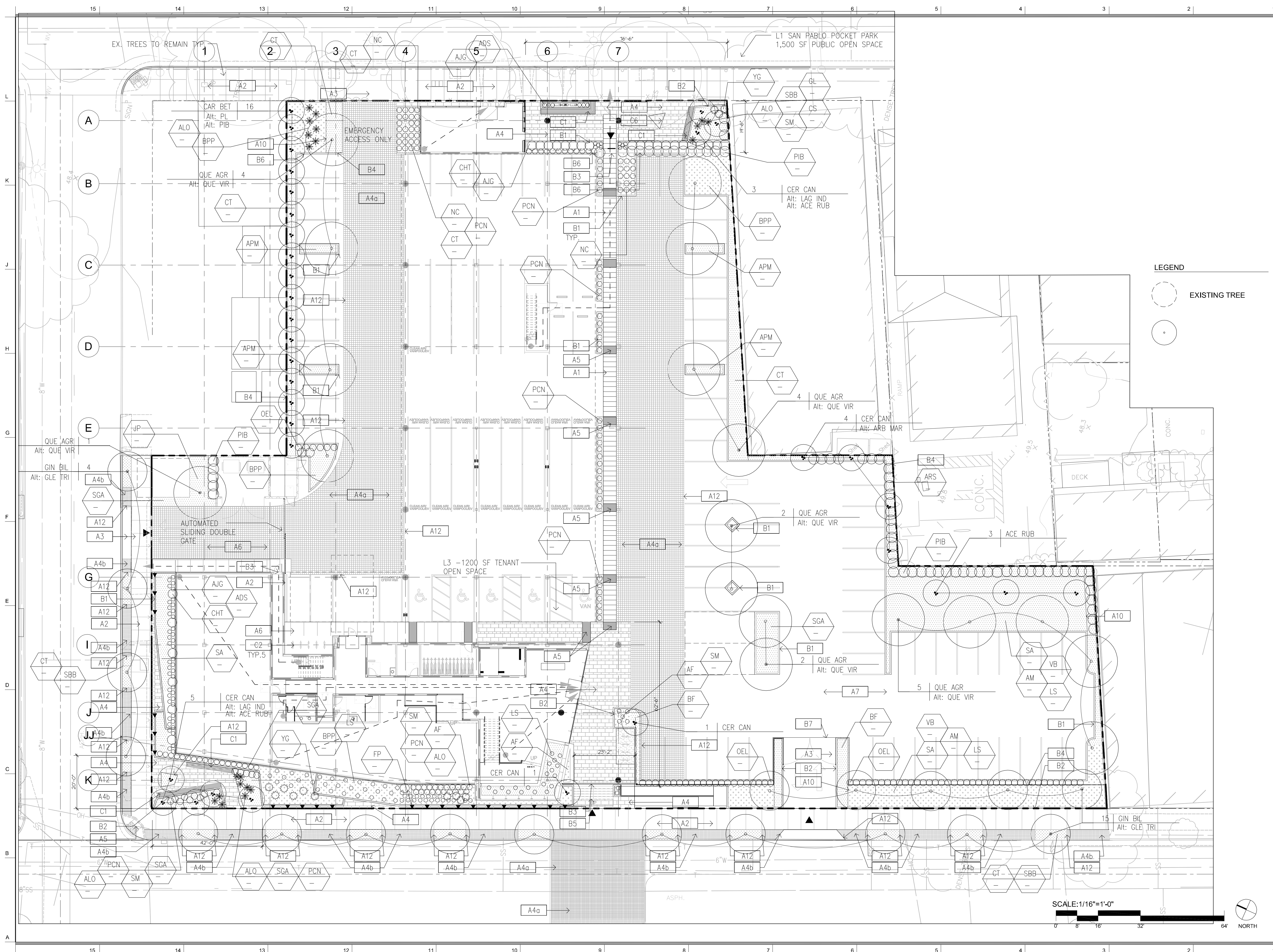
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| 5      | Revision #4          | 06/29/17 |

Project No 1116-0040  
Date: 06/29/17  
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PLANT SCHEDULE

**L0.2**

ZONING APPLICATION



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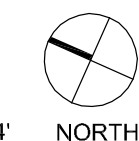
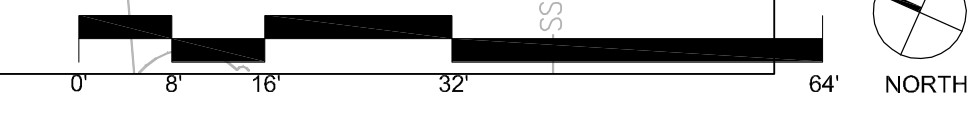
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Date: 06/29/17  
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LANDSCAPE PLAN

# L1.0

ZONING APPLICATION

SCALE: 1/16"=1'-0"



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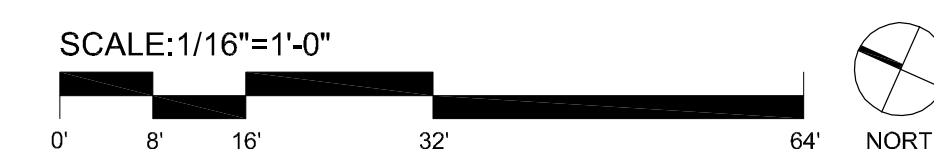
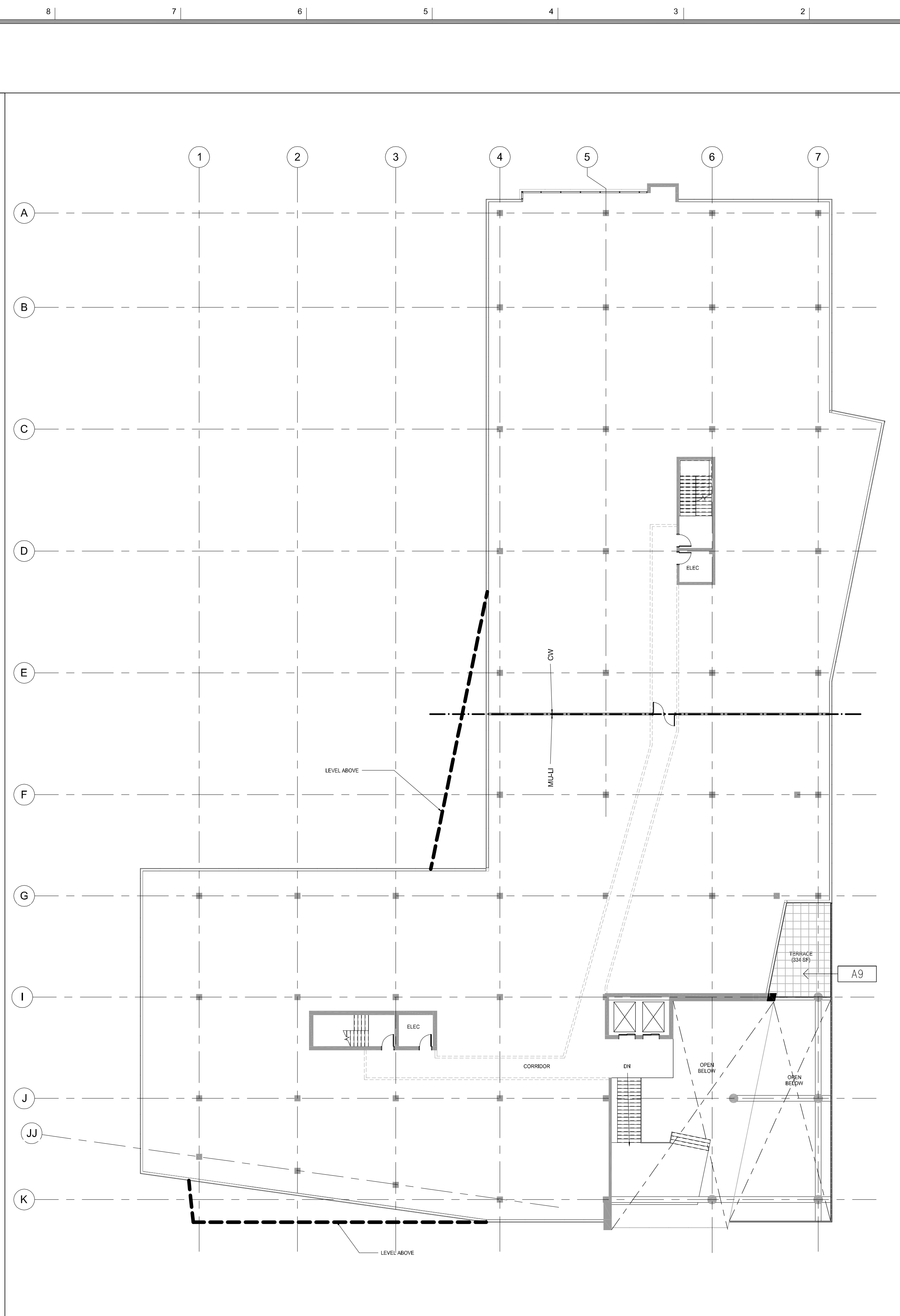
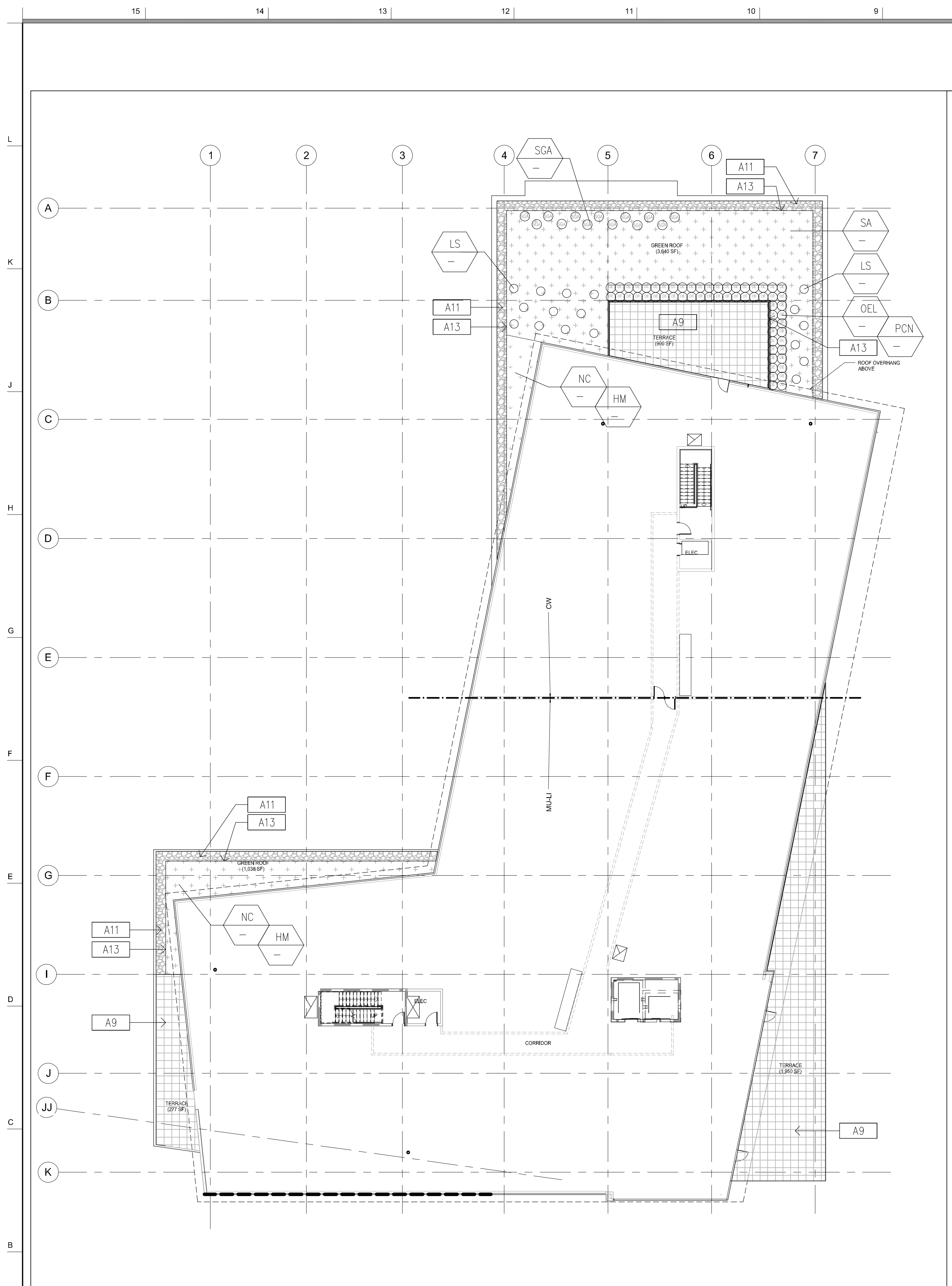
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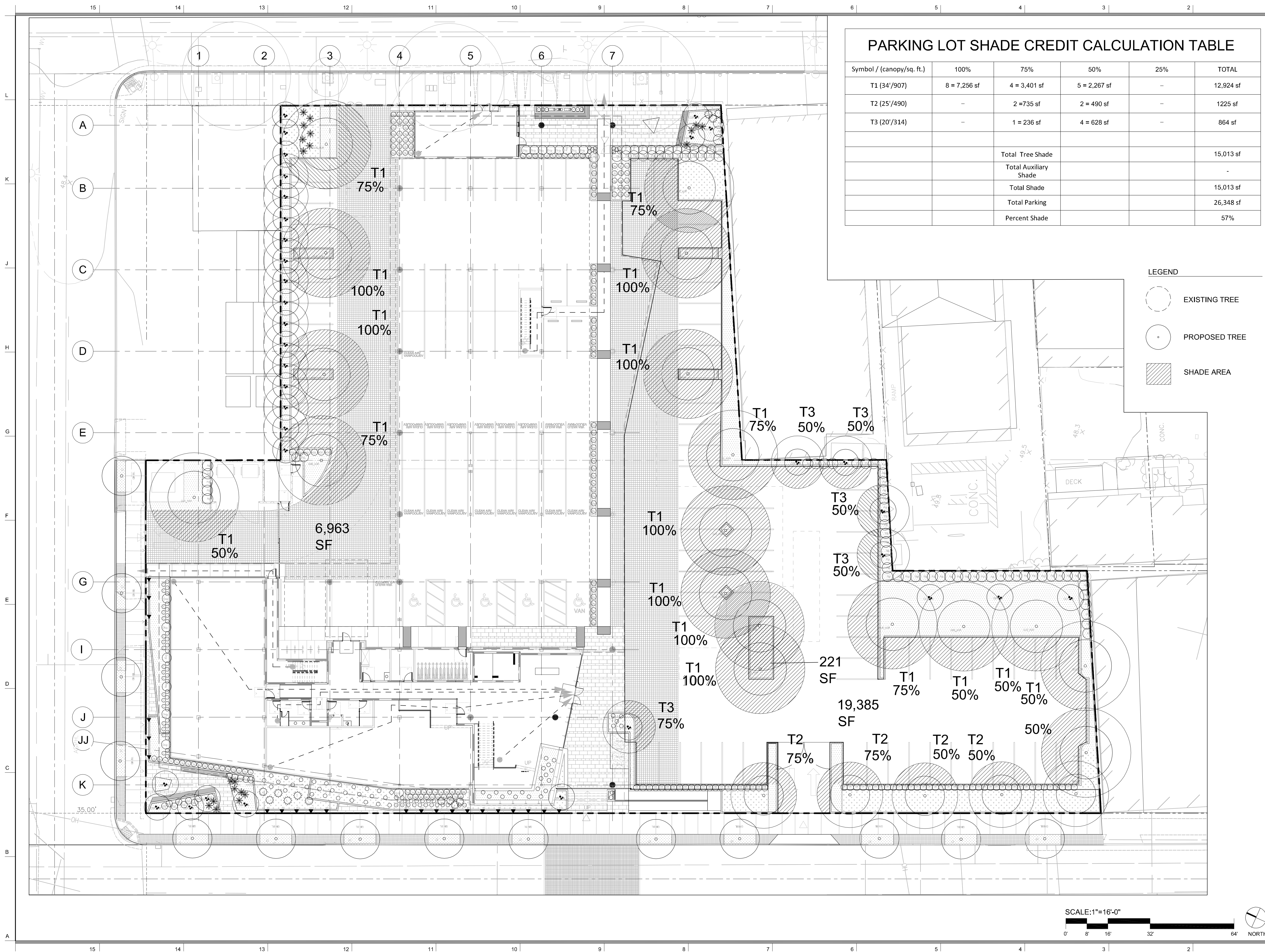
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| Project No | 1116-0040 |
| Date:      | 06/29/17  |
| Sheet:     |           |

LEVEL 2-3 - TERRACE  
PLAN

**L1.1**

ZONING APPLICATION





### PARKING LOT SHADE CREDIT CALCULATION TABLE

| Symbol / (canopy/sq. ft.) | 100%         | 75%          | 50%          | 25% | TOTAL     |
|---------------------------|--------------|--------------|--------------|-----|-----------|
| T1 (34'/907)              | 8 = 7,256 sf | 4 = 3,401 sf | 5 = 2,267 sf | -   | 12,924 sf |
| T2 (25'/490)              | -            | 2 = 735 sf   | 2 = 490 sf   | -   | 1,225 sf  |
| T3 (20'/314)              | -            | 1 = 236 sf   | 4 = 628 sf   | -   | 864 sf    |
| Total Tree Shade          |              |              |              |     | 15,013 sf |
| Total Auxiliary Shade     |              |              |              |     | -         |
| Total Shade               |              |              |              |     | 15,013 sf |
| Total Parking             |              |              |              |     | 26,348 sf |
| Percent Shade             |              |              |              |     | 57%       |

**LEGEND**

- EXISTING TREE
- PROPOSED TREE
- SHADE AREA



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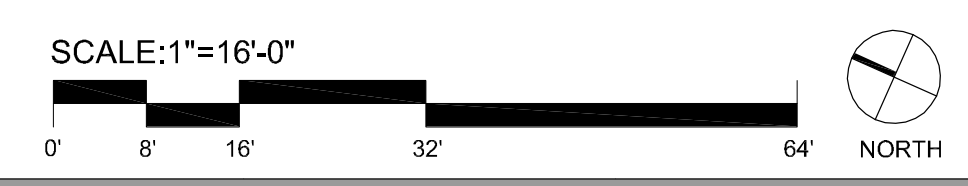
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SHADE CANOPY PLAN  
**L2.0**

ZONING APPLICATION



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

UPHOLD THE APPEAL AND APPROVE USE PERMIT #ZP2018-0116 (PARDEE BLOCK PARKING LOT, 2700 TENTH STREET) TO CONSTRUCT A 43,847 SQUARE-FOOT SURFACE PARKING LOT WITH A TOTAL OF 123 AUTOMOBILE AND 18 BICYCLE PARKING SPACES TO MEET A PORTION OF THE REQUIRED PARKING FOR THE MEDICAL OFFICE BUILDING AT 1050 PARKER STREET (USE PERMIT #ZP2018-0117) BASED ON THE FINDINGS AND CONDITIONS PRESENTED BY STAFF TO THE ZONING ADJUSTMENTS BOARD (ZAB) ON JANUARY 24, 2019

WHEREAS, on June 4, 2018 Christopher Barlow with Wareham Property Group representing 2621 Tenth Street, LLC and Pardee I, LLC (“applicant”) filed an application for a Use Permit to construct a 43,847 square-foot surface parking lot with a total of 123 automobile and 18 bicycle parking spaces would be provided to meet a portion of the required parking for the medical office building at 1050 Parker Street (Use Permit #ZP2018-0117) at 2700 Tenth Street within the Mixed Use Residential (MUR) Zoning District; and

WHEREAS, on August 22, 2018, staff deemed this application complete and determined that as the project site is included on a list compiled pursuant to Section 65962.5 of the Government Code, and preparations of a Draft Initial Study was begun to determine potential significant effects of the project; and

WHEREAS, on September 4, 2018 an Initial Study and Notice of Intent to Adopt a Draft Initial Study and Mitigated Negative Declaration an Initial Study released for public review and comment and the 30-day public review period began; and

WHEREAS, on October 4, 2018, the public review period concluded and none of the comments received on the Draft Initial Study constituted new information that warranted recirculation of the Draft Initial Study. Comments received did not identify new impacts nor result in a substantial increase in the severity of impacts; and

WHEREAS, on October 19, 2018 a Final Mitigated Negative Declaration and Response to Comments was issued; and

WHEREAS, on October 10, 2018 staff posted the Zoning Adjustments Board (ZAB) Notice of Public Hearing at the site in three locations and mailed 297 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, October 25, 2018 the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and continued the hearing to December 12, 2018; and

WHEREAS, on December 4, 2018, City Council conducted a public hearing on the proposed General Plan and Zoning Amendments at the 1050 Parker Street site and continued the public hearing to December 11, 2108; and

WHEREAS, on December 11, 2018, City Council conducted a public hearing on the proposed General Plan and Zoning Amendments at the 1050 Parker Street site and adopted the first reading of the General Plan and Zoning amendments; and

WHEREAS, on December 12, 2018, the ZAB public hearing on the project was continued without discussion as the City Council had not yet acted on the General Plan and Zoning Amendments at the 1050 Parker Street site; and

WHEREAS, on January 9, staff posted the ZAB Notice of Public Hearing at the site in three locations and mailed 485 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on January 22, 2018, City Council adopted the second reading of the General Plan and Zoning Amendments at the 1050 Parker Street site; and

WHEREAS, on January 24, 2019, the ZAB re-opened the public hearing in accordance with BMC Section 23B.32.030, and approved the application with modified conditions of approval; and

WHEREAS, on February 1, 2019, staff issued the notice of the ZAB decision; and

WHEREAS, on February 4, 2019 the applicant filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on March 20, 2019 the submitted a follow-up letter regarding his appeal of the 1050 Parker and Initial Study – Mitigated Negative Declaration (IS-MND) portions of the ZAB actions with the City Clerk; and

WHEREAS, on or before April 16, 2019, staff posted the public hearing notice at the site in three locations and mailed notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on April 30, 2019, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings in Exhibit A to uphold the appeal and approves Use Permit # ZP2018-0116, subject to the conditions of approval in Exhibit A and the project plans in Exhibit B.

Exhibits

A: Findings and Conditions

B: Project Plans

## ATTACHMENT 3 EXHIBIT A

## FINDINGS AND CONDITIONS

APRIL 30, 2019

## Pardee Block Parking Lot Project (2700 Tenth)

Use Permit #ZP2018-0116 for construction of a 43,847 square foot surface parking lot to provide for a portion of the required parking for the medical office building at 1050 Parker Street (Use Permit #ZP2018-0117) as well as parking for existing businesses. A total of 123 automobile and 18 bicycle parking spaces would be provided.

### PERMITS REQUIRED

- Use Permit under BMC Section 23C.08.050.A to demolish a main building used for non-residential purposes;
- Use Permit under BMC Section 23E.84.030 to construct a parking lot in the MU-R District that is not exclusively for uses located in the district;
- Use Permit under BMC Section 23E.28.030.B to allow off-street parking beyond 300 feet from the structure it is intended to serve;
- Use Permit under BMC Section 23E.84.080.H to allow for the substitution of bicycle or motorcycle parking spaces in place of up to 10% of the required automobile parking spaces; and
- Use Permit under BMC Section 23E.28.080.B to locate ground level parking space within 20 feet of street frontage.

### I. CEQA FINDINGS

1. The Notice of Intent (NOI) to adopt a CEQA Mitigated Negative Declaration and Initial Study (IS-MND) were published on September 4, 2018, and the public review period ended at 5:00 P.M. on October 4, 2018. The Draft IS-MND was with the Alameda County Clerk and was submitted to the State Clearinghouse (SCH #2018092001) for distribution to interested state and regional agencies.

The Zoning Adjustments Board has considered the proposed Mitigated Negative Declaration together with any comments received during the public review process, and finds, on the basis of the whole record before it, that: (1) no potentially significant effects were identified that could not be addressed by implementation of the mitigation measures and the City's standard conditions of approval which will avoid or reduce the effects to a point where no significant effects will occur, (2) there is no substantial evidence the project will have a significant effect on the environment, and (3) the mitigated negative declaration reflects the lead agency's independent judgment and analysis. The record of proceedings upon which this decision is based is located at the Permit Service Center, 1947 Center Street, 2<sup>nd</sup> Floor, Berkeley, California 94704.



## II. FINDINGS FOR APPROVAL

### A. REQUIRED FINDINGS FOR DEVELOPMENT OF AN OFF-SITE PARKING LOT

1. As required by Section 23B.32.040.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - The proposed 43,847 square foot, surface parking lot would provide the balance of required parking for the associated medical office building. The Pardee Block parking lot would provide 88 parking spaces for employees of the medical office building and up to 35 parking spaces for employees of the remaining Pardee Block commercial buildings. The project will support existing businesses by providing parking that does not current exist and will support a new use that will improve and support commercial uses along San Pablo Avenue.
  - The parking lot is located 500 feet from the nearest medical office building entrance. Accessible pedestrian pathways between the parking lot and the medical office building currently exist. There is an existing pedestrian crossing located at the intersection of Carleton Street and Ninth Street to provide access to the sidewalk along Carleton Street on the same side as the medical office. Pedestrian access for the Pardee Block Parking Lot would be provided through a gate just south of the driveway on Tenth Street. The medical office employees that park at the Pardee Block Parking Lot would use this gate and then cross two of the approaches at the Tenth Street/Carleton Street intersection to walk between the medical office building and the Pardee Block parking lot. The intersection is currently controlled by stop-signs on the Tenth Street approaches, with no controls on the Carleton Street approaches. The proposed project has been designed to include an all-way stop at the Tenth Street/Carleton Street intersection and would mark the intersection with crosswalk striping.
  - To ensure driveway safety, the applicant shall provide 10 feet of red curb on either side of the project driveways on Ninth and Tenth Streets to improve sight distance between vehicles exiting the parking lot driveways and motorists and bicyclists on Ninth and Tenth Streets. With the implementation of the required mitigation measures, project impacts will be reduced to less than significant levels.
  - The project is subject to the City's standard conditions of approval regarding construction noise and biological resources, cultural resources, 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.
2. Pursuant to Berkeley Municipal Code Section 23E.84.090.B.1, the Zoning Adjustments Board finds that the project will be compatible with the purposes of the MU-R Mixed Use-

Residential Zoning District. The project would create a parking lot that would provide the balance of required parking for the associated medical office building, to be used by medical office employees and employees of the remaining Pardee Block commercial buildings. The project would support local, existing businesses along Pardee Street by providing off-street employee parking thereby opening up on-street parking spaces for the surrounding community. .

3. Pursuant to Berkeley Municipal Code Sections 23E.84.090.B.2 and B.5, the City finds the project to be compatible with surrounding uses and buildings and supportive of the character of the MU-R District, because the project will not conflict with the operations in adjoining buildings, and will provide designated parking for some of these uses in addition to the associated medical office building employees.
4. Pursuant to Berkeley Municipal Code Section 23E.84.090.B.3, the City finds that the project is consistent with the adopted West Berkeley Plan because it will create a parking lot that will provide the balance of required parking for the associated medical office building and provide designated parking for the businesses to remain at Pardee Block. The associated medical office building will enhance the San Pablo Avenue commercial corridor by providing commercial storefronts along San Pablo Avenue. Furthermore, with intensification through medical office growth, the project is responsive to the West Berkeley Plan's creation of a more intensive corridor. The project will also visually improve this stretch of San Pablo Avenue by developing a vacant lot and surface parking area with a new three-story building along the San Pablo Avenue frontage, strengthening the "streetwall" of buildings along the corridor. The project would support local, existing businesses along Pardee Street by providing off-street employee parking.
5. Pursuant to Berkeley Municipal Code Section 23E.84.090.B.4, the City finds that the project is not likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses. The buildings to be demolished are currently operating as vehicle repair services.
6. Pursuant to Berkeley Municipal Code Section 23E.84.090.B.6, the City finds that the project will meet applicable performance standards as set forth in Section 23E.84.070.H. The project meets the development standards allowed by the MU-R zoning regulations.

### **C. REQUIRED FINDINGS FOR DEMOLITION OF NON-RESIDENTIAL BUILDINGS OR STRUCTURES**

Pursuant to BMC 23C.08.050.D, the Zoning Adjustments Board finds that the demolition of the buildings at Pardee Block will not be materially detrimental to the commercial needs and public interest of the West Berkeley neighborhood or the City:

1. The demolition will total approximately 27,000 square feet of building area, and will be required in order to facilitate construction of the 43,847 square-foot surface parking lot.
2. The buildings to be demolished are located at 1000-1010, 1014-1016, and 1020 Carleton Street, and 2710 Tenth Street. The buildings do not appear on the National Register of Historic Places, the California Register of Historical Resources, or the State Historic

Resources Inventory. The buildings do not meet the LPO criteria for consideration as a City Landmark or Structure of Merit (BMC Section 3.24.110). The LPO criteria closely aligns with the National and State Register criteria, giving value to architectural merit as well as historical, educational and cultural significance. As described in the historic resource evaluations, the buildings do not have a significant architectural style or design and are not outstanding examples of their time period or building typology (BMC Section 3.24.110 A, Paragraph 1). None of the buildings on the block are associated with persons of City-wide or national importance, significant businesses, or social or cultural movements as described in BMC 3.24.110 A, Paragraph 2 and 4. No available information from the California Historical Resources Information System indicates that the property is expected to provide information about this area's pre-history (BMC 3.24.110 A, Paragraph 3). And, due to its lack of significant associations with design, events, businesses, or people important to Berkeley during the period of significance, the subject buildings are not an exemplary visual representation of Berkeley's commercial development during that time. As a potential Structure of Merit (BMC Section 3.24.110.B, Paragraph 2), the buildings on the block do not meet the LPO criteria related to exemplifying good architectural design; similarly with the age, style and size of nearby City Landmarks; and associations with events that are historically significant to the City or to West Berkeley

3. Current land uses include vehicle repair and service businesses. Pursuant to BMC 23E.84.030, Automobile Repair and Service, including Automobile Restoration, is permitted in the MU-R District with issuance of Use Permit. There are dozens of other existing automobile repair and service businesses in West Berkeley. None of the existing buildings are actively being used for manufacturing, warehousing, or wholesale trade.

#### **D. REQUIRED FINDINGS FOR PARKING REDUCTION**

Pursuant to BMC 23E.84.090.J, the Zoning Adjustments Board finds reduction of required automobile parking will not lead to an undue shortage of auto parking spaces and that it can be reasonably expected that there will be demand for the bicycle/motorcycle parking spaces because:

1. The employees and visitors of the businesses that are to remain at Pardee Block currently use on-street parking. The project will provide up to 35 designated parking spaces for use by these businesses, thereby opening up more on-street parking opportunities than currently exist for area residents, businesses, and visitors.
2. The 10 percent reduction in automobile parking will only occur in the event of final design adjustments related to required trash enclosure size and placement standards. Should the 10 percent reduction in automobile parking be needed, this will result in a minimum of 32 required parking spaces for the buildings to remain at Pardee Block. The 10 percent addition to bicycle parking results in 14 required bicycle or motorcycle spaces. The project will contain a total of 18 bicycle parking spaces, which will exceed this requirement by four spaces.
3. There are a number of AC Transit bus stops within 0.25 mile of the project site, with the closest one approximately 1,000 feet (0.2 miles) from the project site at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). The Dwight and San Pablo development node is approximately three blocks north of the project site, and

contains three AC Transit bus stops. There are three BART stations within two miles of the project site: North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east).

4. The parking requirement modification will meet the purposes of the district related to improvement and support for alternative transportation, pedestrian improvements and activity, or similar policies, in that the project will include transportation demand management strategies including providing transit passes, bicycle parking spaces, and a car share parking space.
  5. The ease of bicycling in the neighborhood, the availability of goods and services nearby, and the proximity of transit, combined with the inherent high cost of car ownership, will reduce auto use and parking demand.
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### III. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**9. Indemnification Agreement**

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

**IV. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

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

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

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

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

11. Compliance with Conditions and Environmental Mitigations. All building permits for this project are subject to verification of compliance to the adopted Mitigation Monitoring and Reporting Program for this project (Attachment 1), applicable Mitigations required for the IS/MND, and all Conditions of Approval contained herein. 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 the adopted Mitigation Monitoring and Reporting Program for this project, applicable Mitigations required for the IS-MND, and all Conditions of Approval. 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.
12. 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.

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

13. Rezone. Prior to the issuance of any permits, the applicant shall present evidence that the General Plan re-designation and rezone required for implementation of Modification of Use Permit #ZP2016-0170 has been processed and approved by City Council. The City Council Resolution number shall be prominently displayed on all plan sheets.
14. Medical Office Building Approval. Prior to the issuance of any permits, the applicant shall present evidence that the Modification of Use Permit #ZP2016-0170 has been processed and approved. The approval Resolution number shall be prominently displayed on all plan sheets.
15. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, (5) commitment to notify neighbors at least four days in advance of authorized extended work hours and the reason for extended hours, and (6) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
16. 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. In addition the requirements detailed in Mitigation Measures NOI-1 and NOI-2, 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:

- Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- 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.
- 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.
- Prohibit unnecessary idling of internal combustion engines.
- If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- 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.
- 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.
- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

**17. 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 and 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. The study will establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls. The study shall 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. The applicant's Geotechnical Investigation shall be peer reviewed by a qualified professional.

18. 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.
19. Fee Deferrals. **Prior to issuance of any building permit**, all zoning project application fees that were deferred at the time of application submittal shall be paid in full.
20. Demolition. Demolition of the existing buildings cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.

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

21. Parcel Merger. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
22. Electric Vehicle (EV) Charging. At least 10% of the project parking spaces for residential parking and 3% of the parking spaces for non-residential parking shall be pre-wired to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, as specified by the Office of Energy and Sustainable Development. Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable pre-wiring requirement. Pre-wiring for EV charging and EV charging station installations shall be noted on site plans.
23. 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).
24. Water Efficient Landscaping. Applicant shall provide an updated Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that will not be fully met at the project. Landscape improvements shall be consistent with the current versions of the State's Water Efficient Landscape Ordinance (WELO) and the East Bay Municipal Utility District's Section 31: Water Efficiency Requirements.
25. Construction and Demolition. Applicant shall submit a Waste Diversion Form and Waste Diversion Plan that meet the diversion requirements of BMC Chapters 19.24 and 19.37.

- 26. 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.
- 27. Parking for Disabled Persons.** Per BMC Section 23E.28.040.D of the Zoning Ordinance, “Notwithstanding any reduction in off-street parking spaces that may be granted for mixed-use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces.”
- 28. First Source Agreement.** The applicant and/or end user(s) shall enter into a First Source Agreement with the City of Berkeley. First Source promotes the hiring of local residents on local projects. The agreement requires contractors/employers to engage in good faith efforts to hire locally, including utilizing graduates of local job training programs. Please call (510) 981-4970 for further information, or visit the City’s Employment Programs office at 2180 Milvia, 1<sup>st</sup> Floor.
- 29. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:
    - All new commercial, industrial and mixed use developments and all large improvement projects.
    - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
    - EMA is available online at:
    - [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
  - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
  - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2)

propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

**Prior to Construction:**

30. **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:**

- 31. Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 32. 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.
- 33. 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.

- 34. 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.

**35. Extreme Construction Noise.** Construction activities that may generate extreme noise (noise greater than 90 dBA) at nearby sensitive receptors must be limited to the hours between 8 a.m. and 5 p.m., Monday through Friday. Any work that may generate extreme noise at nearby sensitive receptors outside of these hours, or that needs to occur on a Saturday, must first go through the approval and notification process described in SCA-36. Additionally, if complaints regarding noise are received from occupants of buildings potentially exposed to extreme noise during project construction, the noise liaison shall implement noise monitoring, if appropriate and feasible, to determine and document whether the measures instituted to correct the problem are effective. The results of any noise monitoring conducted, as well as a description of the noise reduction measures implemented, shall be provided to the Zoning Officer for review.

**36. 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:

1. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
2. 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 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:

- A. 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.
- B. 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.

**37. 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.

- 38.** 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, 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 or paleontologist to assess the significance of the find.
- 39.** Halt Work/Unanticipated Discovery of Tribal Cultural Resources (Ongoing throughout demolition, grading, and/or construction). 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

40. 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.
41. 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.
42. Avoid Disturbance of Nesting Birds (Ongoing throughout demolition, grading, and/or construction). 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.
43. 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 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. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- K. 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.
- L. 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.

**44. Public Works - Construction.** Construction activities that involve one or more acres of land disturbance must comply with the State-wide general permit requiring owner to (1) notify the State; (2) prepare and implement a Stormwater Pollution Prevention Plan (SWPPP); and (3) monitor the effectiveness of the plan. Additional information may be found online at <http://www.swrcb.ca.gov>. As part of the permit submittal, the Public Works Department will need a) a copy of the “Notice of Intent” filed with the State Water Resources Control Board (SWRCB)/Division of Water Quality; b) the Waste Discharger Identification (WDID) number issued by the SWRCB for the project; c) a copy of the SWWPP prepared for each phase of the project; and d) the name of the individual who will be responsible for monitoring the site for compliance to the approved SWPPP.

**45. 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:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- 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.
- 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.

- 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.
- 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.

**46. 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.

**47. 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.

**48. 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.

**49. 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.

**50. 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.

**51. 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:**

**52. Compliance with Conditions and Environmental Mitigation Measures.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit. Occupancy is subject to verification of compliance to these Conditions of Approval as well as the Mitigation Monitoring and Reporting Program.

**53. 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 August 17, 2018, except as modified by conditions of approval.

**54. Construction and Demolition Diversion.** A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff

**At All Times:**

**55. 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.

**56. Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review and Landmarks Preservation Commission approval.

**57. 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.

**58. Bike Parking.** Secure and on-site bike parking for at least 18 bicycles shall be provided for the life of the building.

**59. 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.

**60. Transportation Demand Management.** A Transportation Demand Management compliance report shall be submitted to the Transportation Division Manager, on a form acceptable to the City, prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is in compliance with the applicable requirements and the following:

A. Transportation Information Display. The applicant shall provide a transportation information display to each remaining Pardee Block business to provide Pardee Block building occupants with information regarding: 1) Albany, Berkeley, Oakland and Emeryville biking and walking maps; 2) directions to BART & AMTRAK; 3) AC Transit and West Berkeley Shuttle route maps, schedules and fares; and 4) NextBus, 511 and car-share contact information. Building management will ensure that all information regarding transit and alternative transportation is kept current, and that this information is provided to all commercial tenants and employees, on an annual basis.

B. West Berkeley Shuttle. Applicant shall fully participate in either (i) the Berkeley Gateway Transportation Management Association (GTMA), or (ii) another private, non-profit agency responsible for administering a West Berkeley Shuttle to North Berkeley and Ashby BART Stations serving West Berkeley and the members participating in the West Berkeley transportation Management Association (WBTMA). Full participation in either the GTMA or the WBTMA requires (i) a one-time start-up payment ~~of \$20,000~~ to either the GTMA or

the WBTMA to establish shuttle services; (ii) annual payments to provide project's fair share of service ~~estimated for initial operating years to be no less than \$20,000 a year~~; and (iii) participation in the governance of the non-profit on a pro-bono basis.

Prior to the issuance of certificate of occupancy, Applicant shall provide evidence to the Zoning Officer that it has executed a Membership Agreement with either the GTMA or the WBTMA in accordance with the policies, rules and regulations of the organization, and the above.

Applicant, its successors and assignees, shall remain a member of the GTMA or WBTMA, or equivalent, for as long as the GTMA or WBTMA or its successor or assignee operates a shuttle from West Berkeley to BART, or its successors.

- C. CarShare Required. Car share application fees, membership fees, and monthly dues shall be paid in full for all participating employees.
- D. Alameda County Guaranteed Ride Home program. Encourage enrollment by all qualifying employees in the Alameda County Guaranteed Ride Home program and submit an annual statement indicating number of participating employees.
- E. Pre-Loaded Clipper Cards. Provide annual transit pass subsidies in the form of pre-loaded Clipper Cards (or other acceptable substitute) for each employee until such time that applicant's fair share contribution to the West Berkeley Shuttle program is made, and service commences and if and when the West Berkeley Shuttle is not in operation.
61. Subject to Review. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
62. Existing Commercial Tenants. Per the Applicant's statements to the City Council on December 11, 2018, the applicant has committed to allow the existing commercial tenants to remain until October 31, 2019.
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| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action Required                                                                                                      | Monitoring Timing                                                         | Responsible Agency                                                                                                                    | Compliance Verification |      |          |
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| <b>HYDROLOGY AND WATER QUALITY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                      |                                                                           |                                                                                                                                       |                         |      |          |
| <b>HYD-1: Hydrology and Hydraulic Mitigation Analysis</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                      |                                                                           |                                                                                                                                       |                         |      |          |
| <p>The project shall not increase from pre-project to post-construction conditions peak flow and flow duration to existing gutters, and shall not raise from pre-project to post-construction the hydraulic grade line in existing storm drains at all times throughout the life of the project. The applicant shall demonstrate through a hydrology and hydraulics mitigation analysis to show how this performance standard will be achieved and used to provide the basis of design for the implementing this mitigation.</p> <p>The hydrology and hydraulics mitigation analysis shall be submitted to and approved by the City of Berkeley Department of Planning and Development prior to issuance of required project permits. The analysis shall identify existing and post-construction drainage patterns, magnitudes, and durations within the project limits and also identify existing off-site discharge locations, durations, and magnitudes from the project site. The mitigation actions to meeting the performance standard may include conveyance pipeline (minimum 12-inch diameter, reinforced concrete pipe) in the right-of-way, and the pipe shall not be used to attenuate peak flows. The mitigation method shall be designed to operate in conjunction with MRP Provision C3 requirements. The applicant shall make up front payment for City staff and consultant costs related to reviewing the hydrology and hydraulics mitigation analysis.</p> | <p>Conduct a hydrology and hydraulics mitigation analysis</p>                                                        | <p>Prior to the issuance of required project permits</p>                  | <p>City of Berkeley<br/>Department of Planning and Development</p>                                                                    |                         |      |          |
| <b>HYD-2: Storm Water Control Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                      |                                                                           |                                                                                                                                       |                         |      |          |
| <p>Discharges of any water from the project site shall be controlled at all times and shall not exceed pre-project peak flow or duration in existing storm drains and gutters throughout the project life. Applicant shall design and construct the mitigation method developed through the Hydrology and Hydraulic Mitigation Analysis performed in HYD-1 and as approved by the City. The mitigation actions to meet the performance standards may include conveyance within the right-of-way but storage within the right-of-way is not allowed. The identified method(s) shall be</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Develop and install stormwater control measures</p> <p>Verify installation of all stormwater control measures</p> | <p>During construction activities</p> <p>Prior to occupancy clearance</p> | <p>City of Berkeley<br/>Department of Planning and Development</p> <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Action Required                                                                  | Monitoring Timing                        | Responsible Agency                                         | Compliance Verification |      |          |
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| completely operational and any facilities located within the right-of-way shall be approved by and dedicated to the City prior to issuance of certificate of occupancy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                  |                                          |                                                            |                         |      |          |
| <b>LAND USE AND PLANNING</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>LU-1: Rezone</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                  |                                          |                                                            |                         |      |          |
| Demolition permits shall not be issued unless and until a rezone is approved by the City of Berkeley that would change the zoning on the western portion of the medical office building site from Mixed-Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Rezone a portion of the project site                                             | Prior to issuance of demolition permits  | City of Berkeley<br>Department of Planning and Development |                         |      |          |
| <b>NOISE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                  |                                          |                                                            |                         |      |          |
| <b>NOI-1: Construction Vibration Reduction Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                  |                                          |                                                            |                         |      |          |
| <p>Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:</p> <ul style="list-style-type: none"> <li>▪ The applicant or contractor shall ensure that construction activities involving vibratory rollers, large bulldozers, or loaded trucks that create a vibration disturbance across the Project’s shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during the regular posted services times at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.</li> <li>▪ The applicant or contractor shall, to the extent technically and economically feasible, limit the use of vibratory rollers, large bulldozers, or loaded trucks within 75 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios (2600 Tenth Street) to no more than 30 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.</li> <li>▪ The applicant or contractor shall, to the extent technically and economically feasible, limit the use of jackhammers within 25 feet of the nearest wall of the Covenant Worship Center, or Fantasy Studios to no more than 70 vibration events per day, as defined by the Federal Transit</li> </ul> | Create a construction management plan subject to review and approval by the City | Prior to the issuance of grading permits | City of Berkeley<br>Department of Planning and Development |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Action Required                                                                         | Monitoring Timing                               | Responsible Agency                                                 | Compliance Verification |      |          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------------------------|--------------------------------------------------------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                         |                                                 |                                                                    | Initial                 | Date | Comments |
| <p>Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.</p> <ul style="list-style-type: none"> <li>▪ The applicant or contractor shall provide tenants of the three residential units atop the Missouri Lounge, the Covenant Worship Center, Fantasy Studios, and residents within a 500-foot radius of the project sites with a notification at least 24 hours prior to vibration-generating construction activities.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                         |                                                 |                                                                    |                         |      |          |
| <b>NOI-2: Construction Noise Abatement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                         |                                                 |                                                                    |                         |      |          |
| <p>Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:</p> <ol style="list-style-type: none"> <li>1. The applicant or contractor shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.</li> <li>2. The applicant or contractor shall use quiet models of air compressors and other stationary noise sources where technology exists.</li> <li>3. The applicant or contractor shall locate stationary noise-generating equipment as far as feasible from the nearest noise-sensitive receptors.</li> <li>4. The applicant or contractor shall prohibit unnecessary idling of internal combustion engines.</li> <li>5. The applicant or contractor shall construct solid plywood fences around the construction site adjacent to operational businesses, including the Covenant Worship Center (2622 San Pablo Avenue).</li> <li>6. The applicant or contractor shall ensure that construction activities that generate excessive noise that creates noise disturbance across the Project site's shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during regular posted services at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.</li> <li>7. The applicant or contractor shall ensure that supporting construction activities, including the loading and unloading of materials and truck movements, are limited to the hours of</li> </ol> | <p>Create a construction management plan subject to review and approval by the City</p> | <p>Prior to the issuance of grading permits</p> | <p>City of Berkeley<br/>Department of Planning and Development</p> |                         |      |          |

| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Action Required | Monitoring Timing | Responsible Agency | Compliance Verification |      |          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------|--------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                 |                   |                    | Initial                 | Date | Comments |
| <p>7:00 a.m. to 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 8:00 p.m. on Saturdays, or as stipulated in the conditions of approval if more restrictive. No construction-related activity shall occur on Sunday or any Federal Holiday without explicit permission from the City of Berkeley.</p> <p>8. The applicant or contractor shall notify adjacent businesses, the Covenant Worship Center, and residents within a 500-foot radius of the project sites of the construction schedule in writing at least 7 days before beginning construction. The applicant or contractor also shall designate a “construction liaison” responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant or contractor shall conspicuously post a telephone number for the liaison on-site.</p> |                 |                   |                    |                         |      |          |

**TRANSPORTATION**

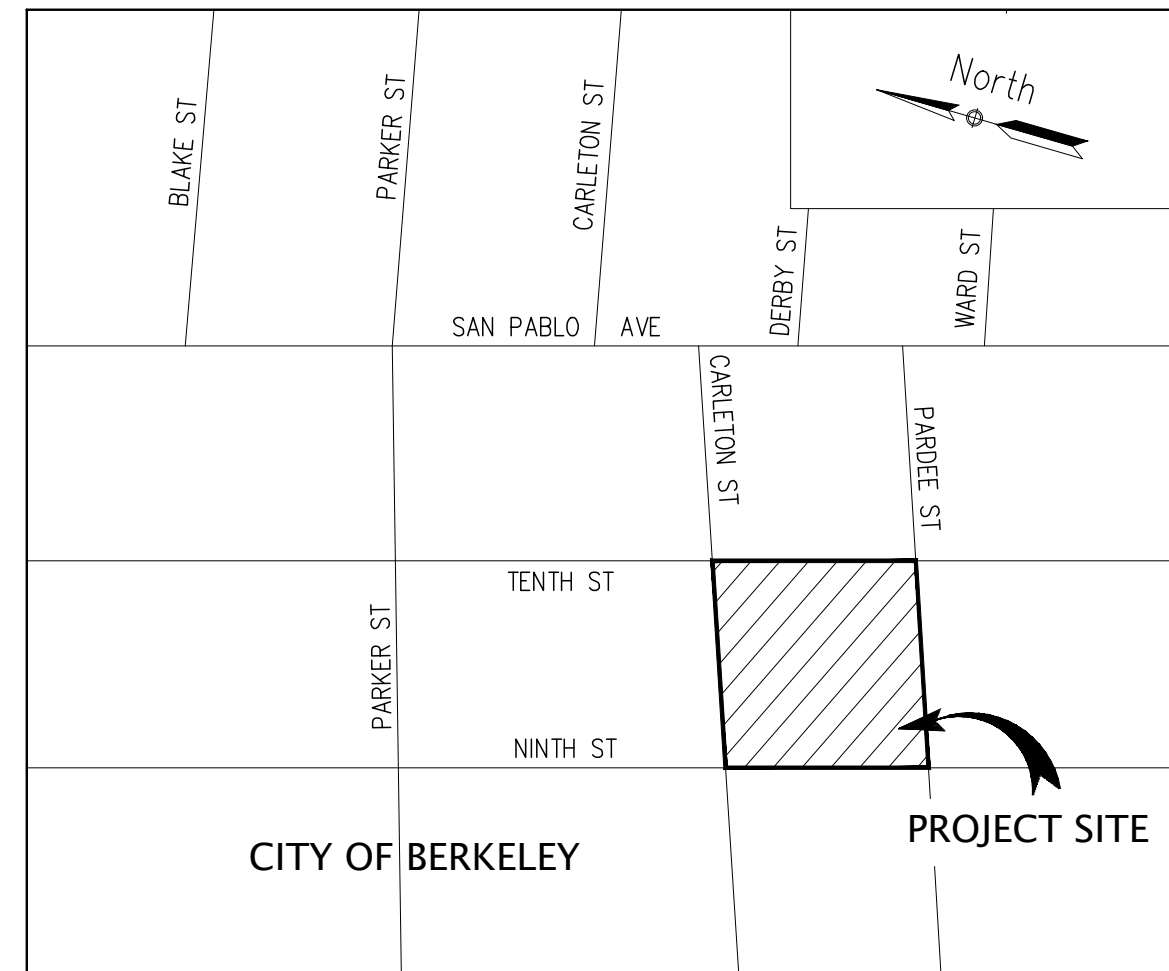
**T-1: Reimbursement Agreement to Facilitate Traffic Improvements**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                         |                                                 |                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------------------|
| <p>A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required project permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City’s pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.</p> <p><b>a. Intersection Improvements.</b> Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection, as determined necessary by the City Engineer.</p> <p><b>b. Signal Installation.</b> Signalization of the San Pablo</p> | <p>Create a construction management plan subject to review and approval by the City</p> | <p>Prior to the issuance of grading permits</p> | <p>City of Berkeley<br/>Department of Public Works, Transportation Division</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------------------|



| Mitigation Measure/<br>Condition of Approval                                                                                                                                                                                                                                                                       | Action Required                                                                                 | Monitoring Timing            | Responsible Agency                                                      | Compliance Verification |      |          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------|-------------------------------------------------------------------------|-------------------------|------|----------|
|                                                                                                                                                                                                                                                                                                                    |                                                                                                 |                              |                                                                         | Initial                 | Date | Comments |
| Avenue/Parker Street intersection and coordinated signal timing with the adjacent intersections on San Pablo Avenue.                                                                                                                                                                                               |                                                                                                 |                              |                                                                         |                         |      |          |
| <b>T-2: Driveway Safety</b>                                                                                                                                                                                                                                                                                        |                                                                                                 |                              |                                                                         |                         |      |          |
| The applicant shall provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Tenth and Parker Streets. Improvements shall occur prior to certificate of occupancy. | Provide 10 feet of red curb on either side of the project driveways on Tenth and Parker Streets | Prior to occupancy clearance | City of Berkeley<br>Department of Public Works, Transportation Division |                         |      |          |

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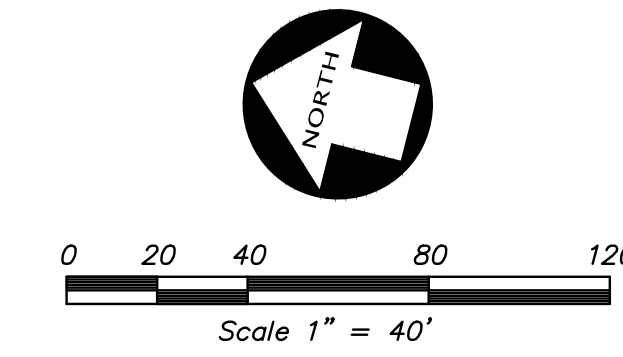
VICINITY MAP  
NO SCALE

# 2621 TENTH STREET / 1050 PARKER STREET PROJECT

## PARDEE BLOCK PARKING LOT PARKING PLAN

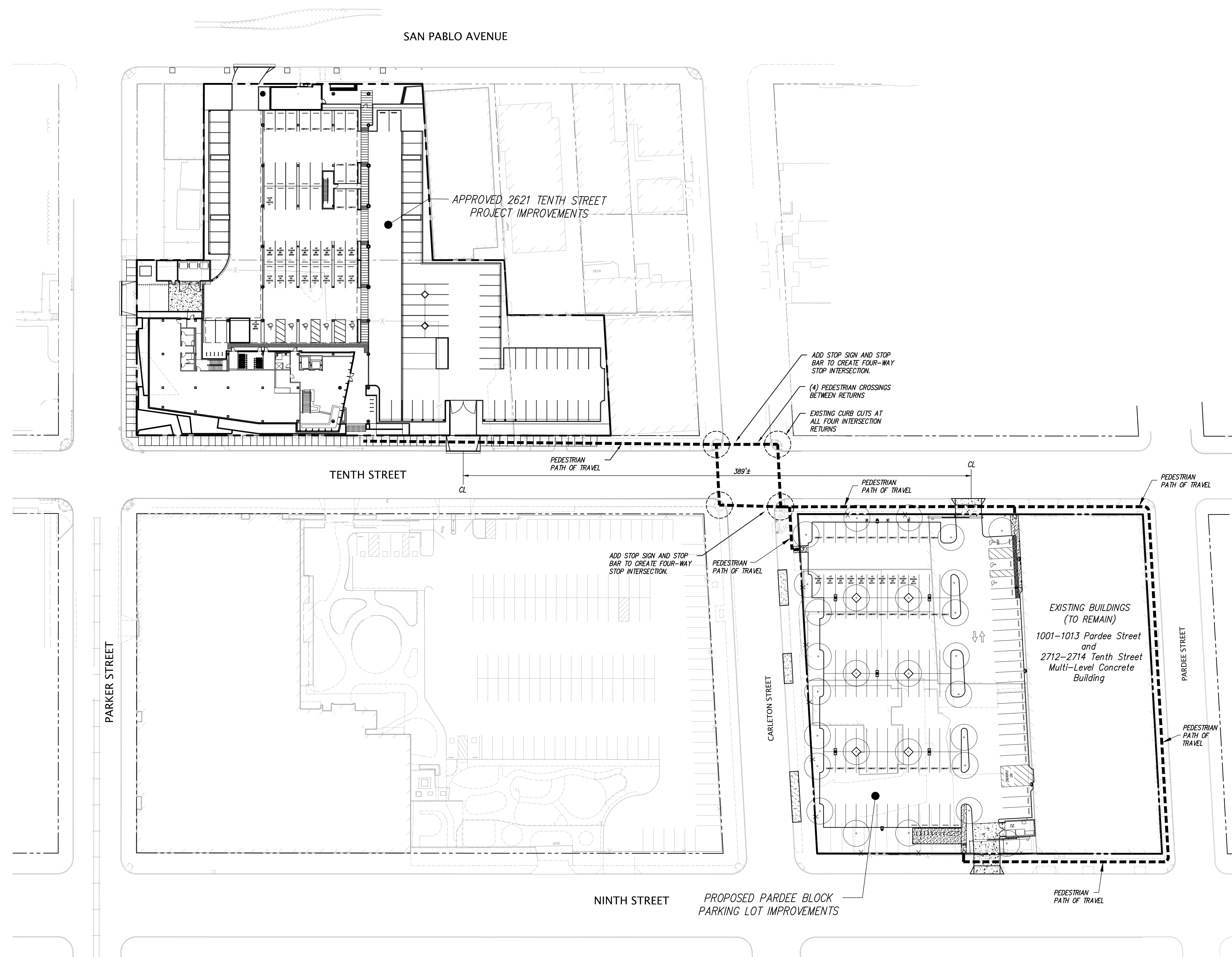
### BERKELEY, CALIFORNIA

AUGUST 17, 2018



**SHEET INDEX**

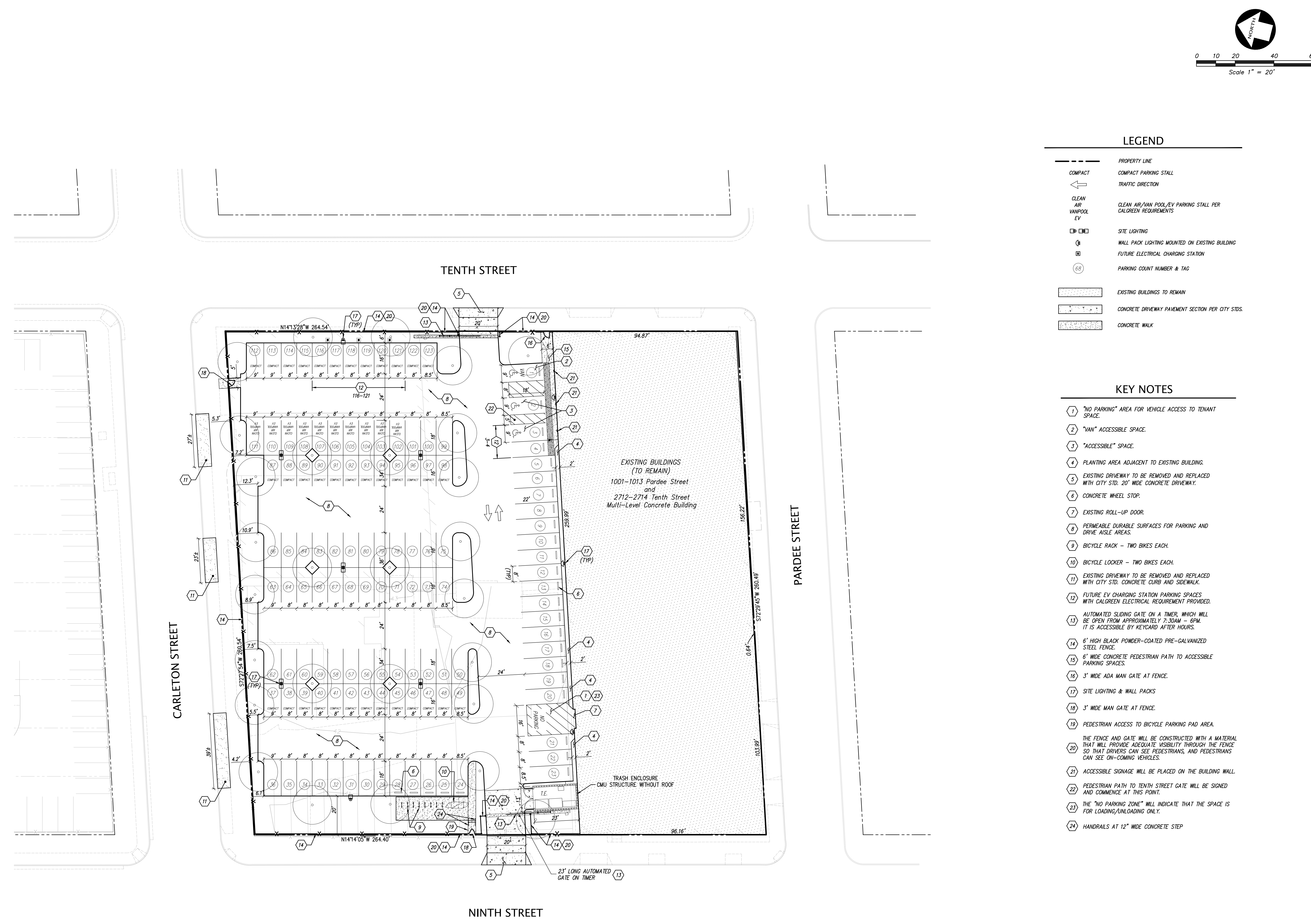
| CIVIL     |                             |
|-----------|-----------------------------|
| CV        | COVER SHEET                 |
| C1.1      | BOUNDARY/TOPOGRAPHIC SURVEY |
| C2.1      | SITE PLAN                   |
| C3.1      | DEMOLITION PLAN             |
| C4.1      | CONCEPTUAL GRADING PLAN     |
| LANDSCAPE |                             |
| L1.0      | LANDSCAPE PLAN              |
| L2.0      | SHADE CANOPY PLAN           |
| L3.0      | BIKE PARKING & SITE DETAILS |



|                                                                                                                                                                                                                                                                                                              |    |     |    |     |    |     |    |     |    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-----|----|-----|----|-----|----|-----|----|
| NO.                                                                                                                                                                                                                                                                                                          | BY | NO. | BY | NO. | BY | NO. | BY | NO. | BY |
|                                                                                                                                                                                                                                                                                                              |    |     |    |     |    |     |    |     |    |
| <p><b>KIER &amp; WRIGHT</b><br/>                 CIVIL ENGINEERS &amp; SURVEYORS, INC.<br/>                 2850 Collier Canyon Road<br/>                 Berkeley, CA 94705<br/>                 Phone: (925) 245-9288<br/>                 Fax: (925) 245-9796<br/>                 www.kierwright.com</p> |    |     |    |     |    |     |    |     |    |
|                                                                                                                                                                                                                                                                                                              |    |     |    |     |    |     |    |     |    |
| <p><b>COVER SHEET</b><br/>                 OF<br/> <b>1010-1016 CARLETON STREET, 2700 TENTH STREET</b><br/>                 FOR<br/> <b>PARDEE I, LLC</b><br/>                 BERKELEY, CALIFORNIA</p>                                                                                                      |    |     |    |     |    |     |    |     |    |
| DATE AUGUST 17, 2018                                                                                                                                                                                                                                                                                         |    |     |    |     |    |     |    |     |    |
| SCALE 1" = 40'                                                                                                                                                                                                                                                                                               |    |     |    |     |    |     |    |     |    |
| DESIGNER SAR                                                                                                                                                                                                                                                                                                 |    |     |    |     |    |     |    |     |    |
| JOB NO. A06632-4                                                                                                                                                                                                                                                                                             |    |     |    |     |    |     |    |     |    |
| SHEET <b>CV</b>                                                                                                                                                                                                                                                                                              |    |     |    |     |    |     |    |     |    |
| OF 5 SHEETS                                                                                                                                                                                                                                                                                                  |    |     |    |     |    |     |    |     |    |

Z:\2008\A06632-4\DWG\NO DELTA\A06632-4-COVER.dwg 8-17-18 02:11:56 PM sarcher

Z:\2025\A06632-4\DWG\NO DELTA\A06632-4-SP.dwg 8-17-18 02:15:18 PM carther



**LEGEND**

- PROPERTY LINE
- COMPACT COMPACT PARKING STALL
- ← TRAFFIC DIRECTION
- CLEAN AIR VANPOOL EV
- SITE LIGHTING
- WALL PACK LIGHTING MOUNTED ON EXISTING BUILDING
- FUTURE ELECTRICAL CHARGING STATION
- PARKING COUNT NUMBER & TAG
- EXISTING BUILDINGS TO REMAIN
- CONCRETE DRIVEWAY PAVEMENT SECTION PER CITY STDS.
- CONCRETE WALK

**KEY NOTES**

- 1 "NO PARKING" AREA FOR VEHICLE ACCESS TO TENANT SPACE.
- 2 "VAN" ACCESSIBLE SPACE.
- 3 "ACCESSIBLE" SPACE.
- 4 PLANTING AREA ADJACENT TO EXISTING BUILDING.
- 5 EXISTING DRIVEWAY TO BE REMOVED AND REPLACED WITH CITY STD. 20' WIDE CONCRETE DRIVEWAY.
- 6 CONCRETE WHEEL STOP.
- 7 EXISTING ROLL-UP DOOR.
- 8 PERMEABLE DURABLE SURFACES FOR PARKING AND DRIVE AISLE AREAS.
- 9 BICYCLE RACK - TWO BIKES EACH.
- 10 BICYCLE LOCKER - TWO BIKES EACH.
- 11 EXISTING DRIVEWAY TO BE REMOVED AND REPLACED WITH CITY STD. CONCRETE CURB AND SIDEWALK.
- 12 FUTURE EV CHARGING STATION PARKING SPACES WITH CALGREEN ELECTRICAL REQUIREMENT PROVIDED.
- 13 AUTOMATED SLIDING GATE ON A TIMER, WHICH WILL BE OPEN FROM APPROXIMATELY 7:30AM - 6PM. IT IS ACCESSIBLE BY KEYCARD AFTER HOURS.
- 14 6' HIGH BLACK POWDER-COATED PRE-GALVANIZED STEEL FENCE.
- 15 6' WIDE CONCRETE PEDESTRIAN PATH TO ACCESSIBLE PARKING SPACES.
- 16 3' WIDE ADA MAN GATE AT FENCE.
- 17 SITE LIGHTING & WALL PACKS
- 18 3' WIDE MAN GATE AT FENCE.
- 19 PEDESTRIAN ACCESS TO BICYCLE PARKING PAD AREA.
- 20 THE FENCE AND GATE WILL BE CONSTRUCTED WITH A MATERIAL THAT WILL PROVIDE ADEQUATE VISIBILITY THROUGH THE FENCE SO THAT DRIVERS CAN SEE PEDESTRIANS, AND PEDESTRIANS CAN SEE ON-COMING VEHICLES.
- 21 ACCESSIBLE SIGNAGE WILL BE PLACED ON THE BUILDING WALL.
- 22 PEDESTRIAN PATH TO TENTH STREET GATE WILL BE SIGNED AND COMMENCE AT THIS POINT.
- 23 THE "NO PARKING ZONE" WILL INDICATE THAT THE SPACE IS FOR LOADING/UNLOADING ONLY.
- 24 HANDRAILS AT 12" WIDE CONCRETE STEP

|          |    |            |             |     |    |            |             |     |    |
|----------|----|------------|-------------|-----|----|------------|-------------|-----|----|
| REVISION |    |            |             |     |    |            |             |     |    |
| NO.      | BY | DATE       | DESCRIPTION | NO. | BY | DATE       | DESCRIPTION | NO. | BY |
| 1        | AK | 08/17/2018 | SITE PLAN   | 1   | AK | 08/17/2018 | SITE PLAN   | 1   | AK |

**KIER & WRIGHT**  
**CIVIL ENGINEERS & SURVEYORS, INC.**  
 2850 Collier Canyon Road  
 Livermore, California 94551  
 Phone (925) 245-8788  
 Fax (925) 245-8796  
 www.kierwright.com

**SITE PLAN**  
 OF  
**1010-1016 CARLETON STREET, 2700 TENTH STREET**  
 FOR  
**PARDEE I., LLC**  
 CALIFORNIA

|          |                 |
|----------|-----------------|
| DATE     | AUGUST 17, 2018 |
| SCALE    | 1" = 20'        |
| DESIGNER | SAR             |
| JOB NO.  | A06632-4        |
| SHEET    | C2.1            |
| OF       | SHEETS          |



MATERIALS SCHEDULE - PARDEE PARKING LOT

| SYMBOL                      | DESCRIPTION                           | DETAIL             | PRODUCT/ITEM#               | FINISH/COLOR              | SOURCE/COMMENTS              |
|-----------------------------|---------------------------------------|--------------------|-----------------------------|---------------------------|------------------------------|
| <b>PAVING &amp; HEADERS</b> |                                       |                    |                             |                           |                              |
| A1                          | 4" CONCRETE PAVING - PED.             | SEE CITY STANDARDS | P.I.P. CONCRETE, TOOL JOINT | NATURAL GREY/BROOM FINISH | SEE CITY STANDARDS           |
| A2                          | CONCRETE UNIT PAVER - VEH. (ON GRADE) | SEE MFR. STANDARDS | 4"X8" AQUA-VIA PAVER(BCM)   | ANTIQUE PEWTER            | ACKERSTONE OR APPROVED EQUAL |
| A3                          | ADA TRUNCATED DOMES                   | S.C.D.             | 12"X12" CONCRETE PAVER      | CHARCOAL GREY             | ACKERSTONE                   |

| SYMBOL                               | DESCRIPTION              | DETAIL  | PRODUCT/ITEM#                                | FINISH/COLOR                 | SOURCE/COMMENTS               |
|--------------------------------------|--------------------------|---------|----------------------------------------------|------------------------------|-------------------------------|
| <b>STAIR, WALL, FENCE &amp; CURB</b> |                          |         |                                              |                              |                               |
| B1                                   | PEDESTRIAN GATE          | 5/L-3.0 | ULTRA FENCE/ UAF-200                         | BLACK POWDER-COATED          | ULTRA FENCE OR APPROVED EQUAL |
| B2                                   | SECURITY FENCE           | 5/L-3.0 | ULTRA FENCE/ UAF-200                         | BLACK POWDER-COATED          | ULTRA FENCE OR APPROVED EQUAL |
| B3                                   | VEHICULAR GATE           | 5/L-3.0 | ULTRA FENCE/ UAF-200 CANTILEVER W/TRACK      | BLACK POWDER-COATED          | ULTRA FENCE OR APPROVED EQUAL |
| B4                                   | CONCRETE STAIR AND RAILS | 1/L-3.0 | P.I.P. CONCRETE, PTD STL. RAIL AND BAR STOCK | NATURAL GREY, METALIC SILVER | SEE CITY STANDARDS            |

| SYMBOL                  | DESCRIPTION | DETAIL    | PRODUCT/ITEM#          | FINISH/COLOR         | SOURCE/COMMENTS |
|-------------------------|-------------|-----------|------------------------|----------------------|-----------------|
| <b>SITE FURNISHINGS</b> |             |           |                        |                      |                 |
| SF1                     | BIKE RACK   | 4,6/L-3.0 | BOLA OR APPROVED EQUAL | STAINLESS STEEL      | LANDSCAPE FORMS |
| SF2                     | BIKE LOCKER | 4,6/L-3.0 | DERO 40- DOUBLE-SIDED  | POWDERCOAT-IRON GREY | DERO / KEY LOCK |

| SYMBOL               | DESCRIPTION                         | DETAIL  | PRODUCT/ITEM#             | FINISH/COLOR | SOURCE/COMMENTS |
|----------------------|-------------------------------------|---------|---------------------------|--------------|-----------------|
| <b>SITE LIGHTING</b> |                                     |         |                           |              |                 |
| L1                   | PARKING LOT POLE LIGHT-SINGLE HEAD  | 3/L-3.0 | MODEL #99515 POLE-TOP LED | GRAPHITE     | BEGA            |
| L2                   | PARKING LOT POLE LIGHT- DOUBLE HEAD | 3/L-3.0 | MODEL #99528 POLE-TOP LED | GRAPHITE     | BEGA            |

PLANT SCHEDULE - PARDEE PARKING LOT

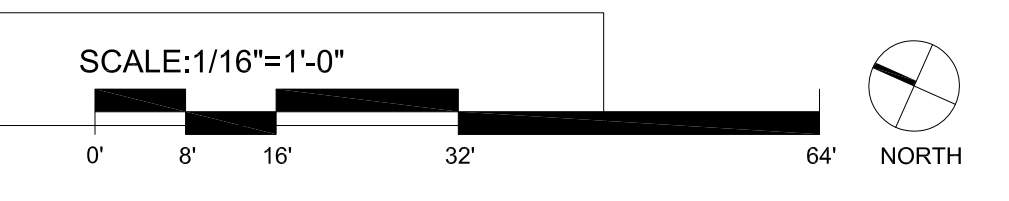
| SIZE                                          | ID       | BOTANICAL NAME                           | COMMON NAME          | COMMENT | WUCOL | NATIVE | SPACING  |
|-----------------------------------------------|----------|------------------------------------------|----------------------|---------|-------|--------|----------|
| <b>TREES</b>                                  |          |                                          |                      |         |       |        |          |
| 24" Box                                       | QUE RUB  | Quercus rubra                            | Red Oak              |         |       |        | As Shown |
| 24" Box                                       | CHI RET  | Chionanthus retusus                      | Fringe Tree          |         |       |        | As Shown |
| <b>SHRUBS/PERENNIALS/GROUNDCOVERS/GRASSES</b> |          |                                          |                      |         |       |        |          |
| 4" pot                                        | GA       | Sesleria autumnalis                      | Autumn Moor Grass    |         |       |        | 18"o.c.  |
| 1 Gal                                         | CT       | Carex tumilicola                         | Carex                |         |       |        | 18"o.c.  |
| 1 Gal                                         | BPP      | Baccharis 'Pigeon Point'                 | Dwarf Coyote Bush    |         |       |        | 36" o.c. |
| 1 Gal                                         | CHO      | Chondropetalum tectorum                  | Cape Rush            |         |       |        | As Shown |
| 15 Gal                                        | HIB      | Podocarpus elongatus 'Monnal'            | Icее Blue Podocarpus |         |       |        | As Shown |
| 15 Gal                                        | PL       | Prunus laurocerasus                      | Cherry laurel        |         |       |        | As Shown |
| 5 Gal                                         | SGA      | Salvia greggi 'Alba'                     | White Sage           |         |       |        | As Shown |
| 1 Gal                                         | SBB      | Salvia sonomensis 'Bees Bliss'           | Creeping Sage        |         |       |        | As Shown |
| 5 Gal                                         | OLE      | Olea europaea 'Little Ollie'             | Little Ollie Olive   |         |       |        | As Shown |
| 5 Gal                                         | PCN      | Pittosporum crassifolium 'nana'          | Taro                 |         |       |        | As Shown |
| 5 Gal                                         | CS       | Cistus spp.                              | Rockrose             |         |       |        | As Shown |
| 1 Gal                                         | VB       | Verbena bonariensis                      | Verbena              |         |       |        | As Shown |
| 1 Gal                                         | LS / LSP | Liatris spicata - white/purple           | Gayfeather           |         |       |        | As Shown |
| 1 Gal                                         | AM       | Achillea millefolium 'white'             | Yarrow               |         |       |        | As Shown |
| 5 Gal                                         | AF       | Anigozanthos flavidus 'red'              | Kangaroo Paw         |         |       |        | As Shown |
| 1 Gal                                         | GL       | Guara lindheimeri 'Whirling Butterflies' | Guara                |         |       |        | As Shown |
| 5 Gal                                         | ALO      | Aloe arborescens                         | Aloe                 |         |       |        | As Shown |
| 1 Gal                                         | NF       | Nepeta faassenii                         | Catmint              |         |       |        | As Shown |
| 1 Gal                                         | SM       | Scenecio mandraliscae                    | Blue Fingers         |         |       |        | As Shown |
| 1 Gal                                         | BF       | Bulbine fruiticans                       | Bulbine              |         |       |        | As Shown |

PLANT LIST INCLUDES:  
SELECTIONS FROM EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) AND ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY PUBLICATIONS.

PUBLICATIONS INCLUDE:  
-PLANTS & LANDSCAPES FOR SUMMER DRY CLIMATES OF SF BAY  
-BAY FRIENDLY GARDENING

NOTE:  
PROPOSED LANDSCAPE DESIGN WILL MEET OR EXCEED CITY OF BERKELEY WATER EFFICIENT LANDSCAPE ORDINANCE.

NOTE:  
PROPOSED LANDSCAPE SQUARE FOOTAGE = 5,668 SF



|          |     |    |      |
|----------|-----|----|------|
| REVISION | NO. | BY | DATE |
|          |     |    |      |
| REVISION | NO. | BY | DATE |
|          |     |    |      |

**STUDIO FIVE | DESIGN**  
Landscape Architecture + Site Planning  
Studio Five Design, Inc.  
25 San Armando Avenue  
Berkeley, CA 94702  
Tel: 415.524.8574  
Fax: 415.524.8578

**LANDSCAPE PLAN**  
OF  
**1010-1016 CARLETON STREET, 2700 TENTH STREET**  
FOR  
**PARDEE I, LLC**  
BERKELEY, CALIFORNIA

|          |                 |
|----------|-----------------|
| DATE     | AUGUST 17, 2018 |
| SCALE    | SCALE: AS NOTED |
| DESIGNER | RJS             |
| JOB NO.  | 16003.01        |
| SHEET    | <b>L1.0</b>     |
| OF       | SHEETS          |



### PARKING LOT SHADE CREDIT CALCULATION TABLE

| Symbol / (canopy/sq. ft.) | 100%           | 75% | 50%          | 25% | TOTAL     |
|---------------------------|----------------|-----|--------------|-----|-----------|
| T1 (34'/907)              | 14 = 12,698 sf | -   | 12 = 5442 sf | -   | 18,140 sf |
| T2 (25'/490)              | -              | -   | 2 = 245 sf   | -   | 490 sf    |
| T3 (20'/314)              | -              | -   | -            | -   | -         |
| Total Tree Shade          |                |     |              |     | 18,630 sf |
| Total Auxiliary Shade     |                |     |              |     | -         |
| Total Shade               |                |     |              |     | 18,630 sf |
| Total Parking             |                |     |              |     | 34,613 sf |
| Percent Shade             |                |     |              |     | 53%       |

**LEGEND**

- EXISTING TREE
- PROPOSED TREE
- SHADE AREA

SCALE: 1"=16'-0"

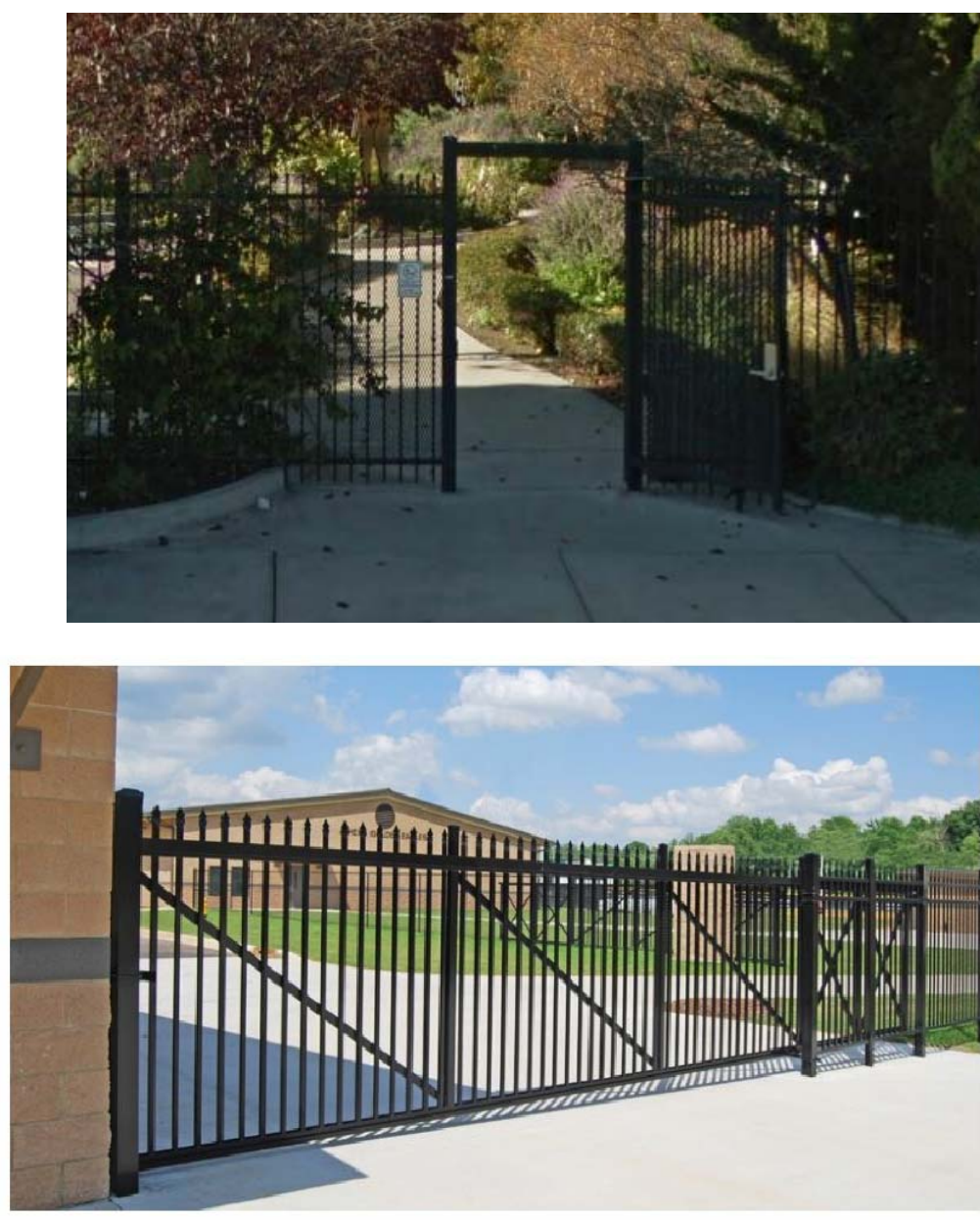
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|-----|----|------|----------|-----|----|------|----------|
| NO. | BY | DATE | REVISION | NO. | BY | DATE | REVISION |
|     |    |      |          |     |    |      |          |

**SHADE CANOPY PLAN**  
OF  
**1010-1016 CARLETON STREET, 2700 TENTH STREET**  
FOR  
**PARDEE I, LLC**

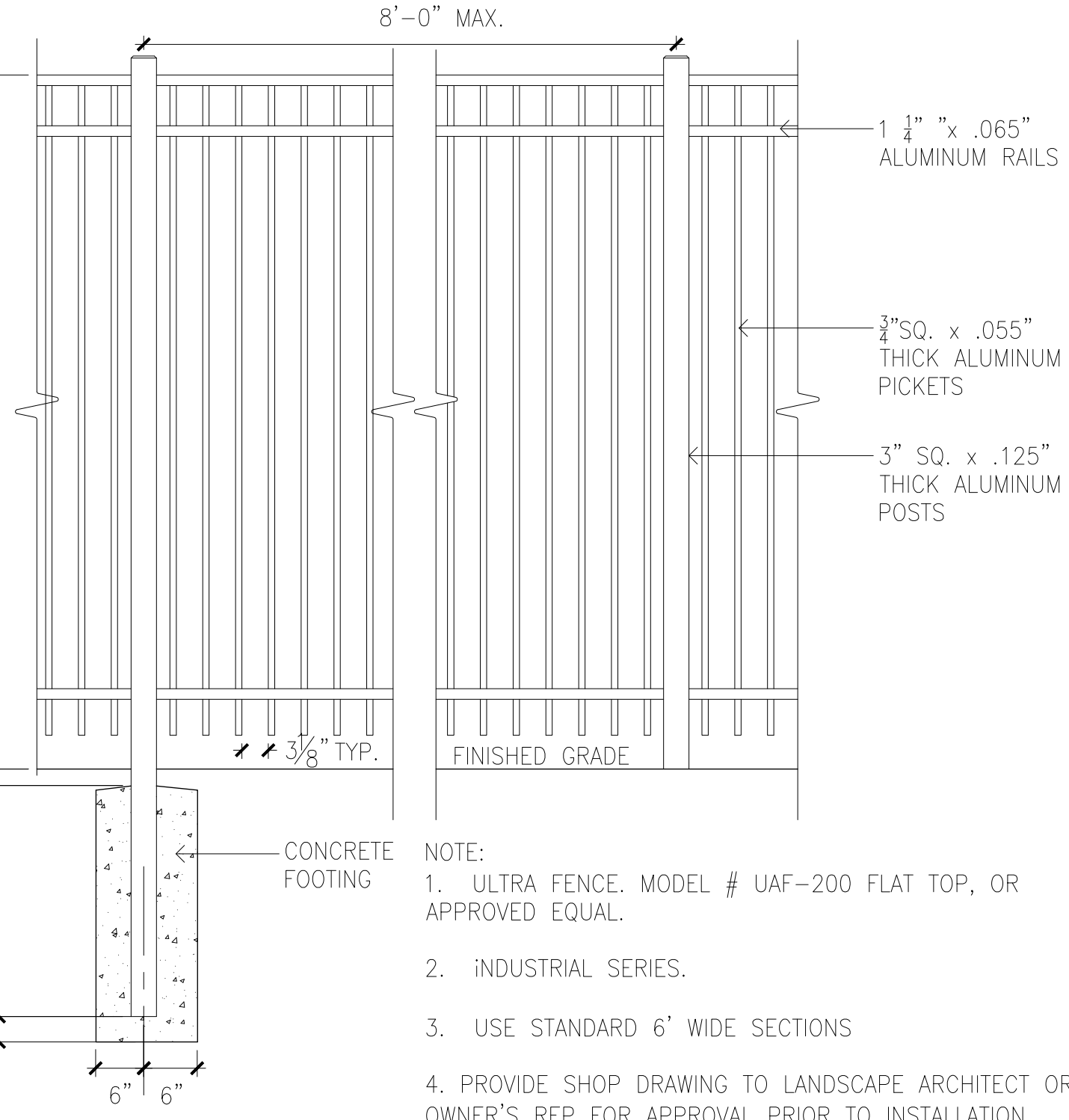
BERKELEY, CALIFORNIA

**STUDIO FIVE | DESIGN**  
Landscape Architecture + Site Planning  
Studio Five Design, Inc.  
25 San Armando Avenue  
Berkeley, CA 94702  
Tel: 415.224.8574  
Fax: 415.224.8578

|          |                 |
|----------|-----------------|
| DATE     | AUGUST 17, 2018 |
| SCALE    | SCALE: AS NOTED |
| DESIGNER | RJS             |
| JOB NO.  | 16003.01        |
| SHEET    | <b>L2.0</b>     |
| OF       | SHEETS          |



CANTILEVER GATES



5 SECURITY FENCE/GATE  
SCALE: 3/4" = 1'-0"

### Ultra Aluminum™ Fencing Specifications

| Component                        | Residential Series | Commercial Series | Industrial Series |
|----------------------------------|--------------------|-------------------|-------------------|
| <b>Pickets</b>                   | 1" sq. x .055"     | 1" sq. x .055"    | 1" sq. x .055"    |
| <b>Ultra Picket</b>              | 1" sq. x .055"     | 1" sq. x .055"    | 1" sq. x .055"    |
| <b>Light Commercial Picket</b>   | 1" sq. x .055"     | 1" sq. x .055"    | 1" sq. x .055"    |
| <b>Rails</b>                     | 1 1/2" x .065"     | 1 1/2" x .065"    | 1 1/2" x .065"    |
| <b>Standard Posts</b>            | 3" sq. x .125"     | 3" sq. x .125"    | 3" sq. x .125"    |
| <b>Ultra Posts</b>               | 3" sq. x .125"     | 3" sq. x .125"    | 3" sq. x .125"    |
| <b>Ultra Picket Post Spacing</b> | 12" on center      | 12" on center     | 12" on center     |
| <b>Ultra Picket Post Spacing</b> | 12" on center      | 12" on center     | 12" on center     |
| <b>Height Available</b>          | 36" 42" 48"        | 36" 42" 48"       | 36" 42" 48"       |
|                                  | 54" 60" 72"        | 54" 60" 72"       | 54" 60" 72"       |

**Finish Options:**  
Ultra Fence® is available in a wide selection of design configurations.

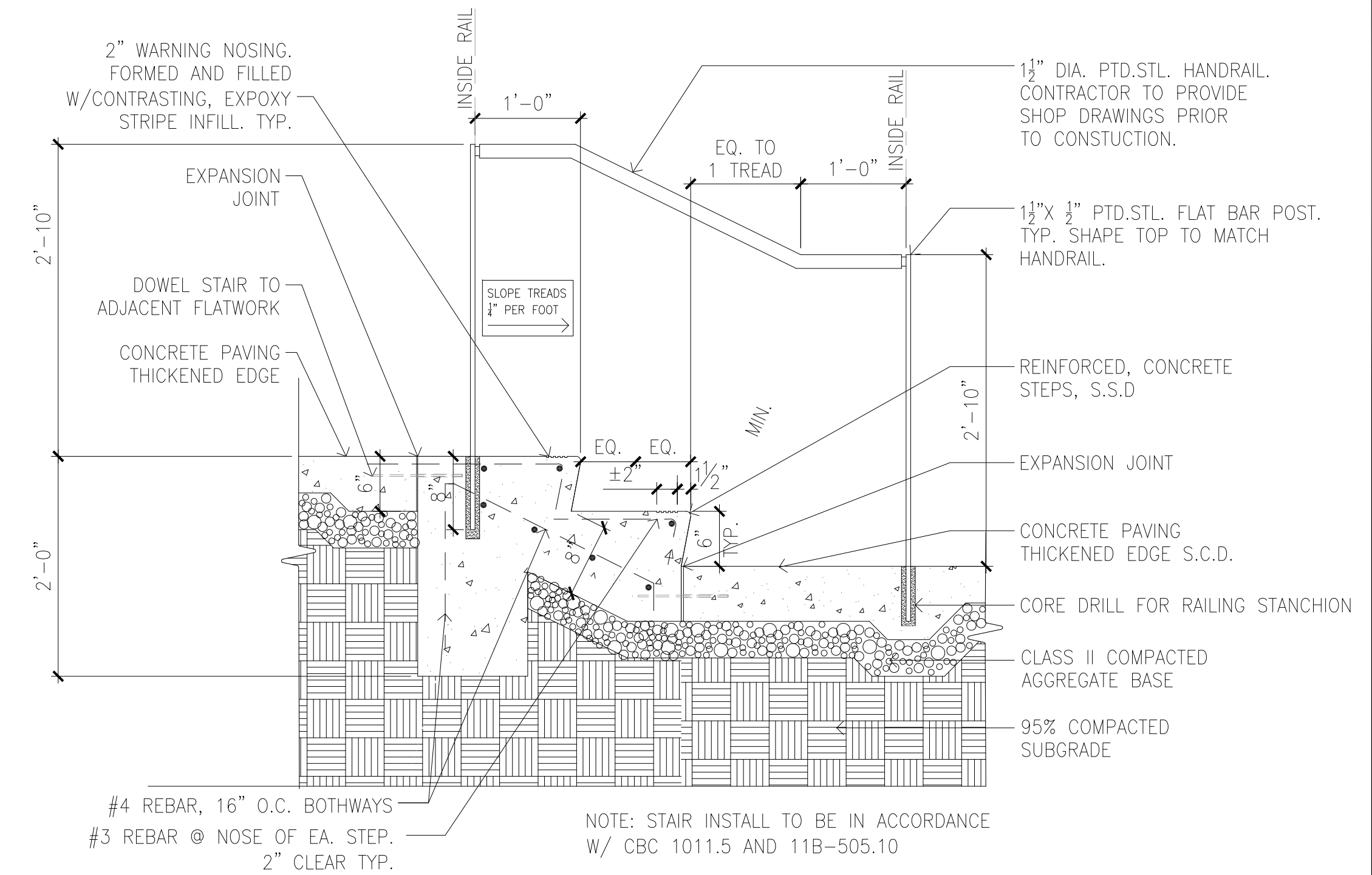
**Ultra Aluminum Lifetime Warranty**  
Ultra Aluminum® fence and railing products are guaranteed for a lifetime against rust, corrosion, fading, and discoloration. The warranty is void if the fence is painted, coated, or treated with any other substance.

**Environmentally Responsible**  
Ultra Aluminum® fence and railing products are made from 100% recycled aluminum. The manufacturing process is environmentally friendly and sustainable.

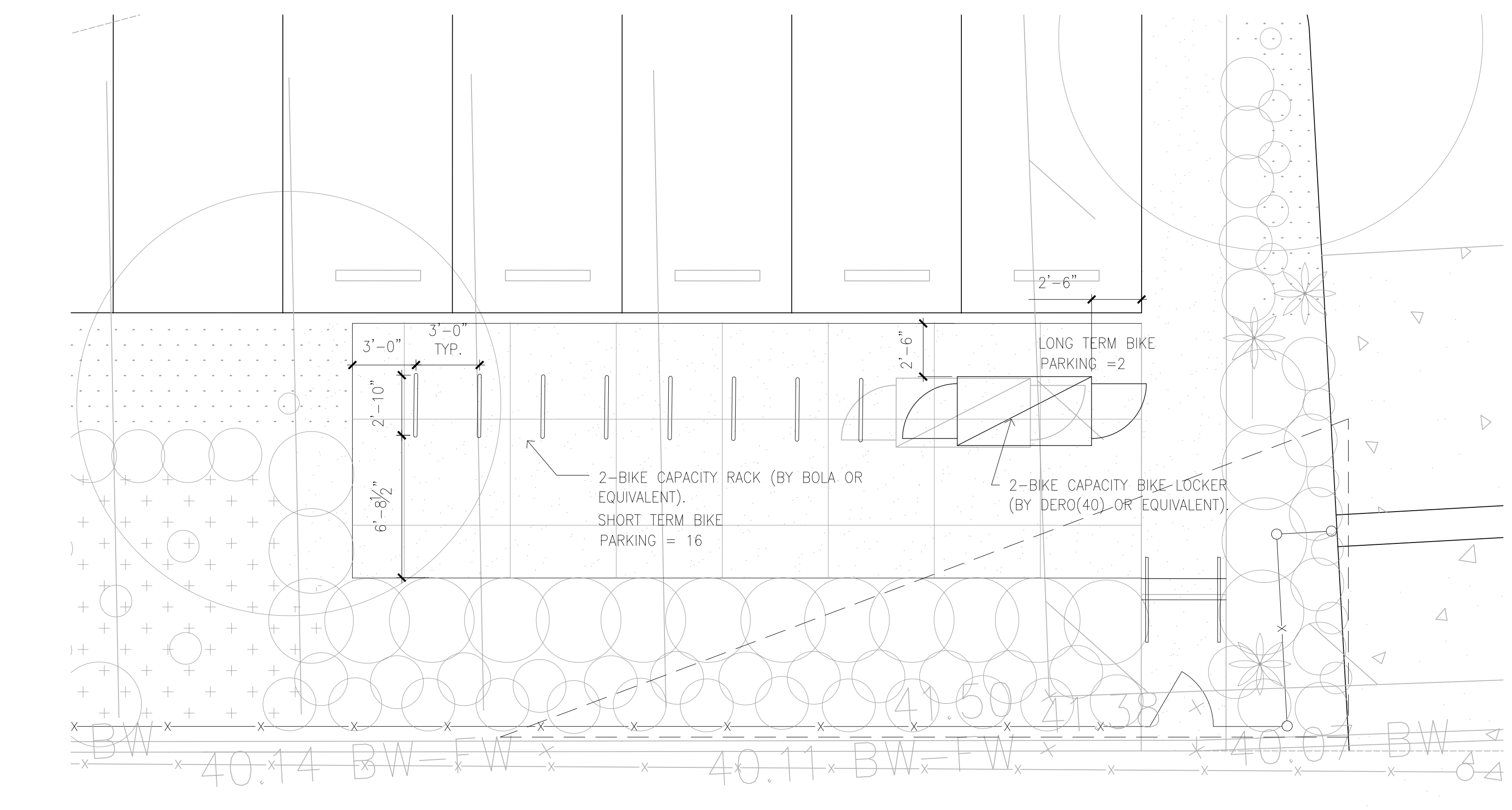
ULTRAFENCE.COM | 800.868.4420  
ULTRA™ is a registered trademark of Ultra Aluminum Manufacturing Inc.



3 PARKING POLE-TOP LIGHT FIXTURE  
SCALE: 3/4" = 1'-0"



1 CONCRETE STAIR & HANDRAIL (12" TREAD)  
SCALE: 1" = 1'-0"



6 BIKE PARKING PLAN  
SCALE: 1/4" = 1'-0"

### DERO BIKE LOCKER™ Submittal Sheet

**CAPACITY:** 1-2 Bikes depending on configuration

**MATERIALS:** Base: 1 1/2" x 1 1/2" square tube  
Corner: 1 1/2" plate  
Slider: 1 1/2" plate  
Door: 1 1/2" plate  
Top: 1 1/2" plate  
Control Device: 1 1/2" aluminum sheet

**FINISHES:**  
 **Silver/Black**  
An after fabrication hot dipped galvanized finish is our standard option.  
 **Powder Coat**  
Our powder coat finish assures a high level of adhesion and durability by following these steps:  
1. Sandblast  
2. Epoxy primer electrocoat applied  
3. Final thick TPOC polyester powder coat

**LOAD DATA:** 40 psf snow, 90 mph wind exposure B, high seismic

**SETBACKS:** Allow a 60" clearance from door face.

**STANDARD OPTIONS:**  
• Gear hook  
• Levelling feet  
• Ventilation window on doors  
• Graffiti resistant  
• UV Resistant  
• Numerous colors available

www.dero.com | 1-888-337-6729  
© 2017 Dero

4 BICYCLE RACK AND LOCKER  
SCALE: 3/4" = 1'-0"

### BOLA® Product Data Sheet

**Bike Rack**  
• Capacity: 2 bikes  
• Bike racks made of 1 1/2" x 1 1/2" x 120" wall stainless steel tubing, with a 44 inch wide galvanized finish on base and legs.  
• Rack is two modular 11" round coated steel.  
• Rack must be anchored.  
• Used an secure two bicycles parked side-by-side to the rack.  
• The bicycles can be locked in opposite direction, or in the same direction. The rack provides two ports contact to prevent the bicycles from tipping over.  
• A reinforced D-shaped steel rack can secure both a wheel and the frame.

| STYLE | DEPTH | WIDTH | HEIGHT | PRODUCT WEIGHT |
|-------|-------|-------|--------|----------------|
| 100   | 36"   | 18"   | 58"    | 150#           |

**To Specify**  
• Select bike rack style. Specify powdercoat color or stainless steel.  
• All metal parts are finished with Landscape Form® proprietary Pergard IP polymer powdercoat, a hard yet flexible finish that resists chipping, peeling and fading.  
• Call for standard color chart.

**Designed by Brian Kane, IDSA**  
All Landscape Form® bike racks meet guidelines established by the Association of Pedestrian and Bicycle Professionals.

Visit our [landscapeforms.com](http://landscapeforms.com) for more information. Specifications are subject to change without notice. Landscape Form® supports the Landscape Architectural Foundation in the Bay Area. ©2016 Landscape Form, Inc. Printed in U.S.A.  
Landscape Form, Inc. | 800.521.2846 | P. 250.241.5405 | 7800 E. Arroyo Ave., Redwood, CA 94068

4 BICYCLE RACK AND LOCKER  
SCALE: 3/4" = 1'-0"

REVISION

BY NO

REVISION

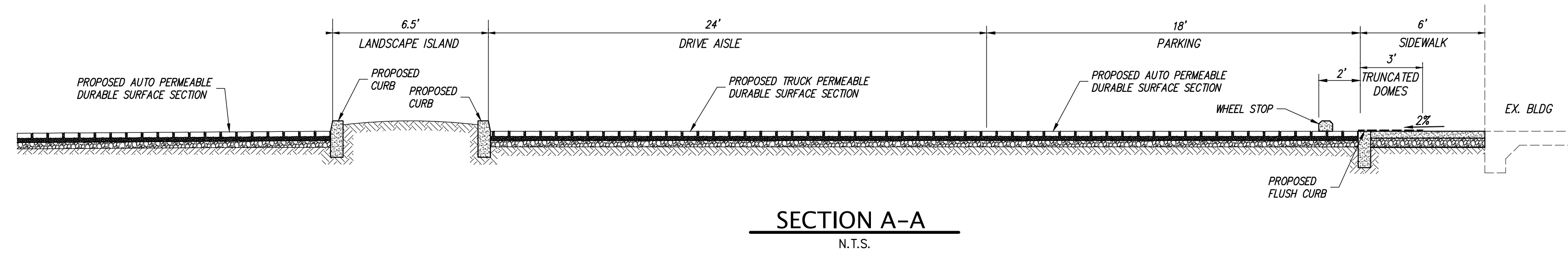
NO

STUDIO FIVE | DESIGN  
Landscape Architecture + Site Planning  
Studio Five Design, Inc.  
25 San Antonio Avenue  
Berkeley, CA 94702  
Tel: 415.824.8517  
Fax: 415.824.8518

LICENSED LANDSCAPE ARCHITECT  
R. CHARD J. SHAW  
NO. 4742  
REN. 5/31/19  
DATE: 08/17/18  
STATE OF CALIFORNIA

BIKE PARKING & SITE DETAILS  
OF  
1010-1016 CARLETON STREET, 2700 TENTH STREET  
FOR  
PARDEE I, LLC  
BERKELEY, CALIFORNIA

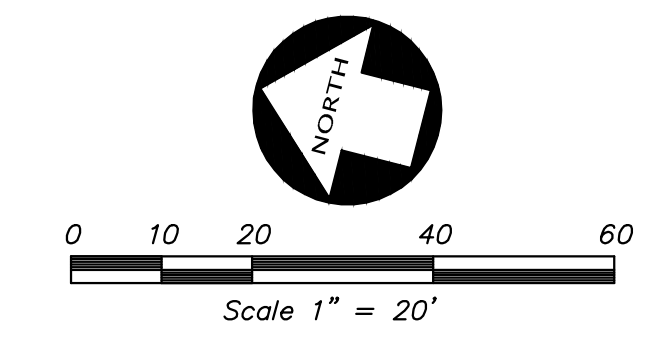
DATE: AUGUST 17, 2018  
SCALE: SCALE: AS NOTED  
DESIGNER: RJS  
JOB NO.: 16003.01  
SHEET: L3.0  
OF SHEETS



**EARTHWORK SUMMARY**

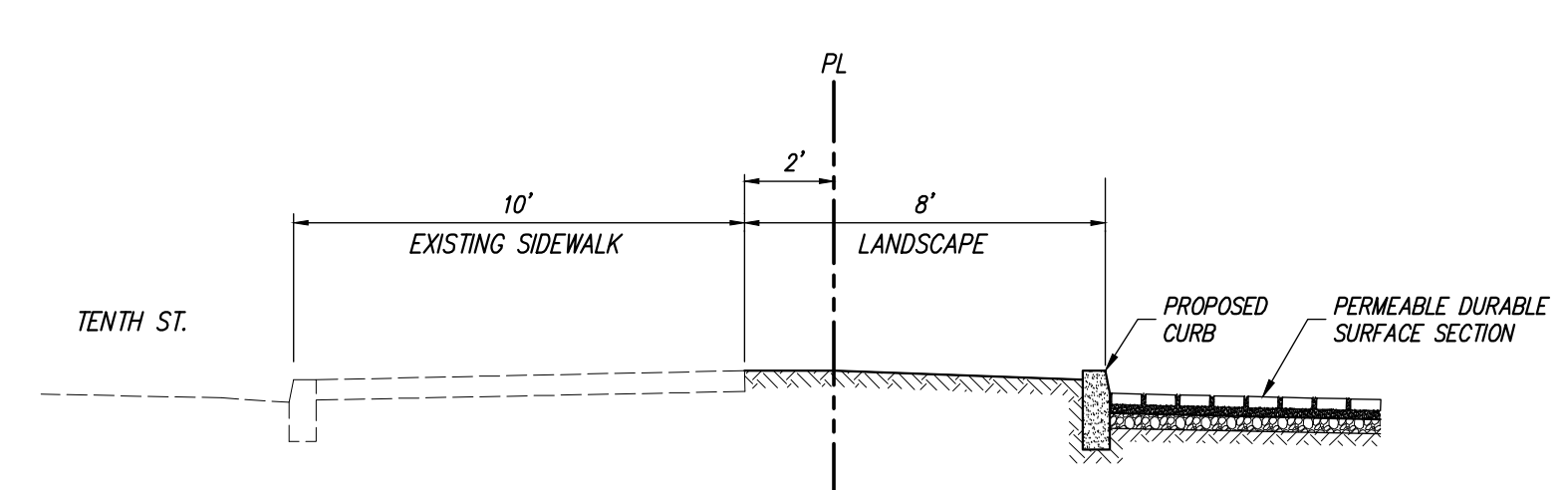
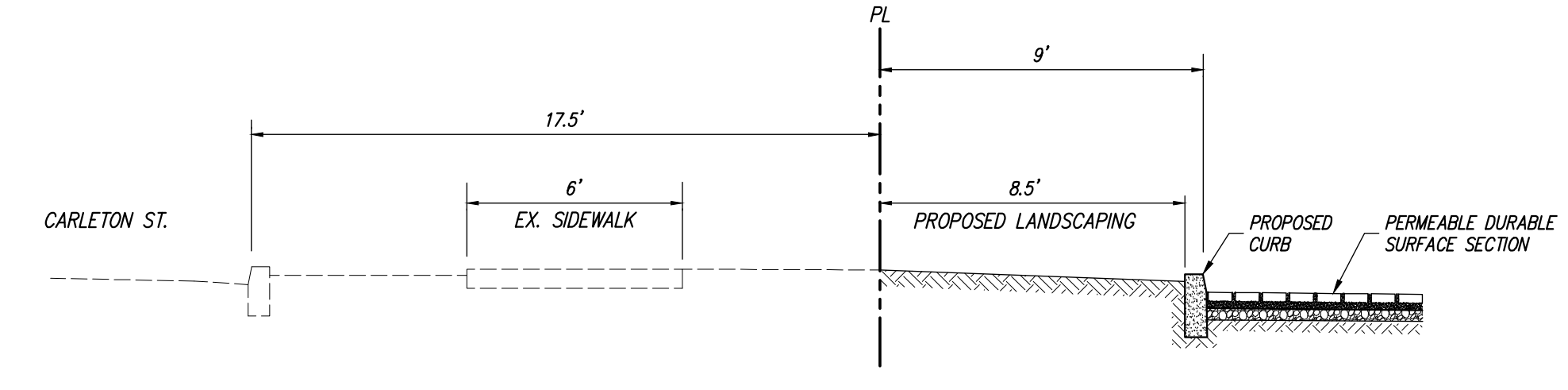
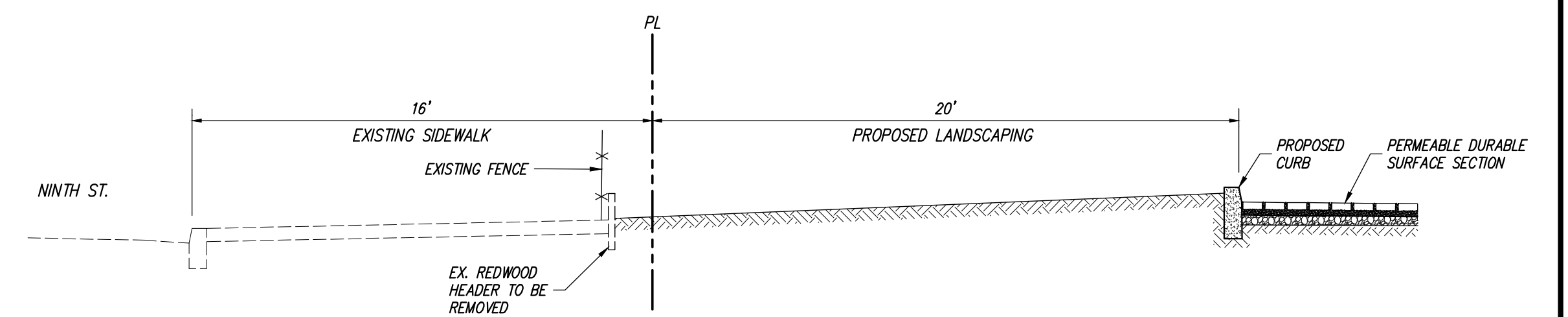
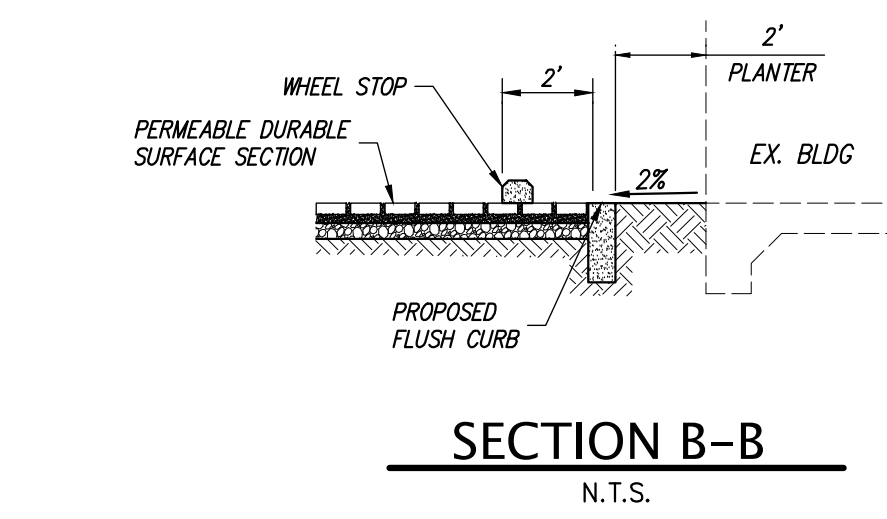
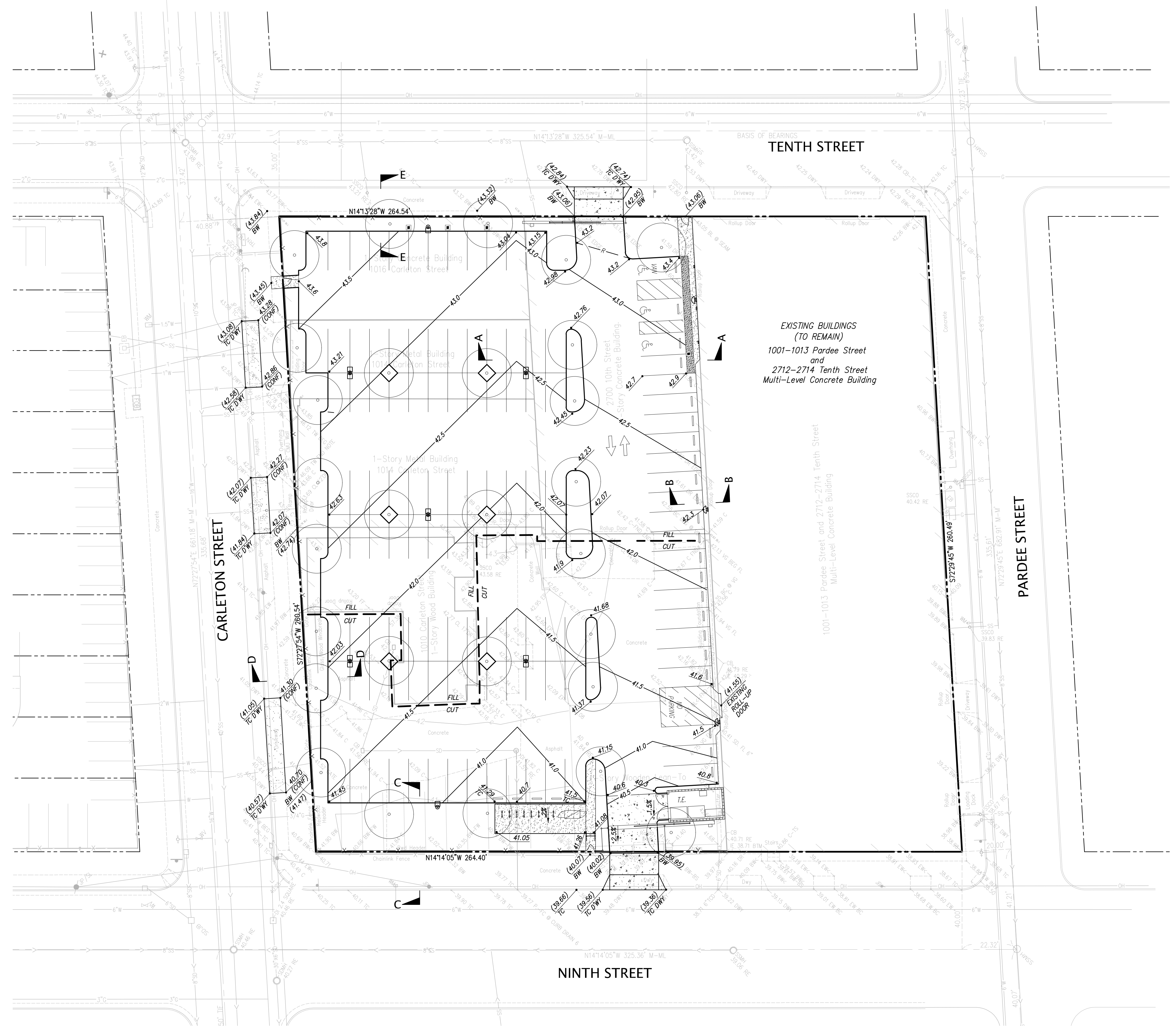
CUT: 341 CY±  
 FILL: 798 CY±

NOTE:  
 THE EARTHWORK QUANTITIES SHOWN ON THESE PLANS ARE STATED ONLY FOR CALCULATION OF GRADING AND BUILDING PERMIT FEES. THESE QUANTITIES DO NOT INCLUDE TRENCH OR FOOTING SPOOLS, SHRINK OR SWELL FROM COMPACTING EFFORTS OR OTHER VARIABLES. THE ENGINEER MAKES NO REPRESENTATION THIS SITE WILL BALANCE. THE CONTRACTOR SHALL DETERMINE HIS OWN EARTHWORK QUANTITIES AND BASE HIS BID ACCORDINGLY.



**LEGEND**

- ▲ AREA DRAIN
- SD CATCH BASIN
- SD JUNCTION BOX
- SD MANHOLE
- SD CLEAN-OUT
- FLOW LINE
- FL FINISH FLOOR
- PV PAVEMENT
- RE RIM ELEVATION
- (42.8) PROPOSED SPOT ELEVATION
- (39.8) EXISTING SPOT ELEVATION



|    |     |          |
|----|-----|----------|
| BY | NO. | REVISION |
| BY | NO. | REVISION |
| BY | NO. | REVISION |
| BY | NO. | REVISION |

|                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>KIER &amp; WRIGHT</b><br/>                 CIVIL ENGINEERS &amp; SURVEYORS, INC.<br/>                 2850 Collier Canyon Road<br/>                 Livermore, California 94551<br/>                 Phone (925) 245-8788<br/>                 Fax (925) 245-8796<br/>                 www.kierwright.com</p> | <p><b>REGISTERED PROFESSIONAL ENGINEER</b><br/>                 CIVIL ENGINEERING &amp; SURVEYING<br/>                 No. 70005<br/>                 STATE OF CALIFORNIA</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

CONCEPTUAL GRADING PLAN  
 OF  
 1010-1016 CARLETON STREET, 2700 TENTH STREET  
 FOR  
 PARDEE I., LLC  
 BERKELEY, CALIFORNIA

DATE: AUGUST 17, 2018  
 SCALE: 1" = 20'  
 DESIGNER: SAR  
 JOB NO.: A06632-4  
 SHEET: **C4.1**  
 OF SHEETS

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CITY OF BERKELEY  
CITY CLERK DEPT

2019 FEB -4 PM 4: 23



VIA HAND DELIVERY

February 4, 2019

Mr. Mark Numainville  
City Clerk  
City of Berkeley  
2180 Milvia Street, 1st Floor  
Berkeley, CA 94704

**RE: Pardee Block Parking Lot Project (2700 Tenth) – Use Permit #ZP2018-0116  
1050 Parker Street Medical Office Building - Use Permit #ZP2018-0117  
Initial Study-Mitigated Negative Declaration (IS-MND) – 1050 Parker Street Medical Office and  
Off-Site Parking Lot Project**

Dear Mr. Numainville,

With the filing of this letter and the payment of the required fee, we are hereby appealing the following January 24, 2019 decisions of the Zoning Adjustments Board (ZAB):

1. Denial of Pardee Block Parking Lot Project (2700 Tenth) – Use Permit #ZP2018-0116
2. Approval of 1050 Parker Street Medical Office Building - Use Permit #ZP2018-0117
3. Approval of Initial Study-Mitigated Negative Declaration (IS-MND) – 1050 Parker Street Medical Office and Off-Site Parking Lot Project

We are appealing all three of these items since they together make up the "Project."

Our reason for the appeal is that the ZAB should have followed the recommendations of staff on both agenda items. Those recommendations were formulated based on the professional opinion of Planning Department and Traffic Department staff with input from expert outside planning and traffic consultants (Rincon Consulting and Fehr & Peers respectively).

At the ZAB meeting on October 25, 2018, the applicant was denied a vote and asked instead to provide additional clarification and parking analysis work. This work was done at the applicant's expenses and the determination was that the original traffic and parking conclusions were valid. The staff recommendation and determination were ignored by the ZAB on January 24, 2019.

The approval by the ZAB of Use Permit ZP2018-0117 alone does not allow the medical office project to proceed because the applicant still has to provide 88 off-site spaces at a location to be determined. Assuming such spaces could be located, that process alone would add many months to the process.

February 4, 2019

Page 2

We encourage City Council to review the recording of the ZAB meeting of January 24, 2019, in particular the comments made by the Chair pro-tem, Ms. Denise Pinkston, in support of the Project. Ms. Pinkston very eloquently laid out the significant community benefits of the combined Project (2621 Tenth Street plus parking on the Pardee Block). Those benefits include the provision of quality local primary medical services to Berkeley residents and employees, as well as the creation of approximately 135 new jobs.

Subsequent to the January 24<sup>th</sup> meeting, the owner of the Berkeley Smog Only Test Center exercised his lease termination option, which was provided to him by Landlord, and will be leaving the Pardee Block property at the end of February 2019.

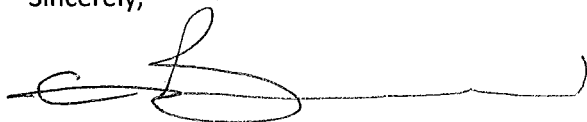
Therefore, the only business that will be required to terminate its lease early on the October 31, 2019 date that we have agreed to is "Titan Commercial Wraps." This tenant, which places plastic advertising wraps on commercial vehicles, has an original lease expiration date of March 31, 2020 and occupies a single approximately 2,000 square feet building in the center of the future lot. The remaining seven structures, totaling approximately 30,000 square feet, will be vacant on November 1, 2019.

The detriment of removing eight old single-story industrial and storage structures on the Pardee Block site, which are at or beyond their useful life, is far exceeded by the benefit to be gained by addition of of a medical office facility on 2621 Tenth Street.

Please do not hesitate to contact me should you require further information.

We reserve the right to add information and detail to our appeal at a later date.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Barlow", with a long horizontal flourish extending to the right.

Christopher Barlow  
Applicant for 2621 Tenth Street, LLC and Pardee I, LLC

**WAREHAM**  
DEVELOPMENT  
VIA HAND DELIVERY

CITY OF BERKELEY  
CITY CLERK DEPT

2019 MAR 20 PM 12:49

March 20, 2019

Mr. Mark Numainville  
City Clerk  
City of Berkeley  
2180 Milvia Street, 1st Floor  
Berkeley, CA 94704

**RE: Pardee Block Parking Lot Project (2700 Tenth) – Use Permit #ZP2018-0116  
1050 Parker Street Medical Office Building - Use Permit #ZP2018-0117  
Initial Study-Mitigated Negative Declaration (IS-MND) – 1050 Parker Street Medical Office and  
Off-Site Parking Lot Project**

Dear Mr. Numainville,

Further to my letter dated February 4, 2019, please accept this letter as formal notification that Applicant is withdrawing the appeal of the January 24, 2019 decisions of the Zoning Adjustments Board with regard to two of the three items:

1. Approval of 1050 Parker Street Medical Office Building - Use Permit #ZP2018-0117
2. Approval of Initial Study-Mitigated Negative Declaration (IS-MND) – 1050 Parker Street Medical Office and Off-Site Parking Lot Project

**Our appeal still stands with regard to the Zoning Adjustment Board’s Denial of Pardee Block Parking Lot Project (2700 Tenth) – Use Permit #ZP2018-0116.**

We are in receipt of the City’s notification that the appeal will be held on April 30, 2019 and look forward to the opportunity to resolving this critical matter with the City Council.

Our reason for appeal is that the Zoning Adjustments Board (ZAB) should have followed the recommendations of staff to approve the Pardee Use Permit. Those recommendations were formulated based on the professional opinion of Planning Department and Traffic Department staff with input from expert outside planning and traffic consultants (Rincon Consulting and Fehr & Peers respectively).

At the ZAB meeting of October 25, 2018, we were denied a vote and asked instead to provide additional clarification and parking analysis work. This work was done at applicant’s expenses and the conclusions were that the original traffic and parking conclusions were valid. This verification was ignored by the ZAB on January 24, 2019.

We encourage the council to review the recording of the ZAB meeting of January 24, 2019, in particular the comments made by the Chair pro-tem, Ms. Denise Pinkston in support of the project. Ms. Pinkston very eloquently laid out the significant community benefits of the combined Project (2621 Tenth Street plus parking on the Pardee block). Those benefits include the provision of local quality primary medical services to Berkeley residents and employees as well as the creation of approximately 135 new jobs.

As referenced in my previous letter, the tenant Berkeley Smog Only Test Center accepted Landlord's offer to terminate its lease early and this tenant vacated the property at the end of February 2019.

Therefore, the only business that will be remaining in the area to be converted to a parking lot and thus required to terminate its lease early on the October 31, 2019 date that we have agreed to is "Titan Commercial Wraps". This company places plastic advertising wraps on commercial vehicles. This tenant occupies a single 2,000 square feet building in the center of the lot under a lease that had an original expiration date of 3/31/2020. The remaining seven structures, totaling 25,000 square feet will be vacant on November 1, 2019.

The detriment of removing eight old single story industrial and storage structures that are at, or beyond, their useful life on the Pardee Block is far exceeded by the benefit to be gained by the construction of a medical office on 2621 Tenth Street.

Please do not hesitate to contact me should you require further information.

We reserve the right to add information and detail to our appeal at a later date.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Barlow". The signature is fluid and cursive, with a prominent initial "C" and "B".

Christopher Barlow  
Wareham Development  
Applicant for 2621 Tenth Street, LLC and Pardee I, LLC



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

FOR BOARD ACTION  
JANUARY 24, 2019

[Text that has been revised or added from the October 25, 2018, ZAB Staff Report is indicated in bold text.]

## 1050 Parker Street Medical Office Building

Use Permit #ZP2018-0117 for the modification of Use Permit #ZP2016-0170 to allow for a previously approved, but not yet constructed, 60,670 square-foot building with 20,300 square feet of medical office use and 40,300 square feet of research and development use to be used entirely for medical offices. This project is in conjunction with construction of an off-site parking lot to provide for a portion the required parking (Use Permit #ZP2018-0116). A total of 115 automobile parking spaces and 46 bicycle parking spaces would be provided on the medical office site; an additional 88 automobile parking spaces would be provided at the off-site parking lot.

### I. Background

#### A. Land Use Designations:

- General Plan: Manufacturing and Avenue Commercial
- Area Plan: West Berkeley Plan
- **Current Zoning:** Mixed Use Light Industrial (MU-LI) and Commercial West Berkeley (C-W)
- **Pending Zoning: Commercial West Berkeley (C-W)<sup>1</sup>**

#### B. Zoning Permits Required:

- Use Permit under BMC Section 23E.64.030 to establish a medical office use with more than 5,000 square feet in the C-W District; and
- Use Permit under BMC Section 23E.64.050.B.1 to construct more than 5,000 square feet of new floor area in the C-W District.

<sup>1</sup> Scheduled City Council second reading on January 22, 2019.

**C. Permits Previously Granted:**

- Use Permit under BMC Section 23E.64.030 to establish a medical office use with more than 5,000 square feet in the C-W District;
- Use Permit under BMC Section 23E.64.050.B.1 to construct more than 5,000 square feet of new floor area in the C-W District;
- Administrative Use Permit under BMC Sections 23E.64.080.J and 23E.80.080.E to allow for the substitution of bicycle or motorcycle parking spaces in place of up to 10% of the required automobile parking spaces;
- Administrative Use Permit under BMC Section 23E.80.030 to establish a research and development use with more than 20,000 square feet in the MU-LI District;
- Use Permit under BMC Section 23E.80.050.D to construct more than 20,000 square feet of new floor area in the MU-LI District;
- Administrative Use Permit under BMC Section 23E.04.040.A to install fences greater than six feet in height;
- Administrative Use Permit under BMC Section 23E.04.020.C to construct two mechanical penthouses and one elevator penthouse that would exceed the C-W District height limit;
- Administrative Use Permit under BMC Section 23E.28.080.B to locate ground level parking space within 20 feet of a street frontage; and
- Zoning Certificate under BMC Section 23E.64.030 to establish a quick service restaurant of less than 1,500 square feet in C-W District.

**C. CEQA Determination:** An Initial Study-Mitigated Negative Declaration (IS-MND) was prepared for this project, **including the medical office building and off-site parking lot (ZP#2018-0116)**, pursuant to the provisions of CEQA, and circulated for public review from September 4, 2018 to October 4, 2018. See Section VI.A below. The IS-MND, and all related analysis, is available on the City's website via the link that is provided below.

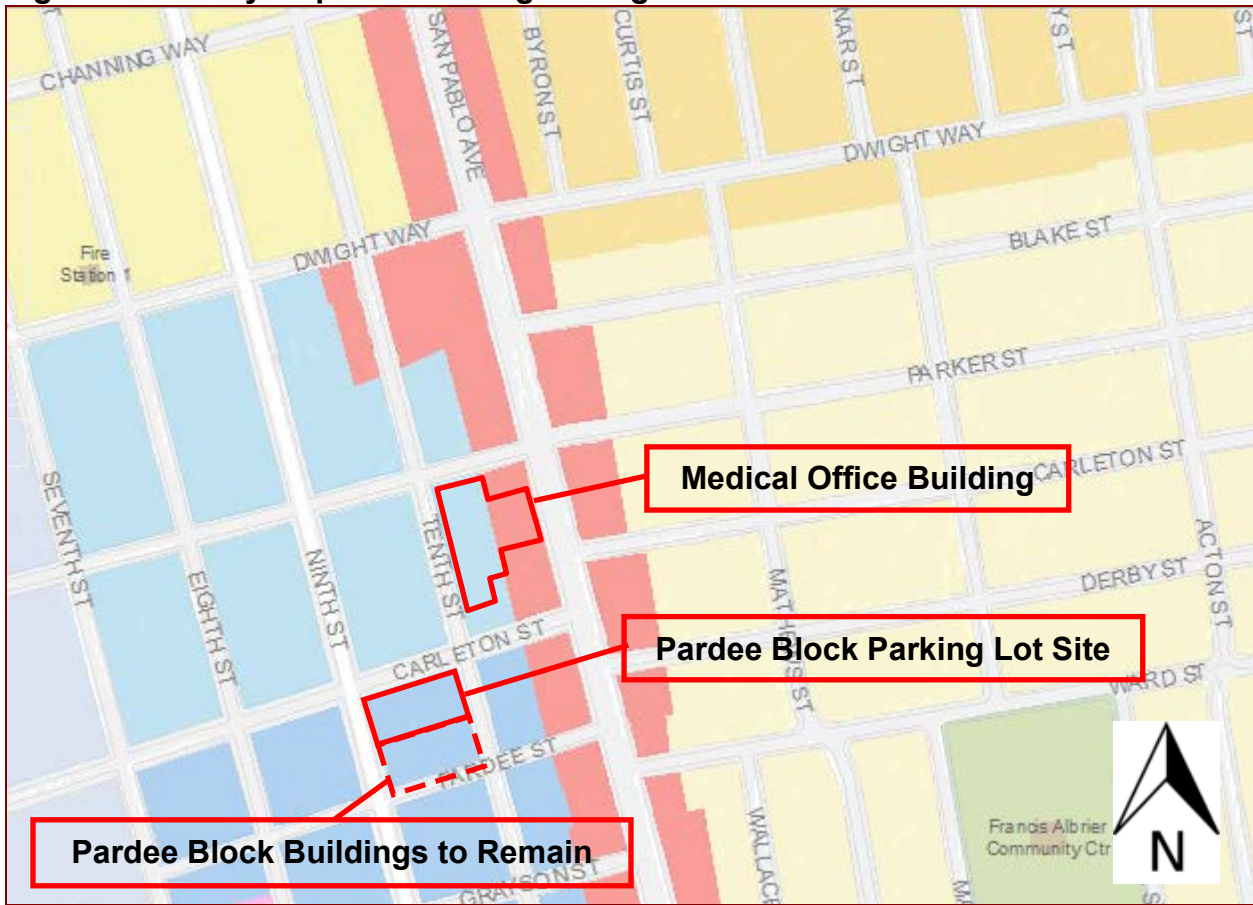
**D. Parties Involved:**

- Applicant/Property Owner: 2621 Tenth Street, LLC and Pardee I, LLC, c/o Christopher Barlow with Wareham Property Group

**E. Application Materials, Staff Reports and Correspondence are available on the Internet:**

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1050\\_Parker.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1050_Parker.aspx)

Figure 1: Vicinity Map and Existing Zoning



Legend:








-  C-W
-  MU-LI
-  MU-R
-  R-1A
-  R-1
-  R-2
-  MM



Figure 2: Aerial Image



Imagery provided by Google and its licensors © 2018.

Fig 2 Project Location

Figure 3: Site/Ground Floor Plan

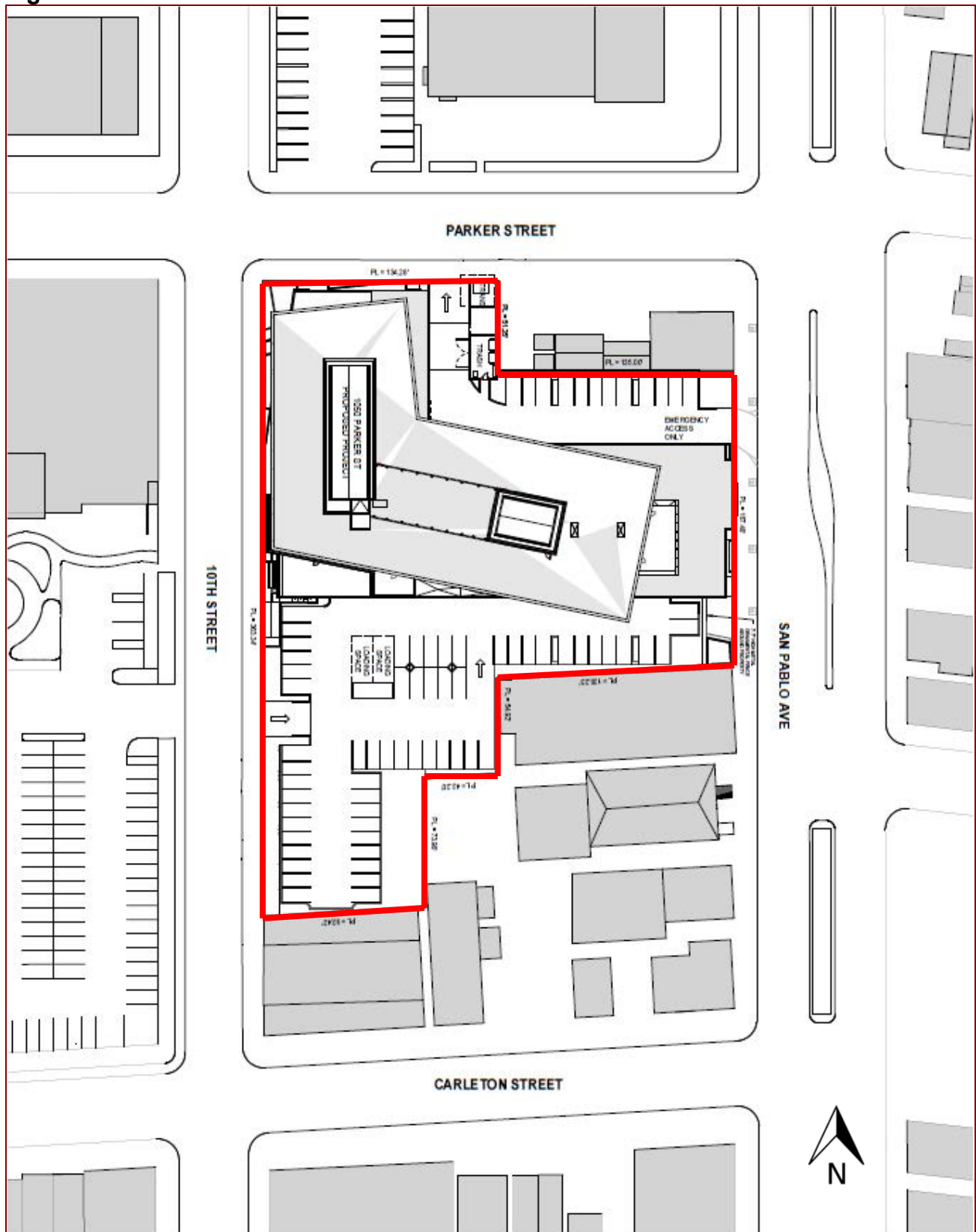
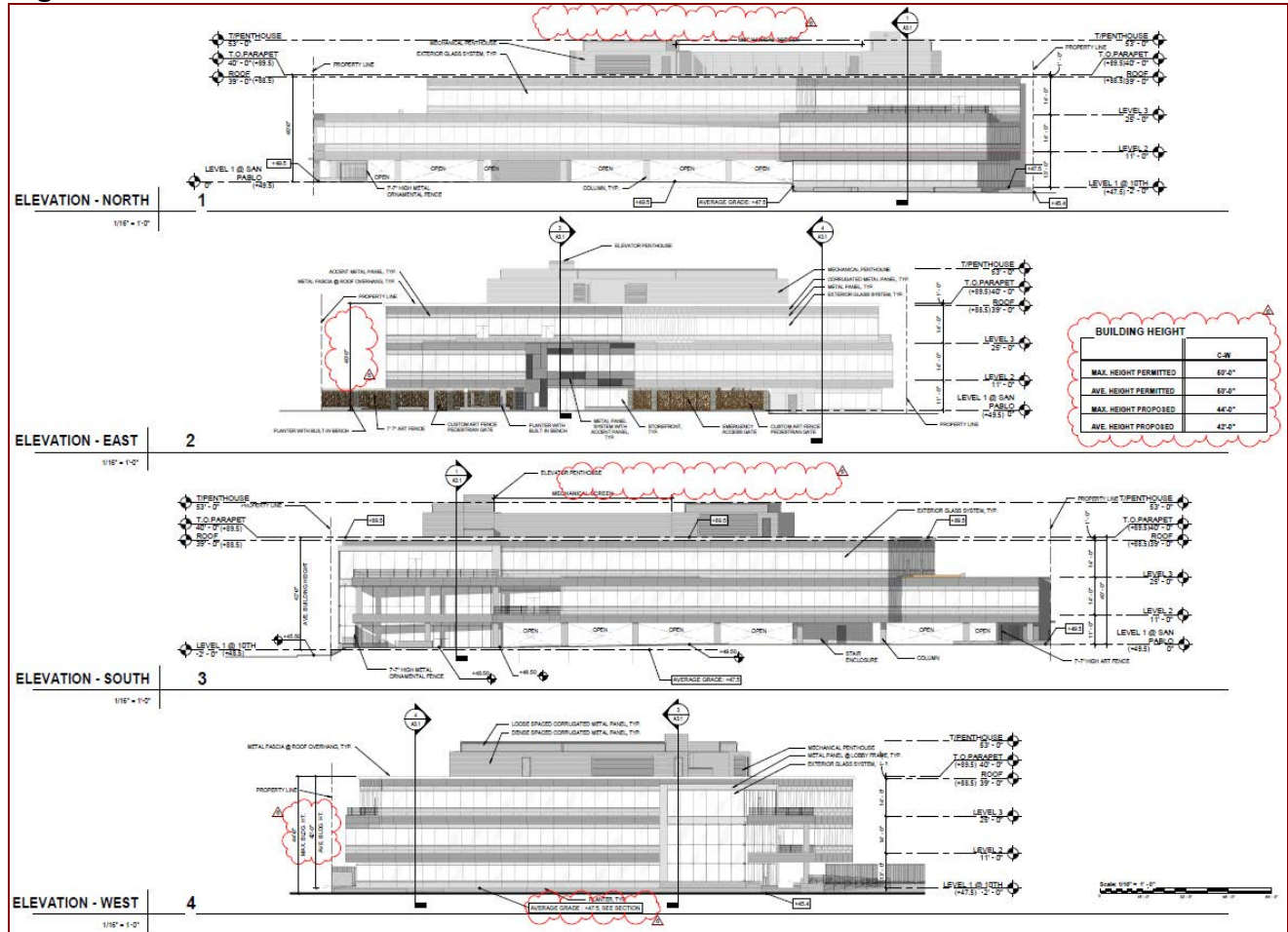


Figure 4: Exterior Elevations



**Table 1: Land Use Information**

| Location                         |       | Existing Use                                                                                      | Zoning District | General Plan Designation            |
|----------------------------------|-------|---------------------------------------------------------------------------------------------------|-----------------|-------------------------------------|
| Medical Office Building Property |       | Vacant – former community garden                                                                  | MU-LI and C-W   | Manufacturing and Avenue Commercial |
| Surrounding Properties           | North | Missouri Lounge (bar); residential units above Missouri Lounge; Bank of America                   | MU-LI and C-W   | Manufacturing and Avenue Commercial |
|                                  | South | Former book store; Covenant Worship Center; Far Leaves Tea; Alward Construction; Fredric Electric |                 |                                     |
|                                  | East  | Orozco's Tires; Red Sea (retail); Ecohome Design Studio; Ecohome Improvement                      | C-W             | Avenue Commercial                   |
|                                  | West  | Recording Studio                                                                                  | MU-LI           | Manufacturing                       |

**Table 2: Special Characteristics**

| Characteristic                                                                                 | Applies to Project? | Explanation                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.) | Yes                 | The proposed non-residential floor area is greater than 7,500 square feet. Therefore, this project is subject to this resolution.                                               |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)    | Yes                 | The proposed non-residential floor area is greater than 7,500 square feet. Therefore, this project is subject to this resolution.                                               |
| Affordable Housing Mitigations for rental housing projects (Per BMC Chapter 22.20.065)         | No                  | The proposed project would not include residential units.                                                                                                                       |
| Alcohol Sales/Service (Per BMC § 23E.16.040)                                                   | No                  | The proposed project does not include the sale of alcohol.                                                                                                                      |
| Creeks (Per BMC Chapter 17.08)                                                                 | No                  | No open creek or culvert exists within 40 feet of the project site.                                                                                                             |
| Coast Live Oaks (Per BMC § 6.52.010)                                                           | No                  | There are no Coast Live Oak trees on or abutting the project site.                                                                                                              |
| Density Bonus (Per Gov't Code Chapter 65915)                                                   | No                  | The proposed project would not include residential units.                                                                                                                       |
| Green Building Score                                                                           | Yes                 | The applicant submitted a GreenPoint checklist for the project. The minimum required points are 40 out of a possible 110 points. The project checklist indicates a score of 56. |
| Historic/Cultural Resources (Per Gov't Code §15064.5 or BMC Chapter 3.24)                      | No                  | The medical office site is not listed as a Landmark or Structure of Merit nor has it on any survey.                                                                             |
| Percent for Art (Per BMC Chapter 23C.23)                                                       | Yes                 | The project is subject to the City's <a href="#">Public Art on Private Projects</a> Ordinance.                                                                                  |
| Rent Controlled Units (Per BMC Chapter 13.76)                                                  | No                  | The project sites do not include residential units.                                                                                                                             |
| Residential Preferred Parking (Per BMC Chapter 14.72)                                          | No                  | The Residential Preferred Parking Program does not occur in or near this neighborhood.                                                                                          |

| Characteristic                                     | Applies to Project? | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Seismic Hazards<br>(Per State Hazards Mapping Act) | Yes                 | The project site is located within an area susceptible to liquefaction as shown on the State Seismic Hazard Zones map. The applicant submitted a geotechnical report, which determined that expansive soils are present at the site. The Geotechnical Investigation concluded that the use of standard engineering design and seismic safety techniques reduce the effects of the expansive soils to less than significant levels. Standard Conditions of Approval used to address construction in a liquefaction zone will apply. No structures are proposed for the off-site parking lot. |
| Soil/Groundwater Contamination                     | No                  | The medical office building site not listed on the Cortese list but is located within the City's Environmental Management Area. A Phase I Environmental Assessment was submitted as part of the application. The assessment revealed no evidence of any recognized environmental conditions in connection with the subject property. This topic was examined in the Initial Study and was found to have less than significant impacts.                                                                                                                                                      |
| Transit                                            | Yes                 | There are a number of AC Transit bus stops within 0.25 mile of the medical building site, with the closest one approximately 150 feet from the project site at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). There are additional bus stops at the intersection of Dwight Way and San Pablo Avenue approximately one block north of the project site. There are three BART stations within two miles of the project site, including North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east).     |

**Table 3: Project Chronology**

| <b>Date</b>              | <b>Action</b>                                                                                                                                                                      |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| September 16, 2016       | Original application submitted                                                                                                                                                     |
| April 29, 2017           | Application deemed complete                                                                                                                                                        |
| October 12, 2017         | CEQA Public Review Period began                                                                                                                                                    |
| October 19, 2017         | DRC Hearing                                                                                                                                                                        |
| November 13, 2017        | CEQA Public Review Period ended                                                                                                                                                    |
| November 30, 2017        | ZAB public hearing notices mailed/posted                                                                                                                                           |
| December 14, 2017        | ZAB public hearing – Project Approved 8-1-0-0                                                                                                                                      |
| December 2017            | City Council requested that Planning Commission make a recommendation on a rezoning and re-designation of two parcels on the project site to allow for expanded medical office use |
| January 17, 2018         | Notice of Decision mailed/posted                                                                                                                                                   |
| January 31, 2018         | Appeal period ended                                                                                                                                                                |
| February 7, 2018         | Effective Date of Original Use Permit                                                                                                                                              |
| February 2018            | Planning Commission public meeting held to discuss rezone and General Plan re-designation (1 of 2)                                                                                 |
| April 2018               | Planning Commission public meeting held to discuss rezone and General Plan re-designation (2 of 2)                                                                                 |
| June 4, 2018             | Applications for Modification of Use Permit and Off-site Parking submitted                                                                                                         |
| July 5, 2018             | Demolition request referred to LPC (#ZP2018-0116)                                                                                                                                  |
| September 4, 2018        | CEQA Public Review Period began                                                                                                                                                    |
| September 17, 2018       | Application deemed complete                                                                                                                                                        |
| October 4, 2018          | CEQA Public Review Period ended                                                                                                                                                    |
| October 10, 2018         | ZAB public hearing notices mailed/posted                                                                                                                                           |
| October 25, 2018         | ZAB hearing, <b>item continued to December 13, 2018</b>                                                                                                                            |
| December 4, 2018         | City Council hearing on proposed rezone and General Plan re-designation, <b>continued to December 11, 2018</b>                                                                     |
| <b>December 11, 2018</b> | <b>Continued City Council hearing on proposed rezone and General Plan re-designation</b>                                                                                           |
| <b>December 13, 2018</b> | <b>Continued ZAB hearing without discussion</b>                                                                                                                                    |
| <b>January 9, 2019</b>   | <b>ZAB public hearing notices mailed/posted</b>                                                                                                                                    |
| <b>January 22, 2019</b>  | <b>Scheduled City Council second reading on proposed rezone and General Plan re-designation</b>                                                                                    |
| <b>January 24, 2019</b>  | <b>ZAB Hearing</b>                                                                                                                                                                 |

**Table 4: Development Standards – Medical Office Building**

| Standard<br>BMC Sections 23E.64.070-080 | Previously Approved |                          | Proposed         | Permitted/<br>Required |                            |
|-----------------------------------------|---------------------|--------------------------|------------------|------------------------|----------------------------|
|                                         | Medical Office      | Research and Development | 100% Medical     | C-W <sup>1</sup>       |                            |
| Lot Area                                | 68,331 sf total     |                          | 68,331 sf        | --                     |                            |
|                                         | 23,157 sf           | 41,174 sf                |                  |                        |                            |
| Gross Floor Area                        | 60,670 sf total     |                          | 60,670 sf        | n/a                    |                            |
|                                         | 20,370 sf           | 40,300 sf                |                  |                        |                            |
| Floor Area Ratio <sup>2</sup>           | 0.9                 |                          | 0.9 <sup>3</sup> | 3.0 max                |                            |
| Building Height                         | Average             | 41 feet                  | 41 feet          | --                     |                            |
|                                         | Maximum             | 44 feet                  | 44 feet          | 50 max <sup>4</sup>    |                            |
|                                         | Stories             | 3                        | 3                | 3 max                  |                            |
| Building Setbacks                       | Front               | 5 feet                   | 5 feet           | 0 min                  |                            |
|                                         | Rear                | 0 feet                   | 0 feet           | 0 min                  |                            |
|                                         | Left Side           | 5 feet                   | 5 feet           | 0 min                  |                            |
|                                         | Right Side          | 27 feet 8 inches         | 27 feet 8 inches | 0 min                  |                            |
| Lot Coverage                            | 46.9%               |                          | 46.9%            | n/a                    |                            |
| Landscaping                             | Landscaped Area     | n/a                      | 9,968 sf         |                        |                            |
|                                         | Hardscaped Area     | n/a                      | + 26,311 sf      |                        |                            |
| Parking <sup>5</sup>                    | Automobile          | 117 <sup>6</sup> total   |                  | 203                    |                            |
|                                         |                     | 61                       | 56               |                        | 115 on site<br>88 off site |
|                                         | Bicycle             | 46 <sup>7</sup> total    |                  | 46                     | 30                         |
|                                         |                     | 18                       | 28               |                        |                            |

sf = square feet

<sup>1</sup> Contingent on the approval of a General Plan Re-designation and Zoning Map Amendment of the project site (Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00 from Manufacturing to Commercial.

<sup>2</sup> FAR for C-W and MU-LI are calculated based on zone-specific gross floor area divided by zone-specific lot area. For C-W: 20,370 square feet / 23,157 square feet. For MU-LI: 40,300 square feet / 41,174 square feet.

<sup>3</sup> Proposed Floor Area Ratio (FAR) is calculated based on gross floor area (60,670 square feet) divided by the lot area (68,331 square feet).

<sup>4</sup> Contingent on the approval of a Text Amendment to the C-W Chapter related to APN 054-1763-001-03, 054-1763-010-00, and 054-1763-003-03.

<sup>5</sup> See Table 5 Development Standards – Parking for details.

<sup>6</sup> The total number of automobile parking spaces was reduced by 10 percent due to the provision of an adequate number of bicycle parking spaces, as per BMC 23E.64.080.J and 23E.80.080.E for C-W and MU-LI, respectively.

<sup>7</sup> Permitted/Required bicycle parking is 1 per 2000 square feet. . The total number of bicycle parking spaces is increased to 45 required spaces for C-W and MU-LI, respectively, due to the 10 percent automobile parking reduction as per BMC 23E.64.080.J and 23E.80.080.E for C-W and MU-LI, respectively.

**Table 5: Development Standards – Parking**

| Project Component                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Medical Office Building | Off-Site Parking Lot   | Total Proposed               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------|------------------------------|
| <b>Vehicle Parking</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                         |                        |                              |
| Standard (8'x18' to 9'x18')                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 71                      | 72                     | 143                          |
| Clean Air/Vanpool/EV (8'x18' and 8'6"x18')                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 10                      | 10                     | 20                           |
| Fuel Efficient <sup>1</sup> (8'x18' and 8'6"x18')                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 7                       | 7                      | 14                           |
| ADA Accessible (9'x18')                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 7                       | 3                      | 10                           |
| Compact (8'x16' to 9'x16')                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 20<br>(17% of parking)  | 31<br>(25% of parking) | 51<br>(21% of total parking) |
| Vehicle Parking Totals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 115                     | 123 <sup>2</sup>       | 238                          |
| <b>Bicycle Parking<sup>5</sup></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                         |                        |                              |
| Short-Term                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 18                      | 16                     | 34                           |
| Long-Term (secured/lockers)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 28                      | 2                      | 30                           |
| Bicycle Parking Totals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 46                      | 18                     | 64                           |
| <sup>1</sup> Fuel efficiency refers to the average number of miles traveled per gallon of fuel consumed ( <a href="https://www.driveclean.ca.gov/Do_Your_Research/Glossary_of_Terms.php">https://www.driveclean.ca.gov/Do_Your_Research/Glossary_of_Terms.php</a> ). These parking spaces would be reserved for vehicles designated as fuel efficient by the EPA.<br><sup>2</sup> Eighty-eight (88) Pardee Block parking spaces would be designated for use by the medical office building; 35 parking spaces would be designated for use by the remaining Pardee Block businesses. |                         |                        |                              |

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located in West Berkeley, along the south side of Parker Street and the east side of Tenth Street, with a small portion fronting the west side of San Pablo Avenue. Surrounding building heights vary from one to seven stories, with the majority being two stories. The parking lot (Pardee Block parking lot) property is approximately 500 feet southwest of the medical office site. Surrounding land uses are listed in Table 1 above. Nearby transit facilities are detailed in Table 2 above.

**B. Site Conditions:** The project site comprises three parcels and is generally level, irregular in shape. The northwest portion of the site is mostly paved and occasionally used as a surface parking lot. The southern portion of the site along Tenth Street and the central portion along San Pablo Avenue consist of vacant dirt lots, most recently leased to Urban Adamah for interim use as a community garden through November 2016.

## III. Modification Request Description

Use Permit #ZP2018-0117, for the modification of Use Permit #ZP2016-0170, would allow for the previously approved 60,670 square-foot building to be used entirely for



medical offices, rather than medical office and research and development. The approval of this Use Permit is contingent on the approval of the General Plan re-designation and rezone, and on the approval of Use Permit #ZP2018-0116, as briefly described in the project history below.

Implementation of the Use Permit would only result in changes to the interior of the previously approved building. Specific changes include the removal of an internal physical separation wall between the portions of the building which currently different underlying zoning designations and modifications to the required on-site parking spaces. On-site parking accommodations would include a total of 115 automobile parking and 46 bicycle parking spaces. Vehicular access would still be provided from driveways on Parker Street and Tenth Street for the medical office site.

#### **IV. Project History**

On December 14, 2017, the City of Berkeley Zoning Adjustments Board (ZAB) approved Use Permit #ZP2016-0170 to allow for the construction of a 60,670 square-foot, three-story building with 20,370 square feet of medical office and 40,300 square feet of research and development uses, and a 750 square-foot quick service restaurant, with 117 automobile parking spaces and 46 bicycle parking spaces. An Initial Study-Mitigated Negative Declaration (IS-MND; State Clearinghouse #2017102038) was prepared for the original project, pursuant to the provisions of the California Environmental Quality Act (CEQA), and circulated for public review from October 12, 2017 to November 13, 2017. The IS-MND was adopted by ZAB on December 14, 2017 in conjunction with the approval of Use Permit #ZP2016-0170.

As originally approved, the project would combine three parcels into one 68,331 square-foot parcel to allow the construction of a 60,670 square-foot, three-story building. The general configuration of the building would be an "L" shape, with each floor staggered in arrangement such that the second floor would contain a green roof along San Pablo Avenue and by the pedestrian entrance along Parker Street. The project would also include a 750-square-foot café/retail space located along San Pablo Avenue.

The project would also include nearly 10,000 square feet of landscaped area on the ground level, including 2,150 square feet of public open space comprising two small public plazas with seating and landscaping. A 650-square-foot plaza would be located at the corner of Parker and Tenth Street and a 1,500-square-foot plaza would be located along San Pablo Avenue, adjacent to the proposed café/retail space. Approximately 3,500 square feet of private open space would be provided on a second floor terrace accessed from the third floor. Two mechanical penthouses and an elevator penthouse would be constructed on the roof of the proposed building. The two mechanical penthouses would be 14 feet above the roof level, and the elevator penthouse would be 18 feet above the roof level. Building entryways for pedestrians would be located on the ground floor along San Pablo Avenue and Parker Street.

During the approval process of Use Permit #ZP2016-0170, a major health care organization approached the property owner seeking to lease the entire proposed

60,670 square-foot building for medical office uses. In order to accommodate medical office use through the portions of the building that are approved for research and development, the underlying zoning of approximately two thirds of the site must be changed from MU-LI to C-W and additional parking spaces need to be provided.

In December 2017, the Berkeley City Council requested that the Planning Commission consider, and make recommendations on, the necessary rezoning of the two MU-LI parcels on the site to allow expanded medical office use. The Planning Commission subsequently held two public meetings in February 2018 and April 2018 and, **without taking action on the matter, recommended that the City Council take into account a number of considerations regarding the** rezone and General Plan re-designation of Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00, from General Plan designation Manufacturing Mixed Use to Avenue Commercial and from Zoning District Mixed Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W). The rezone would include a Text Amendment to the BMC C-W Chapter related to APN 054-1763-001-03, 054-1763-010-00, and 054-1763-003-03 to allow for a maximum building height of 50 feet **for medical office buildings**.

Use Permit #ZP2018-0116 to allow for the construction of a new 43,847 square-foot surface parking lot approximately 500 feet south of the medical office building site is being processed simultaneously with, but separately from, the Use Permit #ZP2018-0117. Parking accommodations at the off-site property, commonly referred to as the Pardee Block, would include 88 parking spaces for use by the medical office staff, 35 parking spaces for use by the businesses that are to remain at the Pardee Block, and 18 bicycle parking spaces. Approval of Use Permit #ZP2018-0117 is contingent on the approval of Use Permit #ZP2018-0116, as specified in Condition #85.

**The application for Use Permit #ZP2018-0117 was considered at the October 25, 2018 ZAB hearing. After a presentation by the applicant team, public comment, and discussion by the ZAB, the ZAB continued the project to the December 13, 2018 hearing. However, the ZAB continued the item on December 13, 2018 without discussion as the City Council hearing regarding General Plan re-designation and rezone was continued on December 4, 2019 to December 11, 2019. The ZAB had discussed on October 25, 2018 the need for the Council to take action on the proposed General Plan and Zone Change prior to the consideration of the Use Permit by ZAB. The City Council had not acted upon the proposed General Plan and Zone Change before them prior to the publication of the Staff Report for the December 13, 2018 ZAB hearing.**

**On October 25, 2018, ZAB directed the applicant team to provide additional analysis and information on the following items:**

- **Parking needs of the medical facility upon occupancy;**
- **Available on-street public parking supply in the surrounding neighborhood;**
- **Potential for alternative off-site parking locations that would not require the demolition of businesses;**
- **Detailed explanation of the West Berkeley Shuttle service;**

- **Potential for relocation assistance for the businesses slated for demolition; and**
- **Potential for street trees surrounding the off-site parking lot.**

**As these concerns were all directly related to the off-site parking lot, details of applicant responses to ZAB and staff analysis of those responses are addressed in full in the Staff Report for the Pardee Block Parking Lot Project.**

On December 4, 2018 the City Council conducted a public hearing regarding reclassification of the Zoning as well as the General Plan and West Berkeley Plan designations of 1050 Parker Street and amending the C-W District development standards to allow for a 4-story, 50-foot tall building on the subject property. The City Council took public testimony, discussed the resolution and ordinance and continued the public hearing to December 11, 2018.

**On December 11, 2018 the City Council reopened the public hearing and adopted Resolution No. 68,724–N.S. amending the General Plan land use designations for a portion of 1050 Parker Street from a Manufacturing designation to Avenue Commercial, and amending the West Berkeley Plan land use designation from Mixed Use Light Industrial to General Commercial (APNs 054-1763-001-03, 054-1763-010-00). Additionally, the City Council introduced and adopted the first reading of Ordinance No. 7,638–N.S to rezone a portion of the project site from Mixed Use – Light Industrial (MU-LI) to West Berkeley Commercial (C-W) (APNs 054-1763-001-03 and 054-1763-010-00); and to amend the C-W District development standards to allow for a 4-story, 50-foot tall building on the subject property (APNs 054-1763-001-03, 054-1763-010-00, and 054-1763-003-03).**

The City Council's second reading of the General Plan re-designation and rezone is scheduled for **January 22, 2019. Staff will provide a verbal summary of the January 22, 2019 City Council meeting for the ZAB at the January 24, 2019 public hearing.** Implementation of the Modification of Use Permit #ZP2016-0170 is contingent on the approval of the General Plan re-designation and rezone, as specified in Condition #84.

## **V. Community Discussion**

**A. Neighbor Notification:** Prior to submitting this application to the City in 2018, the applicant erected a pre-application poster on the project site. **As the hearing was continued from December 13, 2018 to a date uncertain, a new notice was required.** On **January 9, 2019** the City mailed 485 public hearing notices to property owners and occupants, and to interested neighborhood organizations of the public hearing on **January 9, 2019**. In addition, the City posted notices within the neighborhood in six locations. As of the writing of this report, Staff has received one email following the October 25, 2018 public hearing regarding the issues discussed by ZAB at that hearing.

**B. Design Review Committee Review:** Committee review is not required for the

proposed change of use.

## VI. Issues and Analysis

**A. Initial Study-Mitigated Negative Declaration:** Pursuant to the California Environmental Quality Act (CEQA), an Initial Study-Mitigated Negative Declaration (IS-MND) was prepared to inform the ZAB and the general public of potential project impacts. The IS-MND found that the project would result in impacts related to hydrology and water quality, land use and planning, construction noise, and transportation and traffic. All findings were consistent with the original IS-MND completed for the project in 2017, with the exception of a new potential impact related to land use and planning due to the need for the rezone and land use re-designation. In addition, the noise and transportation mitigation measures have been expanded to account for the inclusion of Use Permit #ZP2018-0117 in the larger project. The IS-MND provided the following mitigation measures to be incorporated into the project conditions of approval in order to reduce project impacts to less than significant levels:

- *Mitigation Measure HYD-1 Hydrology and Hydrologic Mitigation Analysis.* The project shall not increase from pre-project to post-construction conditions peak flow and flow duration to existing gutters, and shall not raise from pre-project to post-construction the hydraulic grade line in existing storm drains at all times throughout the life of the project. The applicant shall demonstrate through a hydrology and hydraulics mitigation analysis to show how this performance standard will be achieved and used to provide the basis of design for the implementing this mitigation.

The hydrology and hydraulics mitigation analysis shall be submitted to and approved by the City of Berkeley Department of Planning and Development prior to issuance of required project permits. The analysis shall identify existing and post-construction drainage patterns, magnitudes, and durations within the project limits and also identify existing off-site discharge locations, durations, and magnitudes from the project site. The mitigation actions to meeting the performance standard may include conveyance pipeline (minimum 12-inch diameter, reinforced concrete pipe) in the right-of-way, and the pipe shall not be used to attenuate peak flows. The mitigation method shall be designed to operate in conjunction with MRP Provision C3 requirements. The applicant shall make up front payment for City staff and consultant costs related to reviewing the hydrology and hydraulics mitigation analysis.

- *Mitigation Measure HYD-2 Stormwater Control Measures.* Discharges of any water from the project site shall be controlled at all times and shall not exceed pre-project peak flow or duration in existing storm drains and gutters throughout the project life. Applicant shall design and construct the mitigation method developed through the Hydrology and Hydraulic Mitigation Analysis performed in HYD-1 and as approved by the City. The mitigation actions to meet the performance standards may include conveyance within the right-of-way but storage within the

right-of-way is not allowed. The identified method(s) shall be completely operational and any facilities located within the right-of-way shall be approved by and dedicated to the City prior to issuance of certificate of occupancy.

- *Mitigation Measure LU-1 Rezone.* Demolition permits shall not be issued unless and until a rezone is approved by the City of Berkeley that would change the zoning on the western portion of the medical office building site from Mixed-Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).
- *Mitigation Measure NOI-1 Construction Vibration Reduction.* Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:
  - 1) The applicant or contractor shall ensure that construction activities involving vibratory rollers, large bulldozers, or loaded trucks do not occur during posted services times at the Covenant Worship Center (2622 San Pablo Avenue), currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.
  - 2) The applicant or contractor shall, to the extent technically and economically feasible, limit the use of vibratory rollers, large bulldozers, or loaded trucks within 75 feet of the nearest wall of the Covenant Worship Center or Fantasy Studios (2600 Tenth Street) to no more than 30 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.
  - 3) The applicant or contractor shall, to the extent technically and economically feasible, limit the use of jackhammers within 25 feet of the nearest wall of the Covenant Worship Center or Fantasy Studios to no more than 70 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.
  - 4) The applicant or contractor shall provide tenants of the three residential units atop the Missouri Lounge, the Covenant Worship Center, Fantasy Studios, and residents within a 500-foot radius of the project sites with a notification at least 24 hours prior to vibration-generating construction activities.
- *Mitigation Measure NOI-2 Construction Noise Abatement.* Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:
  - 1) The applicant or contractor shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
  - 2) The applicant or contractor shall use quiet models of air compressors and other stationary noise sources where technology exists.
  - 3) The applicant or contractor shall locate stationary noise-generating equipment as far as feasible from the nearest noise-sensitive receptors.
  - 4) The applicant or contractor shall prohibit unnecessary idling of internal

combustion engines.

- 5) The applicant or contractor shall construct solid plywood fences around the construction site adjacent to operational businesses, including the Covenant Worship Center (2622 San Pablo Avenue).
  - 6) The applicant or contractor shall ensure that construction activities that generate excessive noise that creates noise disturbance across the Project site's shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during regular posted services at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.
  - 7) The applicant or contractor shall ensure that supporting construction activities, including the loading and unloading of materials and truck movements are limited to the hours of 7:00 AM to 7:00 PM on weekdays and between the hours of 9:00 AM and 8:00 PM on Saturdays, or as stipulated in the conditions of approval if more restrictive. No construction-related activity shall occur on Sunday or any Federal Holiday without explicit permission from the City of Berkeley.
  - 8) The applicant or contractor shall notify adjacent businesses, the Covenant Worship Center, and residents within a 500-foot radius of the project sites of the construction schedule in writing at least 7 days before beginning construction. The applicant or contractor also shall designate a "construction liaison" responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant or contractor shall conspicuously post a telephone number for the liaison on-site.
- *Mitigation Measure T-1 Reimbursement Agreement to Facilitate Traffic Improvements.* A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required building permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City's pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.
    - 1) Intersection Improvements. Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection, as determined necessary by the City Engineer.
    - 2) Signal Installation. Signalization of the San Pablo Avenue/Parker Street intersection and coordinated signal timing with the adjacent intersections on San Pablo Avenue.
  - *Mitigation Measure T-2 Driveway Safety.* The applicant shall provide 10 feet of red

curb on either side of the project driveways on Ninth, Tenth, and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Ninth, Tenth, and Parker Streets. Improvements shall occur prior to certificate of occupancy.

The Notice of Intent (NOI) to adopt the IS-MND was published on September 4, 2018 and was mailed to adjoining property owners and occupants, and to interested neighborhood organizations. In addition, the applicant filed the NOI with the County Clerk; and the Draft IS-MND was submitted with the State Clearinghouse (SCH #2018092001) for distribution to interested state and regional agencies. The public comment period began on September 4, 2018 and closed on October 4, 2018.

Following the release of the Initial Study and the NOI, the City received six comment letters: A synopsis of each comment letter is provided below; full responses are included in the Final IS-MND.

- 1) Carly Barker and Stephen LaMond, residents at 2709 Tenth Street, are concerned with the availability of parking during project construction and operation, the potential loss of parking spaces as a result of the project, temporary impacts from project construction, pedestrian safety at the crosswalks, general public safety in the project vicinity, and increased traffic as result of the project.
- 2) Janet Hurwich, resident at 2609 Ninth Street, is concerned with traffic and transportation impacts of the project and the availability of parking in the neighborhood once the medical office building is in operation.
- 3) Fredric Fierstein, owner of building at 1025 Carleton Street, is also concerned with the availability of parking in the vicinity of the medical office building and requested that the Pardee Block Parking Lot be made available to the public.
- 4) Carly Barker and Stephen LaMond, residents at 2709 Tenth Street, submitted a second comment letter in which they recommended a scenario in which a select number of parking spaces in the proposed Pardee Block parking lot may be reserved for residential use and a select number of parking spaces are offered as rental parking spaces for businesses in the vicinity.
- 5) Mitchel Bornstein, owner of business at 1010 Carleton Street, states that the project would demolish existing businesses, and opines that that the loss of these businesses is unfavorable for West Berkeley. He further suggested building a multi-story parking garage on the parking lot of 2600 Tenth Street or for the project applicant to draft a relocation plan for the existing business.
- 6) Caltrans requested additional modes for encouraging smart mobility and reduced regional vehicle miles traveled be added to the required Transportation Management Plan. The recommendations have been incorporated into the City's standard condition of approval (Condition 68).

The comment letters, the City's responses, and any revisions to the IS-MND are outlined in Chapter 3 of the Response to Comments of the Final IS-MND (See

attachment 4). The mitigation measures have been documented in a Mitigation Monitoring and Reporting Program, and incorporated by reference in the Conditions of Approval. With the implementation of the mitigation measures, project impacts will be reduced to less than significant levels.

- B. Zoning Compatibility:** As discussed under Section III. Project History, the City Council requested that the Planning Commission consider and make recommendations regarding the requested rezoning of the MU-LI portion of the medical office site to C-W, which would allow medical office uses throughout the proposed building. The final determination on the rezone is pending as of the publication of this staff report. As some of the medical office building site is currently zoned MU-LI, the proposed medical office use is not an allowed use on the eastern portion of the medical office property. Allowing 100 percent medical office uses in the building would not be compatible with the underlying zoning regulations unless the rezone is approved.

**Staff Analysis:** Pursuant to BMC Table 23E.64.030, medical offices over 7,500 square feet are allowed in the C-W District with a Use Permit. Table 4 details how the medical office project would comply with specific applicable development standards of the BMC under the proposed C-W zoning. As proposed, the project complies with the development standards in the West Berkeley Commercial zoning district. Implementation of Mitigation Measure LU-1 would ensure that the proposed use of the sites would not conflict with zoning regulations.

- C. Off-Site Parking and Pedestrian Safety:** Parking requirements for medical office uses are higher than for research and development uses and not all required medical office parking could be accommodated on-site, within the previously approved project. As such, the proposed Pardee Block parking lot would provide the balance of the required parking to meet the full parking requirements of the medical office building.

**Staff Analysis:** As detailed in Table 4, the project would meet the requirements for parking for the medical office building. Pedestrian access to and from the Pardee Block parking lot would be provided through multiple pedestrian gates on Ninth Street, Tenth Street, and Carleton Street.

The medical office employees that park at the Pardee Block Parking Lot would use any of the pedestrian gates to access Tenth Street along existing sidewalks and then cross either of two existing approaches at the Tenth Street/Carleton Street intersection to walk to the medical office building. The intersection is currently controlled by stop-signs on the Tenth Street approaches, with no controls on the Carleton Street approaches. In addition, none of the four crossings at the intersection are currently marked/striped; however, all four crossings have adequate sight distance. However, the proposed project has been designed to include an all-way stop at the Tenth Street/Carleton Street intersection and would mark the intersection with crosswalk striping. This design feature would be ensured through a condition of approval requiring that the project conform to the plans and statements



in the Use Permit.

**D. Compatibility with Surrounding Neighborhood:** The surrounding neighborhood zoning designations and land uses are detailed in Table 1 above. The medical office building site is one block south of the Dwight and San Pablo development node in the West Berkeley Plan. This area of Berkeley is characterized by retail, commercial, and mixed use activity along San Pablo Avenue, easily accessible for employees, customers, and residents by mass transit or automobile. Appropriate uses for these areas include: a balance of both smaller and larger commercial retail and food service, larger spaces for medium sized and larger light manufacturers, offices, and laboratory development.

**Staff Analysis:** Implementation of the project would only result in changes to the interior of the building. As with the original project, ground level parking areas would not be visible from the street front due to recessed wall elements that provide a divider between the pocket park and garage. The building façade would be composed on glass and aluminum paneling, and only the ground and second floors would be visible from the pedestrian viewpoint, traversing San Pablo Avenue. The rooftop of the second floor would contain a green terrace to soften the distinct lines of the building while increasing visible greenery along San Pablo Avenue. The third floor of the building would be set back approximately 60 feet from the San Pablo Avenue street front in order to decrease perceivable massing at the pedestrian scale, which would create a more inviting pocket park for pedestrians due to the landscaping and sunlight available in the southeastern portion of the site.

Therefore, staff concludes that the ZAB may find that the project which increases medical office use on the site is still compatible with the visual character and form, and commercial intensity of the C-W District. The proposed building and uses do not underutilize the property and do provide adequate elements suited for the pedestrian scale. Staff believes that the Board can find that allowing for 100 percent medical office use in the proposed building, along with the original 750 square feet of quick service restaurant, would meet the requirements of BMC Section 23E.64.090.B for compatibility with the surrounding neighborhood.

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

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
4. Policy UD-26–Pedestrian-Friendly Design: Architecture and site design should

- give special emphasis to enjoyment by, and convenience and safety for, pedestrians.
5. Policy LU-27–Avenue Commercial Areas: Maintain and improve Avenue Commercial areas, such as University, San Pablo, Telegraph, and South Shattuck, as pedestrian-friendly, visually attractive areas of pedestrian scale and ensure that Avenue areas fully serve neighborhood needs as well as a broader spectrum of needs.
    - A. Require ground-floor commercial uses to be oriented to the street and sidewalks to encourage a vital and appealing pedestrian experience.
    - D. Provide bicycle facilities and ample and secure bicycle parking wherever appropriate and feasible.
    - F. Encourage sensitive infill development of vacant or underutilized property that is compatible with existing development patterns.
  6. Policy UD-28–Commercial Frontage: Commercial buildings on streets with public transit generally should have no appreciable setback from that street’s sidewalk, except in the case of occasional plazas or sitting areas that enhance the area’s pedestrian environment.

**Staff Analysis:** The project area is characterized by a mix of small and large commercial and light industrial uses, highlighted by pedestrian accessibility and mass transit along San Pablo Avenue. ZAB previously found that this building with 33 percent medical office and 66 percent research and development would activate a vacant site on San Pablo Avenue with the addition of a café and pocket park on the ground level, and medical offices on the second and third floors. The 100 percent medical office building would still include the café and ground-level pocket park. The modified project would also still encourage commercial land uses at a site that is currently underutilized and vacant. Staff believes the project complies with the above General Plan policies and that ZAB can make a finding of compatibility.

7. Policy LU-33–West Berkeley Plan: Implement the West Berkeley Plan and take actions that will achieve the three purposes of the Plan:
  1. Maintain the full range of land uses and economic activities including residences, manufacturing, services, retailing, and other activities in West Berkeley.
  2. Maintain the ethnic and economic diversity of West Berkeley’s resident population.
  3. Maintain and improve the quality of urban life, environmental quality, public and private service availability, transit and transportation, and aesthetic and physical qualities for West Berkeley residents and workers.

**Staff Analysis:** See Discussion G. West Berkeley Plan Consistency below.

Policy UD-34–Public Art: Support, present, and encourage others to support or present works of public art.

**Staff Analysis:** The project is still conditioned to pay an in lieu fee for public art.

**F. West Berkeley Plan Consistency:** The West Berkeley Area Plan, adopted in 1993, also contains several goals and policies applicable to the project, including the following:

1. Land Use Goal 1: Over the economically active area of West Berkeley, provide for a continued economic and land use mix, incorporating manufacturing, other industrial, retail and office/laboratory uses, to benefit Berkeley residents and businesses economically, benefit the City government fiscally, and promotes the varied and interest character of the area.
  - D. Providing space for, and designating appropriate locations for, office, service, and laboratory businesses, particularly growing Berkeley based businesses which are particularly suited to West Berkeley's physical environment.
2. Land Use Goal 2: Channel development – both new businesses and residences and the expansion of existing businesses – to districts various which are appropriate for the various existing elements of the West Berkeley land use mix.
  - B. Create a Mixed Manufacturing district as a general industrial district, where both heavy and light manufacturers can function, along with "biotech" industries and office users which can recycle the upper stories of buildings.
  - C. Create a Light Manufacturing district which allows a wide range of light manufacturers to continue to operate and expand and limits loss of their spaces to other uses, while providing an opportunity for office development where it will not unduly interfere with light manufacturing uses, and for laboratory development in appropriate locations.
  - E. Create a Commercial district which will foster the continued vitality of West Berkeley's neighborhood and regional serving retail trade, in as pedestrian-friendly a manner as possible.
3. Land Use Goal 4: Assure that new development in any sector is of a scale and design that is appropriate to its surroundings, while respecting the genuine economic and physical needs of the development.
4. Economic Development Goal 4: Continue to support the growth of advanced technology manufacturing (such as biotechnology) and advanced technology services (such as research laboratories) in appropriate locations, under appropriate environmental safeguards.
5. Physical Form Goal 5: Development on major sites of one acre or more should be both internally cohesive and sensitively designed on the site's publicly used edges.
  - 5.1 Development on major sites should use building scale, architecture, building placement, landscaping, and other site elements to create the sense of a cohesive development which is integrated with its surroundings.
  - 5.2 Such major projects should--to the greatest degree possible--reinforce the existing street pattern, development pattern, and overall fabric of an area, rather than being isolated from these patterns.
  - 5.3 Major developments should--to the greatest degree possible--be compatible with existing development on the edges of their sites, particularly on those edges which are heavily used by the public.

Staff Analysis: ZAB found the original project to be consistent with these policies and goals. The modified project would not change the building design or features

and would create space for medical offices that would largely serve the surrounding neighborhood. As discussed above, the project would meet parking requirements between the on-site and off-site parking lots, while also providing 46 bicycle spaces on-site. The San Pablo Avenue frontage would still include a neighborhood café that would encourage pedestrian activity along the street frontage. Staff believes ZAB can find that the project meets the goals and policies of the West Berkeley Plan.

## VII. Recommendation

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

- A. ADOPT the proposed mitigated negative declaration; and
- B. APPROVE #ZP2018-0117 to MODIFY Use Permit #ZP2016-0170 pursuant to Section 23B.32.040 and 23E.64.090, and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions, Mitigation Monitoring and Reporting Program
2. Project Plans received October 16, 2018 and dated August 30, 2018
3. Notice of Public Hearing, dated January 9, 2019
4. Final Mitigated Negative Declaration Response to Comments - **provided on October 25, 2018 and available online**
5. Initial Study-Mitigated Negative Declaration - **provided on October 25, 2018 and available online**
6. Correspondence Received

**\*All documents are available online:**

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1050\\_Parker.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1050_Parker.aspx)

**Staff Planner:** Layal Nawfal, [lnawfal@cityofberkeley.info](mailto:lnawfal@cityofberkeley.info), (510) 981-7424 and Sally Schifman, contract planner, [sschifman@rinconconsultants.com](mailto:sschifman@rinconconsultants.com), (760) 517-9141.



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

FOR BOARD ACTION  
JANUARY 24, 2019

[Text that has been revised or added from the October 25, 2018, ZAB Staff Report is indicated in bold text.]

## Pardee Block Parking Lot Project 2700 Tenth Street

Use Permit #ZP2018-0116 for construction of a 43,847 square foot surface parking lot to provide for a portion of the required parking for the medical office building at 1050 Parker Street (Use Permit #ZP2018-0117) as well as parking for existing businesses. A total of 123 automobile and 18 bicycle parking spaces would be provided.

### I. Background

#### A. Land Use Designations:

- General Plan: Manufacturing Mixed Use
- Area Plan: West Berkeley Plan
- Zoning: Mixed Use Residential (MU-R)

#### B. Zoning Permits Required:

- Use Permit under BMC Section 23C.08.050.A to demolish main buildings used for non-residential purposes;
- Use Permit under BMC Section 23E.84.030 to construct a parking lot in the MU-R District that is not exclusively for uses located in the district;
- Use Permit under BMC Section 23E.28.030.B to allow off-street parking beyond 300 feet from the structure it is intended to serve;
- Use Permit under BMC Section 23E.84.080.H to allow for the substitution of bicycle or motorcycle parking spaces in place of up to 10% of the required automobile parking spaces; and
- Use Permit under BMC Section 23E.28.080.B to locate ground level parking spaces within 20 feet of two street frontages.

**C. CEQA Determination:** An Initial Study-Mitigated Negative Declaration (IS-MND) was prepared for this project, **including the medical office building (ZP#2018-0117) and off-site parking lot**, pursuant to the provisions of CEQA, and circulated for public review from September 4, 2018 to October 4, 2018. See Section VI.A below. The IS-MND, and all related analysis, is available on the City's website link that is provided below.

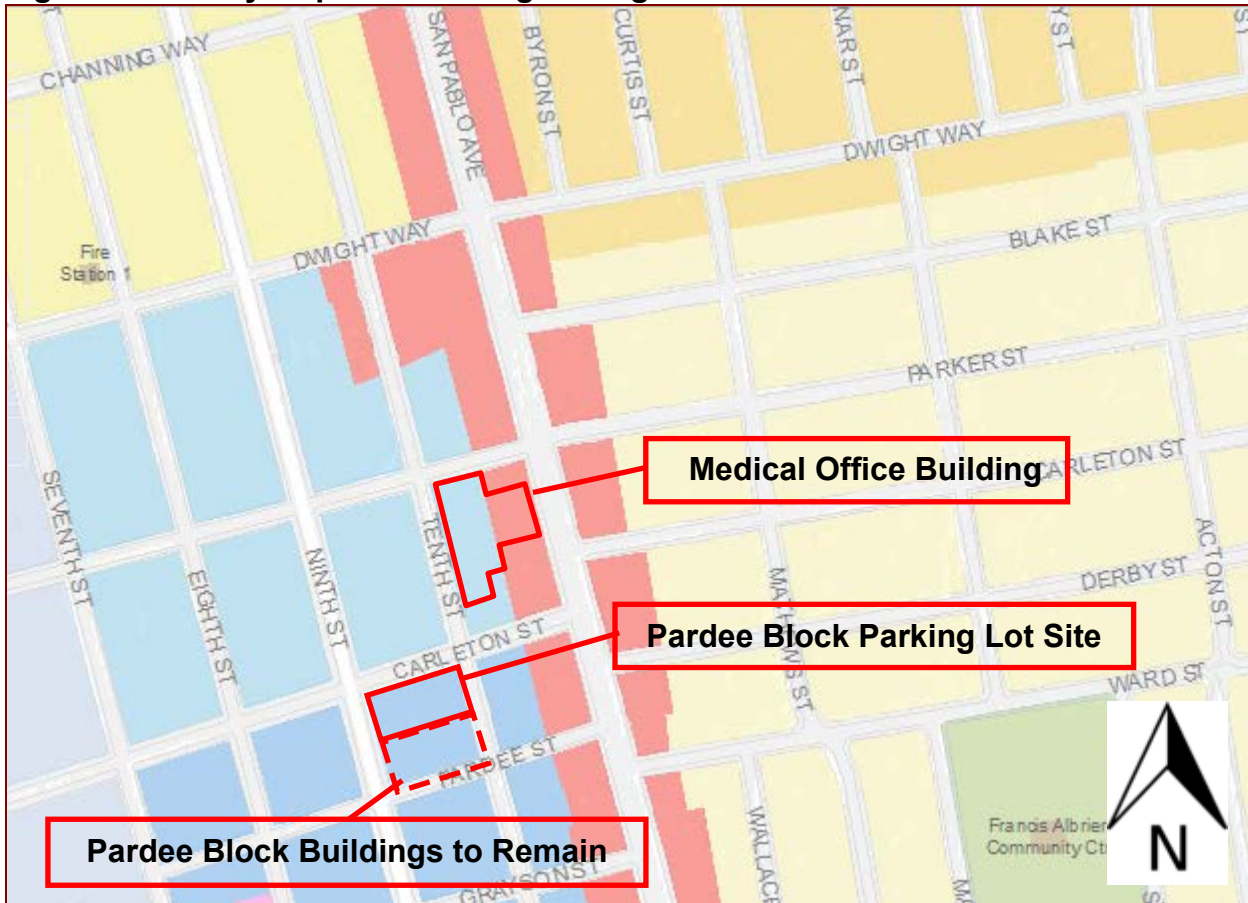
**D. Parties Involved:**

- Applicant/Property Owner: 2621 Tenth Street, LLC and Pardee I, LLC, c/o Christopher Barlow with Wareham Property Group

**E. Application Materials, Staff Reports and Correspondence are available on the Internet:**

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1050\\_Parker.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1050_Parker.aspx)

Figure 1: Vicinity Map and Existing Zoning



Legend:








-  C-W
-  MU-LI
-  MU-R
-  R-1A
-  R-1
-  R-2
-  MM

Figure 2: Aerial Image





Figure 3: Connectivity Between Pardee Block Parking Lot and Medical Office Building

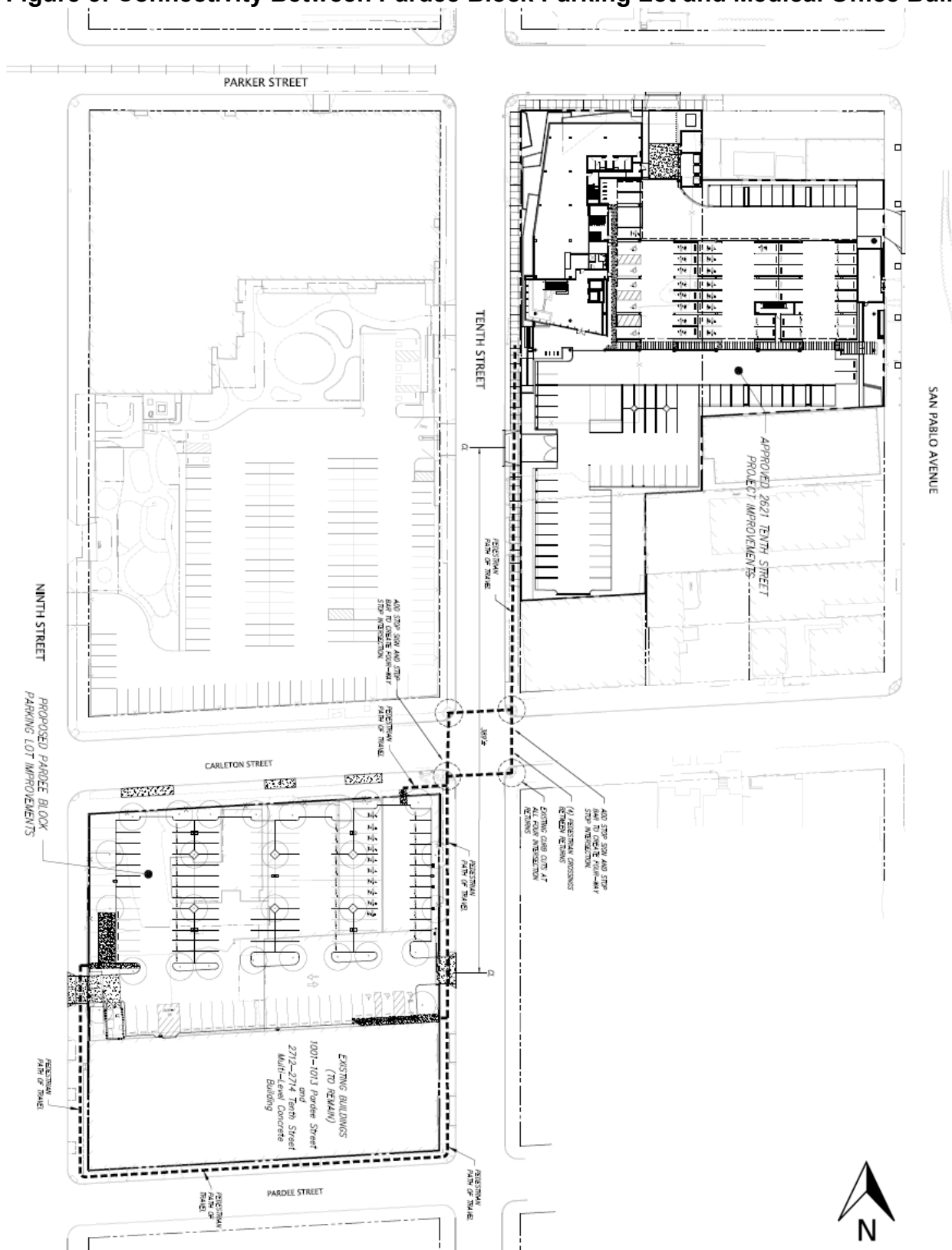
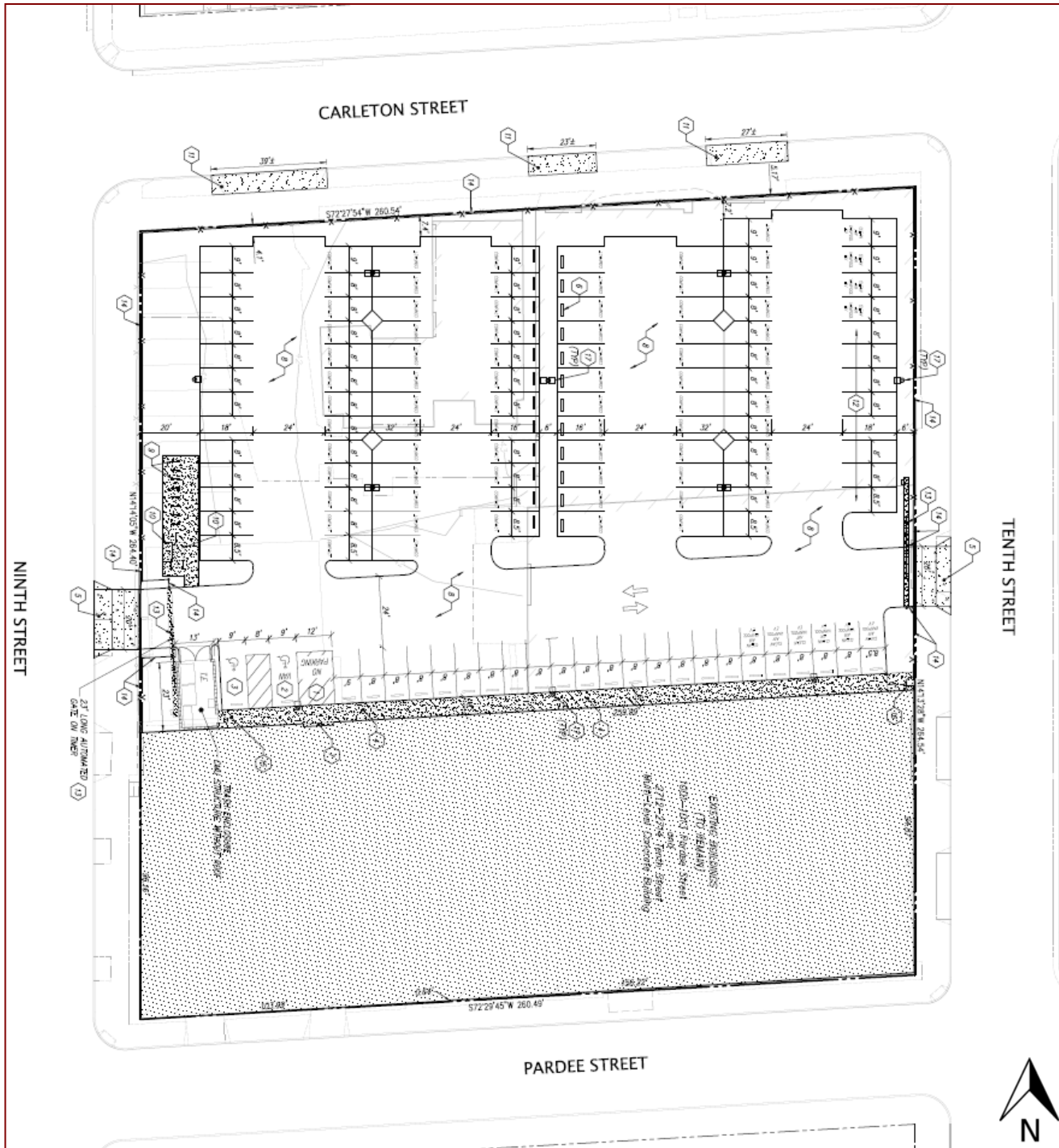


Figure 4: Pardee Block Parking Lot Site Plan



**Table 1: Land Use Information**

| Location                 |       | Existing Use                                                                                                                    | Zoning District | General Plan Designation |
|--------------------------|-------|---------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------------|
| Pardee Block Parking Lot |       | Vehicle repair services: Mobility Systems; Saab Replay; Berkeley Smog and Vehicle Registration Services; Commercial Titan Wraps | MU-R            | Manufacturing Mixed Use  |
| Surrounding Properties   | North | Recording studio, offices and associated surface parking lot                                                                    | MU-LI           | Manufacturing            |
|                          | South | Pardee Block Buildings to remain: Verducci Entertainment Services; Community Energy Services; Wise Auto Tech                    | MU-R            | Manufacturing Mixed Use  |
|                          | East  | Vehicle repair services (Oceanworks Auto Repair); multi-family and single-family residential                                    | MU-R            | Manufacturing Mixed Use  |
|                          | West  | Berkeley East Bay Humane Society; multi-family residential                                                                      | MU-R            | Manufacturing Mixed Use  |

**Table 2: Special Characteristics**

| Characteristic                                                                                 | Applies to Project? | Explanation                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.) | No                  | The proposed project would not include new gross floor area. Therefore, this use permit is not subject to this resolution.                                                                                                                                                                                                                                                     |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)    | No                  | The proposed project would not include new gross floor area. Therefore, this use permit is not subject to this resolution.                                                                                                                                                                                                                                                     |
| Affordable Housing Mitigations for rental housing projects (Per BMC Chapter 22.20.065)         | No                  | The proposed project would not include residential units.                                                                                                                                                                                                                                                                                                                      |
| Alcohol Sales/Service (Per BMC § 23E.16.040)                                                   | No                  | The proposed project does not include the sale of alcohol.                                                                                                                                                                                                                                                                                                                     |
| Creeks (Per BMC Chapter 17.08)                                                                 | No                  | No open creek or culvert exists within 40 feet of the project site.                                                                                                                                                                                                                                                                                                            |
| Coast Live Oaks (Per BMC § 6.52.010)                                                           | No                  | There are no Coast Live Oak trees on or abutting the project site.                                                                                                                                                                                                                                                                                                             |
| Density Bonus (Per Gov't Code Chapter 65915)                                                   | No                  | The proposed project would not include residential units.                                                                                                                                                                                                                                                                                                                      |
| Green Building Score                                                                           | No                  | No new buildings are proposed as part of this Use Permit.                                                                                                                                                                                                                                                                                                                      |
| Historic/Cultural Resources (Per Gov't Code §15064.5 or BMC Chapter 3.24)                      | Yes                 | On July 5, 2018, the Landmarks Preservation Commission (LPC) held a hearing to consider the request to demolish commercial buildings located at 1000-1010 Carleton Street, 1014-1016 Carleton Street, 1020 Carleton Street, and 2710 Tenth Street that are more than 40 years old, in accordance with BMC Section 23C.08.050.C. LPC took no action on the demolition referral. |
| Percent for Art (Per BMC Chapter 23C.23)                                                       | No                  | The proposed project does not include new residential, commercial, or industrial land uses.                                                                                                                                                                                                                                                                                    |
| Rent Controlled Units (Per BMC Chapter 13.76)                                                  | No                  | The project site does not include residential units.                                                                                                                                                                                                                                                                                                                           |

**Table 2: Special Characteristics**

| Characteristic                                            | Applies to Project? | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Residential Preferred Parking<br>(Per BMC Chapter 14.72)) | No                  | The Residential Preferred Parking Program does not occur in or near this neighborhood.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Seismic Hazards<br>(Per State Hazards Mapping Act)        | Yes                 | The proposed project is located within an area susceptible to liquefaction as shown on the State Seismic Hazard Zones map. The applicant submitted a geotechnical report, which determined that expansive soils are present at the project site. The Geotechnical Investigation concluded that the use of standard engineering design and seismic safety techniques reduce the effects of the expansive soils to less than significant levels. Standard Conditions of Approval used to address construction in a liquefaction zone will apply. No new structures are proposed for the off-site parking lot.                                                                                                           |
| Soil/Groundwater Contamination                            | Yes                 | A Phase I Environmental Assessment was prepared for the Pardee Block parking lot in June 2018 (Langan 2018). Langan concluded that, the project could create a hazard to the public or environment during site demolition, preparation, and grading. Implementation of standard conditions of approval, the applicant would be required to prepare a Soil and Groundwater Management Plan (SGMP) to submit to the City for approval prior to issuance of demolition, grading or building permits. Hazards to the public or environment would be avoided with implementation of this standard condition of approval. This topic was examined in the Initial Study and was found to have less than significant impacts. |
| Transit                                                   | Yes                 | There are a number of AC Transit bus stops within 0.25 mile of the Pardee Block Parking Lot site, with the closest one approximately 800 feet from the project site at the corner of Parker Street and San Pablo Avenue (serving the 72, 72M, and 802 lines). There are additional bus stops at the intersection of Dwight Way and San Pablo Avenue approximately 3 blocks north of the project site. There are three BART stations within two miles of the project site: North Berkeley (1.5 miles northeast), Ashby (1.7 miles southeast), and Downtown Berkeley (1.9 miles east).                                                                                                                                  |

**Table 3: Project Chronology**

| Date               | Action                                                     |
|--------------------|------------------------------------------------------------|
| September 16, 2016 | Original application for #ZP2016-0170 submitted            |
| April 29, 2017     | Application deemed complete                                |
| October 12, 2017   | CEQA Public Review Period began                            |
| October 19, 2017   | DRC Hearing                                                |
| November 13, 2017  | CEQA Public Review Period ended                            |
| November 30, 2017  | ZAB public hearing notices mailed/posted                   |
| December 14, 2017  | ZAB public hearing – Project Approved #ZP2016-0170 8-1-0-0 |

**Table 3: Project Chronology**

| Date                     | Action                                                                                                                                                                             |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| December 2017            | City Council requested that Planning Commission make a recommendation on a rezoning and re-designation of two parcels on the project site to allow for expanded medical office use |
| January 17, 2018         | Notice of Decision for #ZP2016-0170 mailed/posted                                                                                                                                  |
| January 31, 2018         | Appeal period ended                                                                                                                                                                |
| February 7, 2018         | Effective Date of Use Permit #ZP2016-0170                                                                                                                                          |
| February 2018            | Planning Commission public meeting held to discuss rezone and General Plan re-designation (1 of 2)                                                                                 |
| April 2018               | Planning Commission public meeting held to discuss rezone and General Plan re-designation (2 of 2)                                                                                 |
| June 4, 2018             | Applications for Modification of Use Permit (#ZP2018-0117) and Off-site Parking (#ZP2018-0116) submitted                                                                           |
| July 5, 2018             | Demolition request referred to LPC (#ZP2018-0116)                                                                                                                                  |
| September 4, 2018        | CEQA Public Review Period began                                                                                                                                                    |
| September 17, 2018       | Application deemed complete                                                                                                                                                        |
| October 4, 2018          | CEQA Public Review Period ended                                                                                                                                                    |
| October 10, 2018         | ZAB public hearing notices mailed/posted                                                                                                                                           |
| October 25, 2018         | ZAB hearing, <b>item continued to a date certain, December 13, 2018</b>                                                                                                            |
| December 4, 2018         | City Council hearing on proposed rezone and General Plan re-designation, <b>continued to December 11, 2018</b>                                                                     |
| <b>December 11, 2018</b> | <b>Continued City Council hearing on proposed rezone and General Plan re-designation of 1050 Parker Street</b>                                                                     |
| <b>December 13, 2018</b> | <b>Continued ZAB hearing without discussion</b>                                                                                                                                    |
| <b>January 9, 2019</b>   | <b>ZAB public hearing notices mailed/posted</b>                                                                                                                                    |
| <b>January 22, 2019</b>  | <b>Scheduled City Council second reading on proposed rezone and General Plan re-designation of 1050 Parker Street</b>                                                              |
| <b>January 24, 2019</b>  | <b>ZAB Hearing</b>                                                                                                                                                                 |

**Table 4: Development Standards – Pardee Block Parking Lot**

| Standard                                              | Existing <sup>1</sup>                               | Proposed                                            | Permitted/Required          |
|-------------------------------------------------------|-----------------------------------------------------|-----------------------------------------------------|-----------------------------|
| BMC Section 23E.28.080                                |                                                     |                                                     |                             |
| Total Pardee Block Lot Area                           | 68,000 sf                                           | No change                                           | --                          |
| Pardee Block Building Area                            |                                                     |                                                     |                             |
| 1000-1010 Carleton Street                             | 6,400 sf                                            | 0 sf;<br>all buildings proposed<br>to be demolished | --                          |
| 1014 Carleton Street                                  | 8,400 sf                                            |                                                     | --                          |
| 1016 Carleton Street                                  | 4,200 sf                                            |                                                     | --                          |
| 2700 Tenth Street                                     | 8,000 sf                                            |                                                     | --                          |
| 1001-1013 Pardee Street and<br>2712-2714 Tenth Street | 27,000 sf                                           | No change;<br>buildings to remain                   | n/a                         |
| Parking Lot Area                                      | 10,000 sf<br>(assoc. w/ existing<br>businesses)     | 43,847 sf                                           | --                          |
| Setbacks                                              | Front (Ninth Street)                                | 0 feet                                              | 20 feet                     |
|                                                       | Rear (Tenth Street)                                 | n/a                                                 | 6 feet                      |
|                                                       | Left Side<br>(Carleton Street)                      | 0 feet                                              | 5 feet                      |
|                                                       | Right Side<br>(Pardee Block<br>buildings to remain) | 0 feet                                              | 2 foot planter              |
|                                                       |                                                     |                                                     | 20 feet                     |
|                                                       |                                                     |                                                     | 20 feet                     |
|                                                       |                                                     |                                                     | 20 feet                     |
|                                                       |                                                     |                                                     | 2 foot planter <sup>2</sup> |

| Standard<br>BMC Section 23E.28.080 |                 | Existing <sup>1</sup>             | Proposed                          | Permitted/Required |
|------------------------------------|-----------------|-----------------------------------|-----------------------------------|--------------------|
| Landscaping                        | Landscaped Area | 0 sf                              | 5,668 sf                          | n/a                |
|                                    | Hardscaped Area | 68,000 sf (buildings and parking) | 62,332 sf (buildings and parking) | n/a                |
| Vehicle Parking <sup>3</sup>       |                 | 20                                | 123 <sup>4</sup>                  | 32 <sup>5</sup>    |
| Bicycle Parking <sup>3</sup>       |                 | 0                                 | 18                                | 14                 |

sf = square feet  
<sup>1</sup> Existing conditions have been approximated using existing topographic survey maps and Google Earth  
<sup>2</sup> BMC 23E.28.080.E  
<sup>3</sup> See Table 5 Vehicle and Bicycle Parking Details  
<sup>4</sup> Eighty-eight (88) Pardee Block parking spaces would be designated for use by the medical office building; 35 parking spaces would be designated for use by the remaining Pardee Block businesses  
<sup>5</sup> The total number of automobile parking spaces required for the remaining Pardee Block businesses is reduced by 10 percent due to the provision of an adequate number of bicycle parking spaces, as per BMC 23E.84.080.H. Parking for Pardee Block businesses: 1 parking space per 1,000 square feet of warehouse space and 1 parking space per 500 square feet of office space.  $19,700/1,000 = 20$  and  $7,300/500 = 15$ , therefore  $20+15 = 35 \times 0.90 = 32$  parking spaces.

Table 5: Parking Details

| Project Component                                 | Medical Office Building Parking Lot | Pardee Block Parking Lot | Total Proposed               |
|---------------------------------------------------|-------------------------------------|--------------------------|------------------------------|
| Vehicle Parking                                   |                                     |                          |                              |
| Standard (8'x18' to 9'x18')                       | 71                                  | 72                       | 143                          |
| Clean Air/Vanpool/EV (8'x18' and 8'6"x18')        | 10                                  | 10                       | 20                           |
| Fuel Efficient <sup>1</sup> (8'x18' and 8'6"x18') | 7                                   | 7                        | 14                           |
| ADA Accessible (9'x18')                           | 7                                   | 3                        | 10                           |
| Compact (8'x16' to 9'x16')                        | 20<br>(17% of parking)              | 31<br>(25% of parking)   | 51<br>(21% of total parking) |
| Vehicle Parking Totals                            | 115                                 | 123                      | 238                          |
| Bicycle Parking <sup>2</sup>                      |                                     |                          |                              |
| Short-Term                                        | 18                                  | 16                       | 34                           |
| Long-Term (secured/lockers)                       | 28                                  | 2                        | 30                           |
| Bicycle Parking Totals                            | 46                                  | 18                       | 64                           |

<sup>1</sup> Fuel efficiency refers to the average number of miles traveled per gallon of fuel consumed

([https://www.driveclean.ca.gov/Do\\_Your\\_Research/Glossary\\_of\\_Terms.php](https://www.driveclean.ca.gov/Do_Your_Research/Glossary_of_Terms.php)). These parking spaces would be reserved for vehicles designated as fuel efficient by the EPA.

<sup>2</sup> Bicycle parking spaces shall be provided at the ratio of one space per 2,000 square feet of gross floor area of non-residential space, and in accordance with the requirements of Section [23E.28.070](#).

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located in West Berkeley. The site is approximately 500 feet southwest of the associated medical office site and is bound by Carleton Street to the north, Pardee Street to the south, Ninth Street to the west, and Tenth Street to the east. Surrounding land uses are listed in Table 1 above. Nearby transit facilities are detailed in Table 2 above.

**B. Site Conditions:** The project site comprises one parcel and currently consists of multiple structures as detailed in Table 4 above. The structures proposed for

demolition are greater than 40 years old; historic evaluations were conducted for all structures proposed for demolition. The structures consist of a contractor's repair shop, a wooden lean-to storage shed, a machine shop, and two warehouses, plus associated outbuilding structures. See Section VI. Item B. for further detail.

### III. Project Description

Use Permit #ZP2018-0116 is for the construction of a new 43,847 square-foot surface parking lot on the northern two-thirds of a single 68,000 square-foot parcel. The construction of the surface parking lot would require the demolition of multiple occupied structures, described above. The remainder of the site includes approximately 27,000 square feet of commercial buildings; these buildings would remain intact and operational.

The Pardee Block Parking Lot would include a total of 123 automobile parking and 18 bicycle parking spaces. The parking lot would include 88 parking spaces for use by the medical office staff at the proposed 1050 Parker Street Medical Office (#ZP2018-0117). The employees of the businesses that are to remain at Pardee Block currently use on-street parking. The project will provide up to 35 designated parking spaces for use by these businesses.

Vehicular access would be provided from driveways on Ninth Street and Tenth Street for the proposed parking lot. Vehicular access would be gate-controlled and provided on Tenth and Ninth Streets. The entire parking lot would be surrounded by a six-foot, black aluminum fence. Three pedestrian gates would be installed for access and would be located along Carleton Street, in the northeast corner of the lot, and at Tenth and Ninth Streets adjacent the vehicle gates. The parking lot would also include 11 single- and double-head light poles.

Landscaping in the Pardee Block parking lot would include native and adaptive plantings that would incorporate trees, evergreen shrubs, perennials, and grasses to provide seasonal interest along the three street frontages.

### IV. Project History

On December 14, 2017, the City of Berkeley Zoning Adjustments Board (ZAB) approved Use Permit #ZP2016-0170 to allow for the construction of a 60,670 square-foot, three-story building with 20,370 square feet of medical office and 40,300 square feet of research and development uses, and a 750 square-foot quick service restaurant, with 117 automobile parking spaces and 46 bicycle parking spaces at 1050 Parker Street. An Initial Study-Mitigated Negative Declaration (IS-MND; State Clearinghouse #2017102038) was prepared for the original project, pursuant to the provisions of the California Environmental Quality Act (CEQA), and circulated for public review from October 12, 2017 to November 13, 2017. The IS-MND was adopted by ZAB on December 14, 2017 in conjunction with the approval of Use Permit #ZP2016-0170.

During the approval process of Use Permit #ZP2016-0170, a major health care

organization approached the property owner seeking to lease the entire proposed 60,670 square-foot building for medical office uses. In order to accommodate medical office use through the portions of the building that are approved for research and development, the underlying zoning of approximately two thirds of the site must be changed from MU-LI to C-W and additional parking spaces need to be provided.

In December 2017, the Berkeley City Council requested that the Planning Commission consider, and make recommendations on, the necessary rezoning of the two MU-LI parcels at 1050 Parker street to allow expanded medical office use. The Planning Commission subsequently held two public meetings in February 2018 and April 2018 and, **without taking action on the matter, recommended that the City Council take into account a number of considerations regarding the rezone and General Plan re-designation of Assessor Parcel Numbers (APN) 054-1763-001-03 and 054-1763-010-00, from General Plan designation Manufacturing Mixed Use to Avenue Commercial and from Zoning District Mixed Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W). The rezone would include a Text Amendment to the BMC C-W Chapter related to APN 054-1763-001-03, 054-1763-010-00, and 054-1763-003-03 to allow for a maximum building height of 50 feet for medical office buildings.**

On June 4, 2018, the property owner submitted a request to the City of Berkeley for a modification to Use Permit #ZP2016-0170 to allow the 60,670 square-foot building to be used entirely for medical offices (Use Permit #ZP2018-0117) at 1050 Parker Street. Because of the need to increase the number of parking spaces provided, the project applicant has simultaneously applied for a new Use Permit to allow for off-site parking (Use Permit #ZP2018-0116, Pardee Block parking lot). Approval of Use Permit #ZP2018-0116 is contingent on the approval of the Use Permit #ZP2018-0117, as specified in Condition 14. Implementation of Use Permit #ZP2018-0117 is contingent on the approval of the General Plan re-designation and rezone, as specified in Condition 13. **The second reading of the General Plan re-designation and rezone of 1050 Parker Street is scheduled for the January 24, 2019 City Council meeting.**

**The applications for Use Permit #ZP2018-0116 at 2700 Tenth Street and Use Permit #ZP2018-0117 at 1050 Parker Street were considered at the October 25, 2018 ZAB hearing. After a presentation by the applicant team, public comment, and discussion by the ZAB, the ZAB continued the project to the December 13, 2018 hearing. However, the ZAB continued the item on December 13, 2018 without discussion as the City Council hearing regarding General Plan re-designation and rezone was continued on December 4, 2019 to December 11, 2019. The ZAB had discussed on October 25, 2018 the need for the Council to take action on the proposed General Plan and Zone Change for 1050 Parker Street prior to the consideration of the Use Permits by ZAB. The City Council had not acted upon the proposed General Plan and Zone Change at 1050 Parker Street before them prior to the publication of the Staff Report for the December 13, 2018 ZAB hearing.**

**At the October 25, 2018 public hearing ZAB directed the applicant team to provide additional analysis and information on the following items:**

- **Parking needs of the medical facility upon occupancy;**
- **Available on-street public parking supply in the surrounding neighborhood;**



- **Potential for alternative off-site parking locations that would not require the demolition of businesses;**
- **Detailed explanation of the West Berkeley Shuttle service;**
- **Potential for relocation assistance for the businesses slated for demolition; and**
- **Potential for street trees surrounding the off-site parking lot.**

On December 4, 2018 the City Council conducted a public hearing regarding reclassification of the Zoning as well as the General Plan and West Berkeley Plan designations of 1050 Parker Street and amending the C-W District development standards to allow for a 4-story, 50-foot tall building on the subject property. The City Council took public testimony, discussed the resolution and ordinance and continued the public hearing to December 11, 2018.

**On December 11, 2018 the City Council reopened the public hearing and adopted Resolution No. 68,724–N.S. amending the General Plan land use designations for a portion of 1050 Parker Street from a Manufacturing designation to Avenue Commercial, and amending the West Berkeley Plan land use designation from Mixed Use Light Industrial to General Commercial (APNs 054-1763-001-03, 054-1763-010-00). Additionally, the City Council introduced and adopted the first reading of Ordinance No. 7,638–N.S to rezone a portion of the project site from Mixed Use – Light Industrial (MU-LI) to West Berkeley Commercial (C-W) (APNs 054-1763-001-03 and 054-1763-010-00); and to amend the C-W District development standards to allow for a 4-story, 50-foot tall building on the subject property (APNs 054-1763-001-03, 054-1763-010-00, and 054-1763-003-03).**

The City Council's second reading of the General Plan re-designation and rezone of 1050 Parker Street is scheduled for **January 22, 2019**. **Staff will provide a verbal summary of the January 22, 2019 City Council meeting for the ZAB at the January 24, 2019 public hearing presentation for Use Permit #ZP2018-0116 at 2700 Tenth Street and Use Permit #ZP2018-0117 at 1050 Parker Street.**

## V. Community Discussion

**A. Neighbor Notification:** Prior to submitting this application to the City in 2018, the applicant erected a pre-application poster on the project site. **As the hearing was continued from December 13, 2018 to a date uncertain, a new notice was required.** On **January 9, 2019** the City mailed 485 public hearing notices to property owners and occupants, and to interested neighborhood organizations of the public hearing on **January 9, 2019**. In addition, the City posted notices within the neighborhood in six locations. As of the writing of this report, Staff has received one email following the October 25, 2018 public hearing regarding the issues discussed by ZAB at that hearing.

**B. Landmarks Preservation Commission (LPC) Review:** On July 5, 2018, the Landmarks Preservation Commission (LPC) held a hearing to consider the request to demolish commercial buildings that are more than 40 years old, in accordance

with BMC Section 23.C.08.050. LPC took no action on the demolition referral. One of the remaining Pardee Block buildings, 1013 Pardee Street, was voted to be placed on the Potential Initiations List by a 7-1-0-0 vote.

- C. Design Review Committee Review:** Committee review is not required for the proposed parking lot as no structures are proposed. Design Review staff reviewed the plans regarding landscaping and lighting as part of the Use Permit review.

## VI. Issues and Analysis

- A. Initial Study-Mitigated Negative Declaration:** Pursuant to the California Environmental Quality Act (CEQA), an Initial Study-Mitigated Negative Declaration (IS-MND) was prepared to inform the ZAB and the general public of potential project impacts. The IS-MND found that the project, in its entirety (i.e. 1050 Parker Street Medical Office Building and Pardee Block Parking Lot), would result in impacts related to hydrology and water quality, land use and planning, construction noise, and transportation and traffic. All findings were consistent with the original IS-MND completed for the 1050 Parker Street project in 2017, with the exception of a new potential impact related to land use and planning due to the need for the rezone and land use re-designation. The IS-MND provided the following mitigation measures to be incorporated into the project conditions of approval in order to reduce project impacts to less than significant levels:

- *Mitigation Measure HYD-1 Hydrology and Hydrologic Mitigation Analysis.* The project shall not increase from pre-project to post-construction conditions peak flow and flow duration to existing gutters, and shall not raise from pre-project to post-construction the hydraulic grade line in existing storm drains at all times throughout the life of the project. The applicant shall demonstrate through a hydrology and hydraulics mitigation analysis to show how this performance standard will be achieved and used to provide the basis of design for the implementing this mitigation.

The hydrology and hydraulics mitigation analysis shall be submitted to and approved by the City of Berkeley Department of Planning and Development prior to issuance of required project permits. The analysis shall identify existing and post-construction drainage patterns, magnitudes, and durations within the project limits and also identify existing off-site discharge locations, durations, and magnitudes from the project site. The mitigation actions to meeting the performance standard may include conveyance pipeline (minimum 12-inch diameter, reinforced concrete pipe) in the right-of-way, and the pipe shall not be used to attenuate peak flows. The mitigation method shall be designed to operate in conjunction with MRP Provision C3 requirements. The applicant shall make up front payment for City staff and consultant costs related to reviewing the hydrology and hydraulics mitigation analysis.

- *Mitigation Measure HYD-2 Stormwater Control Measures.* Discharges of any water from the project site shall be controlled at all times and shall not exceed pre-

project peak flow or duration in existing storm drains and gutters throughout the project life. Applicant shall design and construct the mitigation method developed through the Hydrology and Hydraulic Mitigation Analysis performed in HYD-1 and as approved by the City. The mitigation actions to meet the performance standards may include conveyance within the right-of-way but storage within the right-of-way is not allowed. The identified method(s) shall be completely operational and any facilities located within the right-of-way shall be approved by and dedicated to the City prior to issuance of certificate of occupancy.

- *Mitigation Measure LU-1 Rezone.* Demolition permits shall not be issued unless and until a rezone is approved by the City of Berkeley that would change the zoning on the western portion of the medical office building site from Mixed-Use Light Industrial (MU-LI) to West Berkeley Commercial (C-W).
- *Mitigation Measure NOI-1 Construction Vibration Reduction Measures.* Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:
  - 1) The applicant or contractor shall ensure that construction activities involving vibratory rollers, large bulldozers, or loaded trucks do not occur during posted services times at the Covenant Worship Center (2622 San Pablo Avenue), currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.
  - 2) The applicant or contractor shall, to the extent technically and economically feasible, limit the use of vibratory rollers, large bulldozers, or loaded trucks within 75 feet of the nearest wall of the Covenant Worship Center or Fantasy Studios (2600 Tenth Street) to no more than 30 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.
  - 3) The applicant or contractor shall, to the extent technically and economically feasible, limit the use of jackhammers within 25 feet of the nearest wall of the Covenant Worship Center or Fantasy Studios to no more than 70 vibration events per day, as defined by the Federal Transit Administration and detailed in Table 22 Groundborne Vibration Impact Criteria for Human Annoyance of the MND.
  - 4) The applicant or contractor shall provide tenants of the three residential units atop the Missouri Lounge, the Covenant Worship Center, Fantasy Studios, and residents within a 500-foot radius of the project sites with a notification at least 24 hours prior to vibration-generating construction activities.
- *Mitigation Measure NOI-2 Construction Noise Abatement.* Prior to issuance of grading permits, the applicant shall incorporate the following actions into a construction management plan subject to review and approval by the City:
  - 1) The applicant or contractor shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
  - 2) The applicant or contractor shall use quiet models of air compressors and

- other stationary noise sources where technology exists.
- 3) The applicant or contractor shall locate stationary noise-generating equipment as far as feasible from the nearest noise-sensitive receptors.
  - 4) The applicant or contractor shall prohibit unnecessary idling of internal combustion engines.
  - 5) The applicant or contractor shall construct solid plywood fences around the construction site adjacent to operational businesses, including the Covenant Worship Center (2622 San Pablo Avenue).
  - 6) The applicant or contractor shall ensure that construction activities that generate excessive noise that creates noise disturbance across the Project site's shared property line with the Covenant Worship Center (2622 San Pablo Avenue) do not occur during regular posted services at the Covenant Worship Center, currently listed as Sundays at 10:30 AM and 6:00 PM and Wednesdays at 7:00 PM.
  - 7) The applicant or contractor shall ensure that supporting construction activities, including the loading and unloading of materials and truck movements are limited to the hours of 7:00 AM to 7:00 PM on weekdays and between the hours of 9:00 AM and 8:00 PM on Saturdays, or as stipulated in the conditions of approval if more restrictive. No construction-related activity shall occur on Sunday or any Federal Holiday without explicit permission from the City of Berkeley.
  - 8) The applicant or contractor shall notify adjacent businesses, the Covenant Worship Center, and residents within a 500-foot radius of the project sites of the construction schedule in writing at least 7 days before beginning construction. The applicant or contractor also shall designate a "construction liaison" responsible for responding to any local complaints about construction noise. The liaison shall determine the cause of noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. The applicant or contractor shall conspicuously post a telephone number for the liaison on-site.
- *Mitigation Measure T-1 Reimbursement Agreement to Facilitate Traffic Improvements.* A Reimbursement Agreement shall be established between the applicant and the City prior to the issuance of required building permits. The Reimbursement Agreement shall specify the improvements to be accomplished as set forth below, the timing of the improvements, the proportionate share of improvement costs, the timing of the reimbursement payments, and a mutual commitment to use best efforts to coordinate and expedite the installation of the improvements with the goal of providing them before the project receives its first certificate of occupancy. Upon completion of the traffic improvements, the City shall then reimburse the applicant the City's pro-rata share of the traffic improvements over a multi-year period as shall be more specifically described in the Reimbursement Agreement.
    - 1) Intersection Improvements. Dedicated westbound and eastbound left-turn lanes at the San Pablo Avenue/Dwight Way intersection, as determined necessary by the City Engineer.
    - 2) Signal Installation. Signalization of the San Pablo Avenue/Parker Street intersection and coordinated signal timing with the adjacent intersections

on San Pablo Avenue.

- *Mitigation Measure T-2 Driveway Safety.* The applicant shall provide 10 feet of red curb on either side of the project driveways on Ninth, Tenth, and Parker Streets to improve sight distance between vehicles exiting the project driveways and motorists and bicyclists on Ninth, Tenth, and Parker Streets. Improvements shall occur prior to certificate of occupancy.

The Notice of Intent (NOI) to adopt the IS-MND was published on September 4, 2018 and was mailed to adjoining property owners and occupants, and to interested neighborhood organizations. In addition, the applicant filed the NOI with the County Clerk; and the Draft IS-MND was submitted with the State Clearinghouse (SCH #2018092001) for distribution to interested state and regional agencies. The public comment period began on September 4, 2018 and closed on October 4, 2018.

Following the release of the Initial Study and the NOI, the City received six comment letters: 1) Carly Barker and Stephen LaMond, residents at 2709 Tenth Street, 2) Dr. Janet Hurwich, resident at 2608 Ninth Street, 3) Fredric Fierstein, owner of the building at 1025 Carleton Street, , 4) Carly Barker and Stephen LaMond, residents at 2709 Tenth Street, 5) Mitchel Bornstein, owner of Berkeley Smog Test Only and Vehicle Registration Services at 1010 Carleton Street, and 6) Patricia Maurice, California Department of Transportation (Caltrans). A synopsis of each comment letter is provided below. Full responses are included in the Final IS-MND.

- 1) Carly Barker and Stephen LaMond are concerned with the availability of parking during project construction and operation, the potential loss of parking spaces as a result of the project, temporary impacts from project construction, pedestrian safety at the crosswalks, general public safety in the project vicinity, and increased traffic as result of the project.
- 2) Janet Hurwich is concerned with traffic and transportation impacts of the project and the availability of parking in the neighborhood once the medical office building is in operation.
- 3) Fredric Fierstein is also concerned with the availability of parking in the vicinity of the medical office building and requested that the Pardee Block Parking Lot be made available to the public.
- 4) Carly Barker and Stephen LaMond submitted a second comment letter in which they recommended a scenario in which a select number of parking spaces in the proposed Pardee Block parking lot may be reserved for residential use and a select number of parking spaces are offered as rental parking spaces for businesses in the vicinity.
- 5) Mitchel Bornstein states that the project would demolish existing businesses, and opines that that the loss of these businesses is unfavorable for West Berkeley. He further suggested building a multi-story parking garage on the parking lot of 2600 Tenth Street or for the project applicant to draft a relocation plan for the existing business.

- 6) Caltrans requested additional modes for encouraging smart mobility and reduced regional vehicle miles traveled be added to the required Transportation Management Plan. The recommendations have been incorporated into the City's standard conditions of approval as part of #ZP2018-0117 (Condition 68).

Appropriate mitigation measures have been incorporated into the Final IS-MND and documented in a Mitigation Monitoring and Reporting Program. The comment letters, the City's responses, and any revisions to the IS-MND are outlined in Chapter 3 of the Response to Comments of the Final IS-MND (See Attachment 4). The mitigation measures have been incorporated by reference in the Conditions of Approval. With the implementation of the mitigation measures, project impacts will be reduced to less than significant levels.

- B. Demolition of Existing Buildings:** Pursuant to BMC Section 23C.08.050.D, a use permit for demolition of non-residential buildings may be approved only if the Board finds that the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City. The demolition would total approximately 27,000 square feet of building area, and would be required in order to facilitate construction of the 43,847 square-foot surface parking lot.

**Staff Analysis:** The buildings to be demolished are located at 1000-1010, 1014-1016, and 1020 Carleton Street, and 2710 Tenth Street. The buildings do not appear on the National Register of Historic Places, the California Register of Historical Resources, or the State Historic Resources Inventory. The buildings do not meet the LPO criteria for consideration as a City Landmark or Structure of Merit (BMC Section 3.24.110). On July 5, 2018, the Landmarks Preservation Commission (LPC) held a hearing to consider the request to demolish commercial buildings located at 1000-1010 Carleton Street, 1014-1016 Carleton Street, 1020 Carleton Street, and 2710 Tenth Street that are more than 40 years old, in accordance with BMC Section 23.C.08.050. LPC took no action on the demolition referral.

The buildings to be demolished are currently operating as vehicle repair services. Pursuant to BMC 23E.84.030, Automobile Repair and Service, including Automobile Restoration, is permitted in the MU-R District with issuance of Use Permit. There are dozens of other existing automobile repair and service businesses in West Berkeley. None of the existing buildings are actively being used for manufacturing, warehousing, or wholesale trade. Staff believes ZAB can find that the demolition of these buildings would not be materially detrimental to the commercial needs and public interest of the neighborhood.

- C. Construction of a Parking Lot:** The proposed lot would provide a portion of the required parking for the 1050 Parker Medical Office Building (500 feet to the northeast, in the MU-LI and C-W zoning districts) and for businesses fronting Pardee Street. The proposed project requires a Use Permit for constructing a parking lot in the MU-R District that is not exclusively for uses located in the district (BMC Section 23E.84.030), a use permit to allow off-street parking beyond 300 feet from the structure it is intended to serve (BMC Section 23E.28.030.B), and a Use Permit to locate ground level parking space within 20 feet of street frontage (BMC Section

23E.28.080.B). In addition, a use permit is required to allow for the substitution of bicycle or motorcycle parking spaces in place of up to 10% of the required automobile parking spaces (BMC Section 23E.84.080.H). These use permits require the finding of non-detriment.

**Staff Analysis:** The proposed medical office site would provide 115 on-site surface parking spaces for site visitors and some employees. The Pardee Block Parking Lot would provide 88 parking spaces for employees of the medical office building and up to 35 parking spaces for employees of the remaining Pardee Block commercial buildings. The proposed medical office building would be northeast of the site, across Carleton Street and Tenth Street. The parking lot would be located approximately 500 feet from the nearest medical office building entrance.

Accessible pedestrian pathways between the parking lot and the medical office building currently exist. Pedestrian access for the Pardee Block Parking Lot would be provided through two pedestrian gates at the northeast and southeast corners of the parking lot. Pedestrian access to the remaining Pardee Block Parking Lot buildings would be provided through either the pedestrian gate at the southeast corner of the parking lot or a gate on the west side of the parking lot, adjacent to the bicycle parking area.

The medical office employees that park at the Pardee Block Parking Lot could use any of the pedestrian gates to access Tenth Street along existing sidewalks and then cross two of the approaches at the Tenth Street/Carleton Street intersection to walk between the medical office building and the Pardee Block Parking Lot. The intersection is currently controlled by stop-signs on the Tenth Street approaches, with no controls on the Carleton Street approaches. In addition, none of the four crossings at the intersection are currently marked/striped; however, all four crossings have adequate sight distance. The proposed project includes an all-way stop at the Tenth Street/Carleton Street intersection and would mark the intersection with crosswalk striping. This design feature would be ensured through Condition #52 requiring that the project conform to the plans and statements in the Use Permit.

The project is designed to conform with the applicable zoning requirements and development standards that apply to the project site. The parking lot and associated landscaping would be non-detrimental to light, air, privacy and views. In addition, the project approval 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.

- D. General Plan Consistency:** The 2002 General Plan contains several policies applicable to the project, including the following:
1. Policy LU-10–Parking: Protect residential areas from institutional and commercial parking impacts by encouraging use of alternative modes of transportation and

- strictly enforcing residential parking permit regulations.
2. Policy LU-11–Pedestrian- and Bicycle-Friendly Neighborhoods: Ensure that neighborhoods are pedestrian- and bicycle-friendly with well-maintained streets, street trees, sidewalks, and pathways.
  3. Policy T-32 Shared Parking: Encourage Berkeley businesses and institutions to establish share parking agreements, which would make the most efficient use of existing and new parking areas.
  4. Policy T-33 Disabled Parking and Passenger Zones: Ensure adequate disabled parking and passenger drop off zones.
  5. Policy T-50 Sidewalks: Maintain and improve sidewalks in residential and commercial pedestrian areas throughout Berkeley and in the vicinity of public transportation facilities so that they are safe, accessible, clean, attractive, and appropriately lighted.
  6. Policy T-52 Pedestrian Safety and Accessibility: Provide safe and convenient pedestrian crossings throughout the city.

**Staff Analysis:** The off-site parking lot is required in order to provide the required number of parking spaces for the associated medical office building. The proposed project has been designed to also include an all-way stop at the Tenth Street/Carleton Street intersection and would mark the intersection with crosswalk striping. This design feature would be ensured through Condition #52 requiring that the project conform to the plans and statements in the Use Permit. This parking lot is within feasible walking distance of the associated medical office building and all sidewalks and curb cuts at intersections are ADA accessible. Staff believes the project complies with the above General Plan policies and that ZAB can make a finding of compatibility.

**E. West Berkeley Plan Consistency:** The West Berkeley Area Plan, adopted in 1993, also contains several goals and policies applicable to the project, including the following:

1. Land Use Goal 1: Over the economically active area of West Berkeley, provide for a continued economic and land use mix, incorporating manufacturing, other industrial, retail and office/laboratory uses, to benefit Berkeley residents and businesses economically, benefit the City government fiscally, and promotes the varied and interest character of the area.
  - D. Providing space for, and designating appropriate locations for, office, service, and laboratory businesses, particularly growing Berkeley based businesses which are particularly suited to West Berkeley's physical environment.
2. Land Use Goal 4: Assure that new development in any sector is of a scale and design that is appropriate to its surroundings, while respecting the genuine economic and physical needs of the development.
3. Economic Development Goal 4: Continue to support the growth of advanced technology manufacturing (such as biotechnology) and advanced technology services (such as research laboratories) in appropriate locations, under appropriate environmental safeguards.

**Staff Analysis:** The off-site parking lot would support the larger project, a medical office building, which would largely serve the surrounding neighborhood. Staff



believes ZAB can find that the project meets the goals and policies of the West Berkeley Plan.

**F. ZAB Concerns from October 25, 2018 Hearing – Parking Demand and On-Street Parking Supply, Potential Alternative Off-Site Parking Lot Locations:** A series of questions related to this off-site parking lot and the associated demolition of existing buildings and relocation of businesses were raised during the October 25, public hearing. ZAB directed the applicant to provide additional information and analysis of the parking needs of the proposed medical office building tenant upon occupancy (assumed to be Kaiser Permanente), an assessment of available on-street parking in the vicinity of the project site, and the availability of alternative off-site parking lot sites.

**Staff Analysis:** The applicant worked with Kaiser Permanente to obtain parking demands for the proposed medical office building upon occupancy. This information was then incorporated into the Parking Needs and Supply Assessment prepared by Fehr & Peers (see Attachment 7).

It is estimated that the medical office building would have a peak parking demand of about 199 to 209 parking spaces under typical conditions, which would be within three percent of the parking to be reserved for this use (203 parking spaces; see Table 6).

**Table 6: Estimated Parking Space Demand**

| Use                                                                                                                                                                                                                                                | Size                        | Parking Demand                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|-------------------------------------|
| <b>Project Parking Demand</b>                                                                                                                                                                                                                      |                             |                                     |
| Medical Office                                                                                                                                                                                                                                     |                             |                                     |
| Employees                                                                                                                                                                                                                                          | 136 employees <sup>1</sup>  | 114 <sup>2</sup>                    |
| Patients                                                                                                                                                                                                                                           | 80-90 patients <sup>1</sup> | 80-90 <sup>3</sup>                  |
| Subtotal                                                                                                                                                                                                                                           |                             | 194-204                             |
| Café                                                                                                                                                                                                                                               | 750 sq. ft.                 | 5 <sup>4</sup>                      |
| <b>Total Parking Demand</b>                                                                                                                                                                                                                        |                             | <b>199-209</b>                      |
| <b>Parking Supply</b>                                                                                                                                                                                                                              |                             | <b>203</b>                          |
| <b>Parking Surplus/Deficit</b>                                                                                                                                                                                                                     |                             | <b>Deficit of 4 to Surplus of 6</b> |
| Source: Fehr & Peers, 2018                                                                                                                                                                                                                         |                             |                                     |
| Notes:                                                                                                                                                                                                                                             |                             |                                     |
| <sup>1</sup> Based on information provided by project applicant of facilities with similar staffing and patient loads and buildings of similar size and use. (see Attachment 7)                                                                    |                             |                                     |
| <sup>2</sup> Consistent with the Transportation Impact Analysis for the project (June 2017), it is assumed that 84 percent of the site employees would drive to and from the site.                                                                 |                             |                                     |
| <sup>3</sup> Assumes all patients would drive to and from the site.                                                                                                                                                                                |                             |                                     |
| <sup>4</sup> Based on Institute of Transportation Engineers' (ITE) <i>Parking Generation (4<sup>th</sup> Edition)</i> land use category 932 (High-Turnover Sit-Down Restaurant) in an urban setting, weekdays average rate of 5.55 spaces per KSF. |                             |                                     |

In addition, as shown in Table 7, the estimated parking demand rate for the site is comparable with the demand rate for the similar land use BayHealth project at 3100 San Pablo Avenue and the average rate in Institute of Transportation Engineers' (ITE) *Parking Generation (4<sup>th</sup> Edition)* for medical-dental office buildings.

**Table 7: Parking Demand Rate Comparison**

| Source                                                                                                                                                              | Parking Rate (spaces per KSF) |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| BayHealth (3100 San Pablo Avenue) <sup>1</sup>                                                                                                                      | 3.50                          |
| Proposed Medical Office Building – High Estimate <sup>2</sup>                                                                                                       | 3.41                          |
| Proposed Medical Office Building – Low Estimate <sup>2</sup>                                                                                                        | 3.24                          |
| City of Berkeley Municipal Code 23E.64.080                                                                                                                          | 3.33                          |
| ITE <sup>3</sup>                                                                                                                                                    | 3.20                          |
| Source: Fehr & Peers, 2018                                                                                                                                          |                               |
| Notes:                                                                                                                                                              |                               |
| <sup>1</sup> Estimate presented in <i>3100 San Pablo Avenue Transportation Impact Analysis</i> , April 2017                                                         |                               |
| <sup>2</sup> See Table 6 above                                                                                                                                      |                               |
| <sup>3</sup> Based on Institute of Transportation Engineers' (ITE) <i>Parking Generation (4<sup>th</sup> Edition)</i> land use category 720 (Medical-Dental Office) |                               |

Fehr & Peers conducted an on-street parking supply assessment and found that on-street parking is at or near capacity during the mid-day periods on most streets within two blocks of the project site. Appendix A of the Parking Need and Supply Assessment (attachment 7) shows the on-street parking supply and the parking occupancies by block face during the times assessed for parking availability. Overall parking demand in the area was found to be highest at 11:00 a.m. and 1:00 p.m., when overall parking occupancy is 93 percent and 90 percent, respectively. Therefore, it is infeasible to assume that parking demand from the medical office building could be easily accommodated through on-street public parking.

The applicant also provided a written response to ZAB regarding the availability of site other than the Pardee Block that might be used to provide the required off-site parking spaces (see Attachment 8). The applicant asserts that 2621 Tenth Street, LLC, nor any other affiliated property owner, owns any undeveloped land in the area that could be converted to a parking lot in lieu of the Pardee Block. Existing off-street parking lots in the vicinity are owned by affiliated property owners are unavailable due to existing contractual obligations.

Given the information provided, staff believes that the project would provide the appropriate number of parking spaces to meet the demand of the medical office building and a reduction in parking would not be recommended due to the low availability of on-street parking in the area. The amount of parking proposed is consistent with City Code requirements both in terms of the number of spaces being proposed (203 total) as well as the location of the off-site parking lot (within 500 feet of the served use; BMC Section 23E.64.080.F).

Furthermore, there are no feasible alternative off-site parking lot locations that could be utilized instead of this site that would mitigate any of ZABs concerns over business closures, demolition, or on-street parking impacts.

- G. ZAB Concerns from October 25, 2018 Hearing – West Berkeley Shuttle Service: During the October 25, 1028 public hearing, ZAB requested a detailed description of the West Berkeley Shuttle Service.

**Staff Analysis:** The applicant submitted a letter providing additional information on the West Berkeley Shuttle program (see Attachment 9). The shuttle is privately funded through the Berkeley Gateway Transportation Management Association (TMA) by Bayer HealthCare and Wareham Development, to provide “last mile” transit connection from the Ashby BART Station to tenants and employees in the West Berkeley area. This system provides two shuttles that run Monday through Friday between the hours of 5:34 a.m. and 7:18 p.m. and makes stops at nine locations around the West Berkeley area. There is currently a shuttle stop to the east of the proposed medical office building at 2600 Tenth Street. Through October 2018, the West Berkeley Shuttle provided rides to 60,253 people, for an average of 283 people per day. The applicant submitted the full Shuttle schedule, ridership information for 2018 and route map as part of the West Berkeley Shuttle program letter. (Attachment 9)

- H. ZAB Concerns from October 25, 2018 Hearing – Tenant Relocation Assistance: During the October 25, 1028 public hearing, ZAB requested a formal response to the request from Pardee Block tenants for relocation assistance.

**Staff Analysis:** The applicant also provided a formal response regarding the request to provide relocation assistance to existing Pardee Block tenants in building set for demolition (see Attachment 10). The landlord is not offering any relocation assistance. Instead, the applicant provided a summary of notifications that have been provided to the tenants over the course of the project application process (three publicly noticed meetings since April 2018).

The applicant details that the landlord has extended the termination notice period to give the tenants additional time to find alternative business locations. In addition, the landlord has provided the tenants with the right to terminate leases at any time, with 30 days’ written notice. This could allow the tenant to avoid having to pay rent in two locations. In addition, the applicant provided details regarding the current lease agreements and termination clauses held with the four businesses leasing space to be demolished.

Following submittal of the applicant’s response to ZAB’s concerns, at the City Council hearing on December 11, 2018, the applicant committed to allow the existing commercial tenants to remain until October 31, 2019. This commitment has been included as Condition #62 per the City Council’s request.

- I. **ZAB Concerns from October 25, 2018 Hearing – Addition of Street Trees:** During the October 25 public hearing, ZAB directed staff to assess the potential for street trees along Carleton, Tenth, and/or Ninth Streets.

**Staff Analysis:** A one inch gas line exists under the sidewalk on the Tenth Street. Overhead high voltage power lines exist on both the Carleton and Ninth Street sides. Due to these factors, the City Forester has determined that street trees would not be approved for this site. No street trees are proposed as part of the project. The Landscape Plan shows 26 red oak trees and 2 fringe trees are to be planted at the Pardee Block Parking Lot site. Three red oaks and one fringe tree are to be planted along both Ninth and Tenth Streets. Eight other red oak trees are proposed to be planted along the Carleton Street side of the parking lot. These trees will form a closed canopy that should grow over most of the sidewalk.

## VII. Recommendation

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

- A. ADOPT the proposed mitigated negative declaration; and
- B. APPROVE Use Permit #ZP2018-0116 pursuant to 23B.32.040 and 23E.84.090, and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions, Mitigation Monitoring and Reporting Program
2. Project Plans received October 15, 2018 and dated August 17, 2018
3. Notice of Public Hearing, dated January 9, 2019
4. Final Mitigated Negative Declaration Response to Comments, see #ZP2018-117 (1050 Parker Street) - **provided on October 25, 2018 and available online**
5. Initial Study-Mitigated Negative Declaration, see #ZP2018-0117 (1050 Parker Street) - **provided on October 25, 2018 and available online**
6. Correspondence Received
7. **Parking Needs and Supply Assessment**
8. **Alternative Site Evaluation Letter**
9. **West Berkeley Shuttle Service Summary Letter**
10. **Relocation Assistance Plan Request Response Letter**

\*All documents are available online:

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1050\\_Parker.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1050_Parker.aspx)

**Staff Planner:** Loyal Nawfal, [lnawfal@cityofberkeley.info](mailto:lnawfal@cityofberkeley.info), (510) 981-7424 and Sally Schifman, contract planner, [sschifman@rinconconsultants.com](mailto:sschifman@rinconconsultants.com), (760) 517-9141.



Administrative Record  
Appeal of ZAB Decisions

Administrative Record: Appeal of ZAB Decisions:  
Denial of Use Permit #ZP2018-0116 (Pardee  
Block Parking Lot, 2700 Tenth Street), Approval of  
Use Permit #ZP2018-0117 (Medical Office Building,  
1050 Parker Street), and Associated Environmental  
Review

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

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

or from:

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

## NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL

### SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET

#### APPEAL OF ZAB DECISIONS: DENIAL OF USE PERMIT #ZP2018-0116 (PARDEE BLOCK PARKING LOT, 2700 TENTH STREET), APPROVAL OF USE PERMIT #ZP2018-0117 (MEDICAL OFFICE BUILDING, 1050 PARKER STREET), AND ASSOCIATED ENVIRONMENTAL REVIEW.

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, APRIL 30, 2019 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to deny Use Permit # ZP2018-0116 to construct of a 43,847 square-foot surface parking lot with a total of 123 automobile and 18 bicycle parking spaces to meet a portion of the required parking for the medical office building at 1050 Parker Street, and to approve Use Permit #ZP2018-0117 to allow the previously approved 60,670 square-foot building to be used entirely for medical offices, and to adopt the Initial Study / Mitigated Negative Declaration for the project.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of April 18, 2019.

For further information, please contact Layal Nawfal, Land Use Planning, 510-781-7424 or [Lnawfal@cityofberkeley.info](mailto:Lnawfal@cityofberkeley.info)

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

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Mark Numainville, City Clerk

Mailed: April 16, 2019

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council relating to a land use matter, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision may be filed more than 90 days after the date the action of the City Council. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*



Office of the City Manager

PUBLIC HEARING

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development Department

Subject: Zoning Ordinance Amendments That Apply Inclusionary Housing Regulations to Contiguous Lots under Common Control or Ownership

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of Zoning Ordinance amendments that modify Inclusionary Housing Requirements (BMC Section 23C.12.020: Applicability of Regulations) to apply to new residential development projects on contiguous lots under common ownership or control.

FISCAL IMPACTS OF RECOMMENDATION

Adoption of the proposed ordinance may increase revenues to the Housing Trust Fund. Implementation of the proposed ordinance may increase staff time required to review application ownership history.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley's Inclusionary Housing Requirements (BMC Chapter 23C.12) currently apply to housing development projects of five or more units, additions to properties with buildings constructed after August 14, 1986 that add units and produce a new unit count of five or more, and residential housing projects proposed on lots whose size and zoning designation allow construction of five or more units. When adjacent lots owned by one entity are developed in sequence, the overall unit count may in some cases exceed five. However, the present inclusionary housing requirements do not apply in those cases; each lot is regarded in isolation.

One of the City's housing goals is to increase the supply of affordable housing, which is implemented either by requiring developers to build affordable units or pay into the Housing Trust Fund (HTF). The HTF is used by the City to assist in the preservation and construction of affordable housing. Development on adjacent lots with common ownership may not be subject to these requirements in some cases. The proposed amendments (*see Attachment 1: Draft Zoning Ordinance Amendments*) explicitly state that Inclusionary Housing Requirements will consider residential development on contiguous lots under common ownership as a single project, regardless of the sequence of development.

**BACKGROUND**

On February 19, 2019, the City Council referred to the Planning Commission a short-term referral to consider Zoning Ordinance amendments that modify Applicability of Regulations (BMC Section 23C.12.020) of the Inclusionary Housing Requirements. This referral requests four actions that modify the Affordable Housing Mitigation Fee (AHMF) structure and its application to residential projects. Only the first requested referral action is presented in this report. The proposed action would broaden the Inclusionary Housing Requirements to include residential projects built on contiguous lots under common ownership or control (*see Attachment 2: February 19, 2019 City Council Referral and Meeting Minutes*). The other three actions will be addressed in the second half of 2019 in conjunction with on-going work and related referrals (*see the "Related Work" section below*).

A subcommittee of the Planning Commission was formed and held a meeting on March 14, 2019 to discuss the Zoning Ordinance language proposed in the referral and to consider feedback from the public. The subcommittee heard testimony from several community members who are concerned about the phasing of developments to avoid the inclusionary housing / mitigation fee requirements and suggested several wording changes for the referral and identified additional issues with lot line adjustments. Based on that discussion and feedback, the subcommittee drafted language for the Planning Commission to consider.

On April 3, 2019, the Planning Commission held a public hearing to consider draft Zoning Ordinance amendments and considerations forwarded by the subcommittee. Members of the Planning Commission expressed a desire to discuss overall inclusionary housing policy and AHMF structure, but recognized that the referral direction focused on whether the proposed language achieved City Council's goal to "close a loophole" in the existing Inclusionary Housing Requirements.

Planning Commission acknowledged that the suggested amendments introduce implementation challenges and complexity into the project intake and review process. With this understanding, the Planning Commission voted to recommend draft language to City Council for approval. [*Motion/Second: Lacey/Wiblin. Vote: 7-2-0-2; Ayes: Beach, Fong, Kapla, Lacey, Martinot, Twu (Alternate for Schildt), Wrenn. Noes: Cutler (Alternate for Vincent), Wiblin. Abstain: None. Absent: Schildt, Vincent.*]

**Implementation Challenges**

Implementation of the proposed Zoning Ordinance amendments will require a substantial amount of research on each project to determine for the subject lot, and adjacent lots, the potential existence of common ownership and/or control. Staff research / applicant submittal requirements could include:

- Title history
- Property easements



- LLC and other corporate parties with financial interests and controlling roles
- Property marketing materials
- Property designers
- Property financing mechanisms

Implementation may also require applying the ordinance to sequential development projects that may not have first been known to be related, requiring additional research to track the above information over time as properties are developed and/or change ownership.

Other concerns raised by the community at the public hearing include the following: draft language proposes that “common ownership and control will be interpreted broadly,” leaving open the exact meaning of undefined terms that could make it difficult to administer; builders or developers, although in control of development, may not be providing capital to support the development of projects on adjacent lots so it could be confusing to determine who is subject to the AHMF; and proposed amendments treat certain property owners differently than the vast majority of other property owners in the City, potentially limiting their property rights in ways that could create a legal risk for the City.

### **Related Work**

On March 21, 2019, City Council’s Policy Committee on Land Use, Housing & Economic Development discussed a related proposal that may come before City Council later (*see Attachment 3: March 21, 2019 City Council Policy Committee Proposal*). The new policy would focus on reforming the entire AHMF structure, including consideration of replacing the per-unit fee with a per-square-foot fee. While the proposal would focus on rental-housing projects, it could also apply to ownership projects. The Committee discussed how the new Policy Committee proposal and the February 19 Council referral aim to accomplish similar goals, and requested that the Planning Commission be made aware of the AHMF referral that is under consideration at the City Council Policy Committee. Staff shared this information with the Planning Commission at the April 3, 2019 meeting.

### **ENVIRONMENTAL SUSTAINABILITY**

Increasing the supply of affordable housing in the City of Berkeley may help address the job-housing imbalance (e.g. housing residents near jobs, shortening commutes) and therefore reducing vehicle miles traveled and greenhouse gas emissions.

### **RATIONALE FOR RECOMMENDATION**

Close a loophole in the Zoning Ordinance that allows residential projects on adjacent lots under common ownership to bypass Inclusionary Housing Requirements when the lots are sized to accommodate less than five units each.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Alene Pearson, Principal Planner, Land Use Planning Division, 510-981-7489

Attachments:

- 1: Ordinance
- 2: City Council Referral
- 3: City Council Policy Committee Proposal
- 4: Public Hearing Notice

ORDINANCE NO. -N.S.

MODIFYING INCLUSIONARY HOUSING REQUIREMENTS (BMC SECTION 23C.12.020: APPLICABILITY OF REGULATIONS) TO APPLY TO NEW RESIDENTIAL DEVELOPMENT PROJECTS ON CONTIGUOUS LOTS UNDER COMMON OWNERSHIP OR CONTROL

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23C.12.020 is amended to read as follows:

**Section 23C.12.020 Applicability of Regulations**

A. The following types of projects must comply with the inclusionary housing requirements of this chapter:

1. Residential ~~H~~housing ~~P~~projects for the construction of five or more Dwelling Units;
2. Residential ~~H~~housing ~~P~~projects proposed on any part of a single lot or on a grouping of contiguous lots under common ownership and/or control, design, marketing, or financing, whose collective size, including the area of any surface easements and zoning designation is such to allow for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter;
3. Residential ~~H~~housing ~~P~~projects proposed on ~~lots~~any part of a single lot or on a grouping of contiguous lots under common ownership and/or control, design, marketing, or financing -whose collective size, including the area of any surface easement, and zoning designation is such to allow construction of five or more Dwelling Units, regardless of whether those units are all built simultaneously.

B. For the purposes of this Section, “common ownership and/or control” shall be interpreted broadly.

BC. For purposes of this Section, “Residential Housing Project” means a project involving the construction of at least one Dwelling Unit. This chapter does not apply to Dormitories, Fraternity and Sorority Houses, Boarding Houses, Residential Hotels or Live/Work Units, which are not considered Dwelling Units, provided however that. Live/Work Units are subject to low income inclusionary provisions set forth in Section 23E.20.080.

CD. This chapter sets forth specific inclusionary housing requirements for the Avenues Plan Area, which prevails over any inconsistent requirements set forth elsewhere in this chapter.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be

filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**ANNOTATED AGENDA  
BERKELEY CITY COUNCIL MEETING  
Tuesday, February 19, 2019  
6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:13 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** None

**Ceremonial Matters:**

- 1. Adjourned in memory of Jim Samuels, Berkeley Commissioner.

**City Manager Comments:** None

**City Auditor Comments:**

The City Auditor discussed the importance taking operational cost information and tradeoffs into consideration in the decision making process for the delivery of services. The City Auditor also noted her that her upcoming Audit Plan will include a focus on payments leaving the City.

**Public Comment on Non-Agenda Matters:** 7 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 15 speakers.

**Action:** M/S/C (Wengraf/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

## Council Action Items

21. **Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

**From: Councilmembers Harrison, Robinson, and Hahn**

**Recommendation:** Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for owner occupied projects by modifying property lines so that no lot is large enough to construct five or more units. Adopt an updated resolution pursuant to BMC 22.20.065 (Affordable Housing Mitigation Fee) addressing the same issue for rental projects.

**Financial Implications:** See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

**Action:** M/S/C (Harrison/Davila) to accept revised material from Councilmember Harrison on Item 21.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Droste.

**Action:** 3 speakers. M/S/Failed (Droste/Wengraf) to adopt the revised material submitted by Councilmember Harrison revised to read as follows:

1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report.
2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.
3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.
4. The Planning Commission is to consider the following language from the item submitted at the meeting: *It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.*

**Vote:** Ayes – Kesarwani, Wengraf, Droste; Noes – Bartlett, Harrison, Hahn, Robinson, Arreguin; Abstain – None; Absent – Davila.

Councilmember Davila absent 8:38 p.m. – 9:14 p.m.

## Council Action Items

**Action:** M/S/Carried (Harrison/Hahn) to adopt the revised material submitted by Councilmember Harrison revised to read as follows:

1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019.

2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.

3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.

4. The Planning Commission is to consider the following language from the item submitted at the meeting: *It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.*

**Vote:** Ayes – Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Kesarwani, Droste; Absent – Davila.

## Information Reports

### 22. Referral Response: Supporting Worker Cooperatives

**From:** City Manager

Contact: Jordan Klein, Economic Development, 981-7530

**Action:** Item 22 held over to February 26, 2019.

### 23. Referral Response: City Maintained Below Market Rate Units (BMR) Online Resource

**From:** City Manager

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Received and filed.

### 24. Mental Health Commission 2018/2019 Work Plan

**From:** Mental Health Commission

Contact: Karen Klatt, Commission Secretary, 981-5400

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment



Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
February 19<sup>th</sup>, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Kate Harrison, Rigel Robinson, and Sophie Hahn

Subject: Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation

RECOMMENDATION

Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for owner occupied projects by modifying property lines so that no lot is large enough to construct five or more units. Adopt an updated resolution pursuant to BMC 22.20.065 (Affordable Housing Mitigation Fee) addressing the same issue for rental projects.

BACKGROUND

A key strategy in Berkeley's effort to develop affordable housing requires that new housing construction include a portion of below market rate units. This requirement can be found in BMC Chapter 23C.12 (Inclusionary Housing Requirements) and BMC Section 22.20.065 (the Affordable Housing Mitigation Fee, or AHMF, Ordinance). The Inclusionary Housing Requirements section covers owner-occupied housing, while the AHMF Ordinance covers rented housing. The AHMF Ordinance for rental housing also provides for the Council to enact an enabling resolution to set the level of the fee and "additional limitations" on the application of the fee.

The Inclusionary Housing Requirements section mandates inclusionary affordable housing in owner-occupied projects if they either 1) result in the construction of five or more new dwelling units, 2) result in the construction of fewer than five new units if they are added to an existing one- to four-unit property developed after August 14, 1986, and increase the total number of units to more than five, or 3) are built on lots whose size and zoning designation would allow construction of five or more dwelling units. Developers have exploited the ability to modify lot lines on contiguous properties they own so that no lot is big enough to include five or more units, thus avoiding any affordability requirement under condition 3.



The AHMF Enabling Resolution, meanwhile, covers only those projects that result in the construction of 5 or more new units of rental housing, regardless of whether the lot could fit more units or if the project is adding units to an existing building.

This item:

- Amends the Inclusionary Housing Requirements section to cover owner-occupied projects built on any part of a contiguous property under common ownership and control whose size and zoning designation is such to allow construction of five or more Dwelling Units, regardless of how the property is divided.
- Amends the AHMF Enabling Resolution for rental housing to mirror the provisions of the Inclusionary Housing Requirements section regarding projects that add units to existing projects or are on property that could accommodate more than five units, including the amended language discussed above.

#### FISCAL IMPACTS OF RECOMMENDATION

May increase revenues to the Housing Trust Fund.

#### ENVIRONMENTAL SUSTAINABILITY

Increasing the supply of affordable housing in Berkeley may limit commute times and thus greenhouse gas emissions, in line with Berkeley's environmental goals.

#### CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

Attachments:

- 1: Ordinance
- 2: Resolution
- 3: Track Changes from Resolution No. 68,074-N.S

ORDINANCE NO. -N.S.

CLOSING MODIFIED PROPERTY LINE LOOPHOLE IN INCLUSIONARY  
HOUSING REQUIREMENTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23C.12.020 is amended to read as follows:

**23C.12.020 Applicability of Regulations**

A. The following types of projects must comply with the inclusionary housing requirements of this chapter:

1. Residential housing projects for the construction of five or more Dwelling Units;
2. Residential housing projects for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter;
3. Residential housing projects proposed on any part of a single property or two or more contiguous properties under common ownership and control whose size and zoning designation is such to allow construction of five or more Dwelling Units.

B. This chapter does not apply to Dormitories, Fraternity and Sorority Houses, Boarding Houses, Residential Hotels or Live/Work Units, which are not considered Dwelling Units. Live/Work Units are subject to low income inclusionary provisions set forth in Section 23E.20.080.

C. This chapter sets forth specific inclusionary housing requirements for the Avenues Plan Area, which prevails over any inconsistent requirements set forth elsewhere in this chapter.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

CHANGING THE AFFORDABLE HOUSING MITIGATION FEE PURSUANT TO BERKELEY MUNICIPAL CODE SECTION 22.20.065; AND RESCINDING RESOLUTION NO. 68,074-N.S.

WHEREAS, on June 28, 2011, the City adopted the Affordable Housing Mitigation Fee Ordinance No. 7,192-N.S., adopting Berkeley Municipal Code Section 22.20.065, which would require developers of market rate housing to pay an mitigation fee to address the resulting need for below market rate housing, and offered the alternative to provide units in lieu of the fee; and

WHEREAS, Berkeley Municipal Code Section 22.20.065 did not establish the fee, but authorized the City Council to adopt such fee by resolution; and

WHEREAS, Berkeley Municipal Code Section 22.20.065 authorizes the City Council to specify by resolution additional limitations not inconsistent-with section 22.20.065; and

WHEREAS, on June 27, 2017 the City adopted Resolution NO. 68,074, establishing the fee at \$37,000 per new unit of rental housing; and

WHEREAS, Berkeley Municipal Code Section 22.20.065 and the Affordable Housing Mitigation fee both aim to address the need for below market rate housing and therefore should have parity in applicability;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

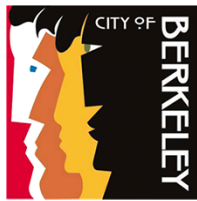
1. The Affordable Housing Mitigation Fee authorized and provided for by Section 22.20.065 shall be \$37,000 per new unit of rental housing, payable at the issuance of Certificate of Occupancy, but shall be subject to a \$3,000 discount if paid in its entirety no later than issuance of the building permit for the project on which the fee is due. The Affordable Housing Mitigation Fee shall only apply to market rate units.
2. The Affordable Housing Mitigation Fee will be automatically adjusted by the annual percentage shown in the California Construction Cost Index published by the California Department of General Services, every other year beginning in 2018, on July 1. The automatic adjustment tied to the California Construction Cost Index shall not cause the fee to exceed the maximum fee established by the most recent Nexus study, and shall apply to all projects that have not received final approval by the City of Berkeley prior to the date of the automatic adjustment.
3. For purposes of this resolution, "new rental housing" includes group living accommodations, except for those categories that are currently exempt pursuant to BMC Section 23C.12.020.B, at an equivalency rate of one new rental unit per two bedrooms in a group living accommodation, such that one-half the fee adopted by this resolution shall be imposed on each bedroom.
4. For purposes of this resolution, "new rental housing" shall not include developments of four units or fewer units unless they meet any of the following criteria:
  - a) Residential housing projects for the construction of one to four new units, when such units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All units in such a property are subject to the requirements of this resolution;

- b) Residential housing projects proposed on any part of a contiguous property under common ownership and control whose size and zoning designation is such to allow construction of five or more units, regardless of how said property may be divided.
5. For the purposes of this resolution, "new rental housing" shall not include cooperative student housing developed by the Berkeley Student Cooperative.
6. The definition of "new rental housing" excludes units which are offered at no cost to support nonprofit public benefit activities.
7. No fee shall be assessed under the following circumstances.
  - a) No fee shall be assessed when new rental housing is built to replace rental units that have been destroyed through no fault of the owner of those units, as long as the applicant files a complete permit application within two years after destruction of the pre-existing units. Staff shall determine on a case by case basis both whether rental units have been "destroyed" and whether such destruction was through the fault of the owner. The issuance of a permit to demolish all or part of a building containing rental units shall not be determinative. However fees shall be assessed on rental units in a replacement project in excess of the number destroyed.
  - b) No fee shall be assessed on rental units that have been expanded, renovated, or rehabilitated unless the units were vacant for more than two years before the applicant filed a complete permit application for such expansion, renovation or rehabilitation.
8. Notwithstanding anything to the contrary, staff may waive all or part of the fee adopted by this resolution pursuant to Sections 22.20.070 and 22.20.080.
9. Except as set forth in section 2, this and future increases in the Affordable Housing Mitigation Fee shall apply only to projects whose applications for the required discretionary entitlements have not received final approval as of the effective date of the fee.

BE IT FURTHER RESOLVED that Resolution No. 68,074-N.S. is hereby rescinded.

### Track Changes from Resolution No. 68,074-N.S

1. The Affordable Housing Mitigation Fee authorized and provided for by Section 22.20.065 shall be \$37,000 per new unit of rental housing, payable at the issuance of Certificate of Occupancy, but shall be subject to a \$3,000 discount if paid in its entirety no later than issuance of the building permit for the project on which the fee is due. The Affordable Housing Mitigation Fee shall only apply to market rate units.
2. The Affordable Housing Mitigation Fee will be automatically adjusted by the annual percentage shown in the California Construction Cost Index published by the California Department of General Services, every other year beginning in 2018, on July 1. The automatic adjustment tied to the California Construction Cost Index shall not cause the fee to exceed the maximum fee established by the most recent Nexus study, and shall apply to all projects that have not received final approval by the City of Berkeley prior to the date of the automatic adjustment.
3. For purposes of this resolution, "new rental housing" includes group living accommodations, except for those categories that are currently exempt pursuant to BMC Section 23C.12.020.B, at an equivalency rate of one new rental unit per two bedrooms in a group living accommodation, such that one-half the fee adopted by this resolution shall be imposed on each bedroom.
4. For purposes of this resolution, "new rental housing" shall not include developments of four units or fewer units unless they meet any of the following criteria:
  - a) Residential housing projects for the construction of one to four new units, when such units are added to an existing one to four unit property or any part of two or more contiguous properties, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All units on such a property are subject to the requirements of this resolution;
  - b) Residential housing projects proposed on any part of a property or two or more contiguous properties under common ownership and control whose size and zoning designation would cumulatively allow construction of five or more units.
- 4.5. For the purposes of this resolution, "new rental housing" shall not include cooperative student housing developed by the Berkeley Student Cooperative.
- 5.6. The definition of "new rental housing" excludes units which are offered at no cost to support nonprofit public benefit activities.
- 6.7. No fee shall be assessed under the following circumstances.
  - a) No fee shall be assessed when new rental housing is built to replace rental units that have been destroyed through no fault of the owner of those units, as long as the applicant files a complete permit application within two years after destruction of the pre-existing units. Staff shall determine on a case by case basis both whether rental units have been "destroyed" and whether such destruction was through the fault of the owner. The issuance of a permit to demolish all or part of a building containing rental units shall not be determinative. However fees shall be assessed on rental units in a replacement project in excess of the number destroyed.
  - b) No fee shall be assessed on rental units that have been expanded, renovated, or rehabilitated unless the units were vacant for more than two years before the applicant filed a complete permit application for such expansion, renovation or rehabilitation.
- 7.8. Notwithstanding anything to the contrary, staff may waive all or part of the fee adopted by this resolution pursuant to Sections 22.20.070 and 22.20.080.
- 8.9. Except as set forth in section 2, this and future increases in the Affordable Housing Mitigation Fee shall apply only to projects whose applications for the required discretionary entitlements have not received final approval as of the effective date of the fee.



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

## ATTACHMENT 3

CONSENT CALENDAR  
 TBD (Continued from February  
 26, 2019)

To: Honorable Mayor and Members of the City Council

From: Councilmembers Rigel Robinson, Sophie Hahn, Mayor Jesse Arreguin,  
 and Councilmember Lori Droste

Subject: Refer to the City Manager and the Housing Advisory Commission to Consider  
 Reforming the Affordable Housing Mitigation Fee

RECOMMENDATION

Refer to the City Manager, the Planning Commission, and the Housing Advisory Commission to consider possible reforms to the Affordable Housing Mitigation Fee, including adopting a per-square-foot fee structure, potentially on a geographic basis.

BACKGROUND

Currently, all new residential development of five units or more must either pay an Affordable Housing Mitigation Fee to the City's Affordable Housing Trust Fund, set aside 20% of a project's units as below market rate housing, or some combination of the two. For rental developments, the fee is currently calculated based on the number of residential units in the project according to the following formula (BMC Section 22.20.065):

$$[A \times \text{Fee}] - [(B+C)/(A \times 20\%) \times (A \times \text{Fee})]$$

Where:

A = Total number of units in the project

B = Number of Very-Low Income Units provided in the project.

C = Number of Low-Income Units provided in the project.

By calculating Affordable Housing Mitigation Fees on a per-unit basis, current law incentivizes developers to build fewer units. In the past, developers have replaced standard layouts (studio, one-bedroom, and two-bedroom units) with dorm-style layouts (up to eight beds per unit). This increases the *density* of each unit but reduces the overall *number* of units, allowing applicants to pay significantly smaller fees without providing any additional housing.

Another way for developers to reduce their contribution to the Affordable Housing Trust Fund is to build larger, more expensive units, rather than smaller, more affordable units. This perverse incentive is clearly in opposition to the City's affordable housing goals.

This problem was highlighted in a recent report by the Turner Center. In interviews with architects and builders, they were told that a conscious decision was sometimes made to increase unit size but decrease unit count to reduce fees.<sup>1</sup> Calculating the fee on a per-square-foot basis eliminates that incentive. Developers would no longer be able to reduce their contribution to the Affordable Housing Trust Fund by manipulating floor layouts. In addition, by eliminating the financial penalty for building more units, developers would be incentivized to propose denser projects, which is directly in line with the City's housing goals.

Such a change was recently enacted in San Francisco, taking effect January 1<sup>st</sup> of this year. The language from San Francisco's website (<https://sf-planning.org/inclusionary-affordable-housing-program>) describing the process they undertook to arrive at their new model is attached. Staff and the Commissions should consider their research, methodology, and conclusions when drafting their response.

A per-square-foot fee may not be desirable across all neighborhoods in Berkeley. The same Turner Center study found that "in some cities there is a need for larger family-sized units, and in those places a per-square-foot fee that incentivizes smaller units might be less desirable."<sup>2</sup> In considering this referral, staff and the Commissions should consider the need for different housing types in different parts of the City. A per-bed fee may be more appropriate for some neighborhoods where micro-units would be out of place while still disincentivizing dorm-style layouts.

This referral asks staff and the Commissions to analyze the current fee structure and possible alternatives, with particular regard to the per-unit form. Staff and the Commissions should consider the need for different styles of housing in different parts of the city. The final recommendation presented to council should include one or more possible amendments to the code to address these changes.

#### FINANCIAL IMPLICATIONS

Potential revenues increases to the Affordable Housing Trust Fund from larger structures facing higher fees; potential revenue decreases from smaller units facing lower fees. Analysis must be conducted to determine the overall effect of these countervailing forces. Multiple fee levels should be assessed, including those that results in net zero changes in Affordable Housing Trust Fund revenues and those that increase revenues.

#### ENVIRONMENTAL SUSTAINABILITY

Increasing the affordability and density of housing near public transit has the potential to substantially reduce greenhouse gas emissions in line with the City's environmental

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<sup>1</sup> [http://turnercenter.berkeley.edu/uploads/Development\\_Fees\\_Report\\_Final\\_2.pdf](http://turnercenter.berkeley.edu/uploads/Development_Fees_Report_Final_2.pdf)

<sup>2</sup> Ibid

goals. Potential revenue increases to the Affordable Housing Trust Fund could permit greater expenditures on housing affordability near transit.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: San Francisco's Amendments (<https://sf-planning.org/inclusionary-affordable-housing-program>)



Attachment 1: San Francisco's Amendments

## 2019 Affordable Housing Fee Update

Effective January 1, 2019, residential development projects that comply by paying the Affordable Housing Fee will be subject to the following fee based on the Gross Floor Area of residential use, rather than the number of dwelling units. The fee will be applied to the applicable percentage of the project, as set forth in Section 415.5 of the Planning Code:

**Affordable Housing Fee:** \$199.50 per square foot of Gross Floor Area of residential use, applied to the applicable percentage of the project:

- **Small Projects** (fewer than 25 dwelling units): 20% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Rental:** 30% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Ownership:** 33% of the project's Gross Floor Area of residential use

**Note:** The impact fee register in place at the time of payment shall be applied. However, a project for which a Site Permit has been issued prior to January 1, 2019 shall remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018. Additionally, projects with an Environmental Evaluation Application that was accepted prior to January 1, 2013 pursuant to Planning Code Section 415.3(b) shall also remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018. [The impact fee register may be found here.](#)

This change is pursuant to amendments to Section 415.5 that were adopted by the Board of Supervisors in July, 2017 (Board File No. 161351). Specifically, the Code requires that the Fee reflect MOHCD's actual cost to subsidize the construction of affordable housing units over the past three years, and directed the Controller to develop a new methodology for calculating, indexing, and applying the Fee, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC). In May, 2018 the Controller and TAC determined that the Fee should be applied on a per gross square foot basis to ensure that MOHCD's cost to construct the required amount of off-site affordable housing is appropriately and equitably captured from all projects, regardless of the size and number of units distributed within the project. The Controller directed MOHCD, in consultation with the Planning Department, to convert MOHCD's per unit cost to a per-square-foot fee, based on the average residential Gross Floor Area of projects that have paid the Fee in the past three years. The Fee amount indicated above has been calculated accordingly.

Pursuant to Section 415.5 and the specific direction of the Controller and TAC, MOHCD shall update the amount of the Affordable Housing Fee each year on January 1, using the MOHCD average cost to construct an affordable unit in projects that were financed in the previous three years and the Planning Department's average residential Gross Floor Area of projects that have elected to pay the Fee and have been entitled in the same time period. Each year this analysis will be updated to include new projects from the most recent year, and drop older projects that no longer fall into the three year period of analysis. The updated Fee amount will be included in the Citywide Impact Fee Register that is posted December 1 and effective on January 1.

## NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

**DATE/TIME: TUESDAY, APRIL 30, 2019 – 6:00 P.M.**

**LOCATION: BUSD Board Room, 1231 Addison Street, Berkeley**

### ZONING ORDINANCE AMENDMENTS THAT MODIFY THE INCLUSIONARY HOUSING REQUIREMENTS FOR PROJECTS ON CONTIGUOUS LOTS UNDER COMMON OWNERSHIP

The proposed amendments modify the Applicability of Regulations Section of the Inclusionary Housing Requirements (BMC 23C.12.020) to cover residential projects built on contiguous lots under common ownership and/or control. Amendments respond to City Council's February 19, 2019 referral to broaden inclusionary housing requirements. The Planning Commission recommended substantially similar amendments and considerations at its meeting on April 3, 2019. Changes would apply Citywide in all zoning districts where residential development is allowed.

Changes to be considered are as follows:

#### **23C.12.020 Applicability of Regulations**

- A. The following types of projects must comply with the inclusionary housing requirements of this chapter:
1. Residential Housing Projects for the construction of five or more Dwelling Units;
  2. Residential Housing Projects proposed on any part of a single lot or on a grouping of contiguous lots under common ownership and/or control, design, marketing, or financing, whose collective size, including the area of any surface easements and zoning designation is such to allow for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter;
  3. Residential Housing Projects proposed on any part of a single lot or on a grouping of contiguous lots under common ownership and/or control, design, marketing, or financing, whose collective size, including the area of any surface easements, and zoning designation is such to allow construction of five or more Dwelling Units, regardless of whether those units are all built simultaneously.
- B. For the purposes of this Section, "common ownership and/or control" shall be interpreted broadly.
- C. For purposes of this Section, "Residential Housing Project" means a project involving the construction of at least one Dwelling Unit. This chapter does not apply to Dormitories, Fraternity and Sorority Houses, Boarding Houses, Residential Hotels or Live/Work Units, which are not considered Dwelling Units provided however that Live/Work Units are subject to low income inclusionary provisions set forth in Section 23E.20.080.
- D. This chapter sets forth specific inclusionary housing requirements for the Avenues Plan Area, which prevails over any inconsistent requirements set forth elsewhere in this chapter. (Ord. 6478-NS § 4 (part), 1999)

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of April 18, 2019.

For further information, please contact Alene Pearson at 510-981-7489. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.  
**Published:** Friday, April 19, 2019

**Noticing per California Government Code Sections 65856(a) and 65090**

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on April 18, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk





Office of the City Manager

ACTION CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Subject: Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement

RECOMMENDATION

Review and provide feedback on the Berkeley Police Department responses to inter-related Council and Police Review Commission referrals, reports and recommendations, including the Center for Policing Equity report recommendations, regarding stop data collection, data analysis, community engagement, and related topics.

INTRODUCTION

This report provides information regarding Council's November 14, 2017 Referral to "track yield rates, develop training to address disparities found through the yield rates, and implement policy and practice reforms that reflect cooperation between the Police Department and broader Berkeley community." This report further provides information on related recommendations from additional referrals and reports, from Council, the Police Review Commission, and the Center for Policing Equity.

BACKGROUND

The collection and analysis of stop data and force data has been the subject of several related Council referrals, including a report from the Police Review Commission and a report from the Center for Policing Equity. These reports have many common, related, or overlapping recommendations. A substantial list appears in Appendix A.

In 2017 and 2018, Department resources, capacity, competing priorities, and an unprecedented staffing shortage impacted progress on some of these recommendations.

Implementation of BPD's Body Worn Camera program was among the highest priorities in 2018, and the program is now fully implemented. Numerous referrals and recommendations call for implementation and/or use of camera footage to support training. Officers have recorded well over 28,000 videos since October 2018. Videos have already proven useful as learning tools, as evidence in criminal matters, and of great value in reviewing uses of force, as well as complaints of misconduct.

## CURRENT SITUATION AND ITS EFFECTS

The Department plans include several projects that will address the recommendations and referrals. These projects are further described below.

Given these recommendations primarily concern car and pedestrian stops, and are based on data up to 2016, it should be noted that Department stop activity has declined over the past two years, likely due in part to staffing shortages, fewer motorcycle officers doing traffic enforcement, and other factors. Between 2017 and 2018: overall car stops declined 31%, while pedestrian stops were down 28%. Since virtually all of the recommendations arise from older data, and are related to officers' actions during these stops, consideration of the recent data must be made in the context of more recent reduced stop activity.

Fundamentally, the Department will continue to strive to police in a manner that is respectful, fair, equitable, constitutional, and with a focus on proactive attention to safety, along with appropriate accountability. The on-going analysis of the previous stop data remains valuable, and the context of the data is equally important to consider.

Project work will be undertaken, along with planned activities included in the biannual budget planning process, throughout 2019 and beyond. While numerous factors could impact progress on these, the Department will prioritize completing the projects described below.

### **1. Collecting Additional Stop Data; Preparing for RIPA Requirements**

The Department recognizes the benefits of gathering additional data, and will soon be working on the best methods to achieve this goal of additional data collection.

BPD currently collects stop data through using a six-character data string that is attached to each Computer Aided Dispatch (CAD) incident. The resulting data is posted on the City's Open Data Portal in its raw form.

Far more impactful are the impending mandates of California's 2015 Racial and Identity Profiling Act, commonly known as RIPA. The RIPA legislation requires the collection of at least 19 (nineteen) categories of data, as compared to six currently collected by BPD. The Department's existing data collection method is not able to capture the data required by RIPA. The Department will be required to collect the RIPA-specified data set on Jan. 1, 2022. Larger agencies are already collecting RIPA data, using a variety of different solutions to meet RIPA requirements.

In an effort to position our Department to become an early adopter of the coming RIPA requirements, the Department is committed to implementing a data collection protocol that meets or exceeds RIPA requirements. To that end, a workgroup has been established to examine other agencies' methods for collecting data, and compare those solutions to the configurable software module currently possessed by BPD. This group will recommend a solution, and the Department will move forward with implementation. Ideally, this solution will not only capture RIPA data, but also any additional data that the Department may wish to collect.

The Department's currently licensed software includes a configurable module which could be used for officers to capture data, but staff is concerned that module's utility may be limited by a lack of interface with the computer aided dispatch system, resulting in challenges caused by numerous pieces of data having to be entered manually by officers. Manual entry of location data is problematic, as such data should properly be "geo-verified" and resulting data would need to be reviewed and validated prior to use for analysis.

Current data collected and the 2019 RIPA Template are included as Appendix A of this report. The difference is extremely impactful to data collection efforts.

Collecting this substantial amount of additional data for each car and pedestrian stop will impact operations, as officers will spend much more time entering data than the current practice of advising dispatch. The Department will work to mitigate these challenges to the greatest extent possible through the user interface design, including if possible integration with CAD to automatically populate fields such as date, time, officer, location, et al. A desired solution will minimize officer time, while using systems integration to increase and enhance data integrity.

## **2. Community Engagement and Data Analysis**

Several recommendations focus on data analysis and community engagement in order to build trust, increase contact, and strengthen department-community relations.

Community engagement is an organizational priority, and is seen as an opportunity to not only share information, such as the data collected during stops, but to share contextual information about police activity. Our department's mission is to safeguard our diverse community. Given that mission, and the work we do in service to that mission, the department is seeking opportunities to share and discuss the data, and also to understand the perspectives of our diverse community on the fundamental question of what makes a community feel safest in their neighborhoods.

The department seeks to secure assistance to support analysis of stop data, to create tools to facilitate data analysis, to foster creation of a task force to review and discuss the data, including discussion with the community, and to create a community engagement strategy that builds on the Department's engagement activities. This work is being done through the RFP process, and will help to address a number of recommendations.

In addition, the Department will continue to provide data to the Center for Policing Equity, and continue to engage with CPE in the challenging problem of determining best analytical frameworks. CPE's report delivered in 2018 provoked questions of how best to analyze and interpret data from stops, and these questions remain unresolved. Continued work with CPE is desired to gain understanding from the data and analytical approaches.

The Department will improve the Open Data Portal's available stop data by converting all stop data from a six character string into six individual data fields on the Open Data Portal, thereby providing data in a more useful form. The Department seeks to make available on the Portal easy-to-use tools for the examination of posted data.

**3. Force Policy Update; Data Collection; Release of Aggregated Data**

Several recommendations relate to updating the Department’s Use of Force policy, and to summarize reporting of use of force data.

To accomplish this, the Department will complete of the Use of Force policy revision, after which a new software system will be implemented for force reporting. This software will capture all use of force data. Summary Force Data will be reported to the Police Review Commission on a regular basis, and is anticipated to be placed on the Open Data Portal.

Use of Force Policy Revision; Software Implementation\*

Task	Responsible	Timelines
Reconvened workgroup completing updated language within existing policy, to incorporating Council Referral	Workgroup including Operations, Use of Force Subject Matter Experts, Information Technology, Internal Affairs, Berkeley Police Association Rep.	Mid-May
Legal review	Legal, Chief	Mid-late May
PRC review	PRC, Chief	End of May
BPA Meet and Confer (as necessary)	BPA, Chief, Legal, HR	End of May, early June
Finalize Policy	Chief	Early June
Council Report	Chief/Staff	Late June
Implementation of Use of Force software system	Internal Affairs, DoIT	Late June
Implement Use of Force Data on Open Data Portal	DoIT	Late June

\*Some tasks and timelines may overlap

**4. Policy and Trainings as needed to address disparities**

Several recommendations concern development of departmental policies and training to address disparities in policing as indicated through the data.

Any policy and training development would build upon a considerable body of current policy and previous related training.

The Berkeley Police Department has a long history of policies which reflect our commitment to constitutional policing without racial profiling, which is prohibited under Penal Code 13519(4)(f). Applicable policies include, for example:

- Policy 401, Fair and Impartial Policing (formerly General Order B-4)
- Police Regulation 282 Non-discrimination/Equal Employment;
- Police Regulation 255 Obedience – Laws and Orders
- Police Regulation 257 Enforcement of Law – Impartiality
- Police Regulation 200 Misconduct – Duty to Report
- Police Regulation 201 Misconduct –Supervisory and Command Officer Responsibilities
- General Order P-26 Personnel Complaint Procedure
- General Order H-4 Hate Crime Policy and Procedure



The Department has a long history of training to increase awareness—and thereby mitigate— the potential impacts of implicit bias, and to support policing which is based on treating people with dignity and respect, while avoiding an over-reliance of force in safeguarding our community, including, in part:

- Procedural Justice Training 2017-2018
- Fair and Impartial Policing training sessions 2010-2016
- Tactical De-escalation Training 2016
- Crisis Intervention Training 2011-present, ongoing
- POST Biased-based Policing 2014

#### ENVIRONMENTAL SUSTAINABILITY

Implementation of software and software enhancements may assist with the data sharing via electronic formats thereby reducing the need for paper, supplies, ink and staff time to compile some information requests.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

RIPA Data Collection software costs are dependent on research, evaluation and comparison to the department's existing currently licensed software. Consultant costs estimated at \$50,000. All projects require significant staff time.

#### CONTACT PERSON

Andrew Greenwood, Chief of Police, (510) 981-5700

#### ATTACHMENTS

1. Appendix A – Referrals and Recommendations, with notes
2. Appendix B – BPD Stop Data currently collected; RIPA Requirements

# Appendix A: Referrals and Recommendations

## Appendix A: Referrals and Recommendations

Notes in **(BOLD)** at the end of numerous recommendations denote ongoing or planned project work to address the recommendations. Many recommendations will be addressed through the same project, e.g. the RIPA implementation, Use of Force Policy, etc.

### Referral to Address Disparate Racial Treatment and Implement Policy and Practice Reforms

#### November 14, 2017, Item 24

1. Tracking Yield rates **(RIPA)**
  - a. Analyze whether officer-initiated or in response to calls for service or warrants
  - b. Focus on reasons for disparate racial treatment and to identify any outliers.
2. Consider any other criteria that would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions. **(RIPA)**
3. Develop training programs to address the organizational causes of any disparate treatment and outcomes by race uncovered by yield rates above, in accordance with the City's body worn camera policy, through examination of footage on police body cameras (e.g. more scenario-based training on procedural justice and the roots of disparate treatment, expanded de-escalation training.)  
**(RIPA)(TRAINING)**
4. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms. **(CONSULTANT; COMMUNITY ENGAGEMENT)**
5. Once released, BPD should analyze the final Center for Policing Equity report and propose improvements as needed.

### PRC Report and Recommendations, "To Achieve Fairness and Impartiality"

#### April 24, 2018, Item 38a

##### A. Data Collection and Analysis Enhancements **(RIPA)**

1. Add specific data elements to those already tracked. Maintain and analyze demographic data. Enhance the current web display for readability.
2. Report trends regularly to PRC and City Council. Report stop data by officer (stripped of identifying information).
3. Hire a data manager/analyst. **(BUDGET)**
4. Enhance ability to correctly identify ethnicity of individuals.
5. Report every use of force. **(FORCE POLICY & REPORTING)**

##### B. Address racial disparities shown in the data **(RIPA)(ANALYSIS)**

1. Monitor stop, search, and enforcement/disposition outcomes across race.

2. Determine if disparities are generalized or reside in a subset of the department and develop effective mitigations including policy reviews, staff support, counseling and training, or other as appropriate.
  3. Work closely with PRC to develop mitigations and track progress.
  4. Develop early warning systems to minimize future problems of biased policing.
- C. Body Worn Cameras **(Program implemented)**
1. Accelerate full deployment of body cameras.
  2. Use camera footage to train officers and evaluate policies.
- D. Other departmental steps
1. Partner with academic institutions.
  2. Increase support for officer wellness and safety. **(DEPT WELLNESS PROGRAMS; GRANT SOUGHT)**
  3. Strengthen informed consent procedures for search. **(RIPA)(POLICY)**
  4. Strengthen requirements for officers to identify themselves. **(POLICY)**
- E. Community relations **(CONSULTANT; COMMUNITY ENGAGEMENT)**
1. Prepare detailed action plan to build trust in and accessibility to the department, focused on communities of color.
  2. Consult and cooperate with the broader community to develop and implement policy and practice reforms.
  3. Increase positive community contact.

**PRC Report and Recommendations, “To Achieve Fairness and Impartiality”  
Referring Key Recommendations to the City Manager**

**April 24, 2018, Item 38b, Supp. 1**

1. Departmental Action Plan **(DESCRIBED IN THIS ITEM)**
2. Officer Identification **(POLICY)**
3. Review and update BPD Policy surrounding Inquiries to Parole and Probation Status **(RIPA)(POLICY)**
4. Enhance Search Consent Policies **(RIPA)(POLICY)**
5. Reporting Data on the Public Data Portal **(ODP)**
6. Simplifying Public Data Portal Data Structure **(ODP)**
7. Collect Data on Frisks and Summons (in Berkeley: Pedestrian stops, Citations) **(RIPA)**
8. BPD Data Dashboards
9. Enhance Existing “Early Warning” Systems

**Center for Policing Equity Recommendations**

**May 9, 2018**

1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury, or complaint. **(FORCE POLICY & REPORTING)**
2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband (distinguishing

- among drugs, guns, non-gun weapons, and stolen property) found during vehicle or pedestrian searches, and that it analyze data about charges filed resulting from vehicle and pedestrian stops. **(RIPA)**
3. We recommend that BPD collect and share more detailed data with respect to use of force. In particular, we recommend that it collect and analyze data about whether the and how the person resisted arrest, and about charges filed against persons involved in use of force incidents. **(FORCE POLICY & REPORTING)**
  4. We recommend that BPD more clearly track, analyze, and share data with respect to whether law enforcement actions are officer-initiated, or responses to calls for service. **(RIPA)**
  5. We recommend that BPD continue to affirm that the egalitarian values of the department be reflected in the work its officers and employees do. **(ONGOING, MISSION, POLICY)**
  6. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. **(CONSULTANT; COMMUNITY ENGAGEMENT)**
  7. We recommend BPD track yield rates (of contraband found at searches). **(RIPA)**
  8. We recommend that BPD monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success. One way to promote equitable contact rates is to monitor racial disparities (not attributable to non-police factors such as crime) and to adjust patrol deployments accordingly.
  9. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.
  10. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist. **(PROCEDURAL JUSTICE TRAINING COMPLETED)**
  11. We recommend that values-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department. CPE research has found a significant relationship between social dominance orientation and negative policing outcomes in many police departments.
  12. We recommend that BPD trainings include clear messaging that racial inequality and other invidious disparities are not consistent with the values of BPD. **(TRAININGS & POLICIES IN PLACE)**
  13. We recommend leveraging the Police Review Commission, as well as ensuring inclusion from all groups in the community, to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. **(ONGOING PRC SUBCOMMITTEE WORK)**

**Direct the City Manager Regarding the Berkeley Police Department's Use of Force Policy**

**October 31, 2017, Item 26**

1. Enhance BPD's use of force policy statement; and
2. Create a definition of use of force; and
3. Require that all uses of force be reported; and
4. Categorize uses of force into levels for the purpose of facilitating the appropriate reporting, investigation, documentation and review requirements and
5. Require Use of Force Report to be captured in a manner that allows for analysis; and
6. Require that the Department prepare an annual analysis report relating to use of force to be submitted to the Chief of Police, Police Review Commission and Council.

**(FORCE POLICY & REPORTING)**

# Appendix B:

## BPD Data currently collected

DISPOSITION CODE (SIX DIGIT CODE)					
<p>AM3WCN</p>					
1. Race	2. Gender	3. Age	4. Reason	5. Enforcement	6. Car Search
A Asian B Black H Hispanic W White O Other	M Male F Female	1 <18 2 18-29 3 30-39 4 >40	I Investigation T Traffic R Reas. Susp. K Prob./Parole W Wanted	A Arrest C Citation W Warning O Other	S Search N No Search



# Appendix B: RIPA Reporting Requirements

**AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS**

Additional data values for the stop of a student in a K-12 public school are listed in red.

1. **Originating Agency Identifier** (prepopulated field)
2. **Date, Time, and Duration of Stop**  
 Date: (e.g., 01/01/19)  
 Start Time (approx.): (e.g. 1530)  
 Duration of Stop (approx.): (e.g. 30 min.)
3. **Location**
  - Report one (listed in order of preference): block number and street name; closest intersection; highway and closest highway exit. If none of these are available, the officer may report a road marker, landmark, or other description, except cannot report street address if location is a residence.
  - City: \_\_\_\_\_
  - Check here to indicate stop is of a student at K-12 public school: \_\_\_\_\_
    - Name of -12 Public School \_\_\_\_\_
4. **Perceived Race or Ethnicity of Person Stopped** (select all that apply)
  - Asian
  - Black/African American
  - Hispanic/Latino(a)
  - Middle Eastern or South Asian
  - Native American
  - Pacific Islander
  - White
5. **Perceived Gender of Person Stopped** (may select one from options 1-4 AND option 5, if applicable, or just option 5)
  1. Male
  2. Female
  3. Transgender man/boy
  4. Transgender woman/girl
  5. Gender nonconforming
6. **Person Stopped Perceived to be LGBT (Yes/No)** (“Yes” must be selected if “Transgender” was selected for “Perceived Gender”)
7. **Perceived Age of Person Stopped** (input the perceived, approximate age)
8. **Person Stopped Has Limited or No English Fluency (check here if Yes \_\_\_\_\_)**
9. **Perceived or Known Disability of Person Stopped** (select all that apply)
  - Deafness or difficulty hearing
  - Speech impairment or limited use of language
  - Blind or limited vision
  - Mental health condition
  - Intellectual or developmental disability, including dementia
  - Disability related to hyperactivity or impulsive behavior
  - Other disability
  - None

**AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS**

Additional data values for the stop of a student in a K-12 public school are in listed in red.

**10. Reason for Stop** (select one - the primary reason for the stop only)

- Traffic violation
  - Specific code (CJIS offense table; select drop down) and
  - Type of violation (select one)
    - Moving violation
    - Equipment violation
    - Non-moving violation, including registration violation
- Reasonable suspicion that person was engaged in criminal activity
  - Specific Code (drop down; select primary if known) and
  - Basis (select all applicable)
    - Officer witnessed commission of a crime
    - Matched suspect description
    - Witness or victim identification of suspect at the scene
    - Carrying suspicious object
    - Actions indicative of casing a victim or location
    - Suspected of acting as a lookout
    - Actions indicative of a drug transaction
    - Actions indicative of engaging in a violent crime
    - Other reasonable suspicion of a crime
- Known to be on parole/probation/PRCS/mandatory supervision
- Knowledge of outstanding arrest warrant/wanted person
- Investigation to determine whether person was truant
- Consensual encounter resulting in search
- Possible conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7 (select specific Educ. Code section & subdivision)
- Determine whether student violated school policy

A brief explanation is required regarding the reason for the stop and must provide additional detail beyond the general data values selected (250-character maximum).

**11. Stop Made in Response to a Call for Service (Yes/No)** (Select "Yes" only if stop was made in response to call for service, radio call, or dispatch)**12A. Actions Taken by Officer(s) During Stop** (select all that apply)

- Person removed from vehicle by order
- Person removed from vehicle by physical contact
- Field sobriety test conducted
- Curbside detention
- Handcuffed or flex cuffed
- Patrol car detention
- Canine removed from vehicle or used to search
- Firearm pointed at person
- Firearm discharged or used
- Electronic control device used
- Impact projectile discharged or used (e.g. blunt impact projectile, rubber bullets or bean bags)
- Canine bit or held person
- Baton or other impact weapon used
- Chemical spray used (e.g. pepper spray, mace, tear gas, or other chemical irritants)
- Other physical or vehicle contact
- Person photographed

**AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS**

Additional data values for the stop of a student in a K-12 public school are in listed in red.

- Asked for consent to search person
  - Consent given
  - Consent not given
- Search of person was conducted
- Asked for consent to search property
  - Consent given
  - Consent not given
- Search of property was conducted
- Property was seized
- Vehicle impound
- Admission or written statement obtained from student
- None

**12B. Basis for Search** (if search of person/property/both was conducted; select all that apply)

- Consent given
- Officer safety/safety of others
- Search warrant
- Condition of parole/probation/PRCS/mandatory supervision
- Suspected weapons
- Visible contraband
- Odor of contraband
- Canine detection
- Evidence of crime
- Incident to arrest
- Exigent circumstances/emergency
- Vehicle inventory (for search of property only)
- Suspected violation of school policy

A brief explanation is required regarding the basis for the search and must provide additional detail beyond the general data values selected (250-character maximum). This field is not required if basis for search is "condition of parole/probation/PRCS/mandatory supervision."

**12C. Contraband or Evidence Discovered, if any** (during search/in plain view; select all that apply)

- None
- Firearm(s)
- Ammunition
- Weapon(s) other than a firearm
- Drugs/narcotics
- Alcohol
- Money
- Drug paraphernalia
- Suspected stolen property
- Cell phone(s) or electronic device(s)
- Other contraband or evidence

**12D. Basis for Property Seizure** (if property was seized; select all that apply)

- Safekeeping as allowed by law/statute
- Contraband
- Evidence
- Impound of vehicle

**AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS**

Additional data values for the stop of a student in a K-12 public school are in listed in red.

- Abandoned property
- Suspected violation of school policy

**Type of Property Seized** (select all that apply)

- Firearm(s)
- Ammunition
- Weapon(s) other than a firearm
- Drugs/narcotics
- Alcohol
- Money
- Drug paraphernalia
- Suspected stolen property
- Cell phone(s) or electronic device(s)
- Vehicle
- Other contraband or evidence

**13. Result of Stop** (select all that apply)

- No action
- Warning (verbal or written): Code/ordinance cited (drop down)
- Citation for infraction: Code/ordinance cited (drop down)
- In-field cite and release: Code/ordinance cited (drop down)
- Custodial arrest pursuant to outstanding warrant
- Custodial arrest without warrant: Code/ordinance cited (drop down)
- Field Interview Card completed
- Noncriminal transport or caretaking transport (including transport by officer, transport by ambulance, or transport by another agency)
- Contacted parent/legal guardian or other person responsible for the minor
- Psychiatric hold (Welfare & Inst. Code, §§ 5150, 5585.20.)
- Referred to U.S. Department of Homeland Security (e.g., ICE, CBP)
- Referral to school administrator
- Referral to school counselor or other support staff

**14. Officer's Identification (I.D.) Number** (prepopulated field)

**15. Officer's Years of Experience** (total number of years worked as a peace officer)

**16. Type of Assignment of Officer** (select one)

- Patrol, traffic enforcement, field operations
- Gang enforcement
- Compliance check (e.g. parole/PRCS/probation/mandatory supervision)
- Special events (e.g. sports, concerts, protests)
- Roadblock or DUI sobriety checkpoint
- Narcotics/vice
- Task force
- K-12 public school, including school resource officer or school police officer
- Investigative/detective
- Other (manually specify type of assignment)





Office of the City Manager

INFORMATION CALENDAR

April 30, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: City Council Short Term Referral Process – Monthly Update

INTRODUCTION

This report is a monthly update on the status of short term (90-day) and other date-certain Council referrals.

CURRENT SITUATION AND ITS EFFECTS

In this context, tracking refers to a manually updated chart (Attachment 1). The May 15, 2018 Council referral establishing the monthly update includes both “short term” and “date-certain” referrals. Short term referrals are referrals that staff determines they will be able to complete in approximately three months. Date-certain referrals are those which contain a specified date of completion at the time they are approved by the City Council. Currently, the City only tracks short term referrals in an Excel spreadsheet.

Providing a monthly update on all short term and date-certain referrals will allow Council and the public to see the status of these referrals and any circumstances which lead to delays. Additionally, this update on the short term referral process helps advance our Strategic Plan goal to be a customer-focused organization that provides excellent, timely easily-accessible service and information to the community.

BACKGROUND

In 2016, the City Council adopted a system of Re-Weighted Range Voting (RRV) to prioritize the outstanding City Council referrals to staff. The RRV system enables City Council to provide direction to staff on which referrals are highest priority to the City Council. However, that process does not provide information on the status of short term or date-certain referrals. While many short term or date-certain referrals were “updated” through being completed and presented to Council as consent or information items, there was no comprehensive overview of this subset of referrals.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

The City Council may wish to direct staff to evaluate this process after it has been in place six months.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No direct fiscal impact. Greater efficiencies in staff resources due to prioritization of work and alignment with budget and strategic plan goals.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Short Term and Date-Certain Referrals



Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer to the City Manager creation of a policy for companies such as Airbnb to pay the Transient Occupancy Tax, as currently paid by other small local businesses.	Councilmember(s)	Worthington (Dist. 7)	Planning	7/28/2014	Completed			9/7/2016
Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.	Councilmember(s)	Moore (Dist. 2)	Planning	3/16/2015	Completed			1/24/2017
Refer to the Community Environmental Advisory Commission to explore requiring a maximum of 1.8 GPM low flow showerheads in new housing projects and all housing renovations exceeding \$50,000 throughout Berkeley.	Councilmember(s)	Worthington (Dist. 7)	Planning	12/14/2015	Completed			7/19/2016
Direct the City Manager and Community Health Commission to draft an ordinance amending Berkeley Municipal Code Chapter 9.80 "Tobacco Retailers" to prohibit the sales of tobacco products and smoking paraphernalia to persons under the age of 21.	Councilmember(s)	Arreguin (Dist. 4)	HHCS	12/14/2015	Completed			
Review and consider information regarding the activities and costs associated with implementing and enforcing the Commission on Labor's proposed amendments to the Minimum Wage Ordinance (MWO), including the potential impact of the proposed amendments on the City's minimum wage employees, employers, non-profit organizations and community-based organizations, on-call workers and youth training program workers, and either: 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, which includes staff-recommended revisions to the Commission's proposed Ordinance; -OR- 2. Refer the MWO back to the City Manager for further analysis and revisions.	Councilmember(s)		CMO	2/8/2016	Completed			9/1/2016
No recommendation noted. Action: Moved to Consent Calendar and held over to January 19, 2016. Fire to report back in May 2016 for permanent program.	Councilmember(s)		Fire	2/15/2016	Completed			7/1/2018
Refer to the City Manager to adopt a Pilot Program to implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley.	Councilmember(s)	Worthington (Dist. 7), Maio (Dist. 1), Wengraf (Dist. 6), Droste (Dist. 8)	Public Works	2/29/2016	Completed		6/2018 RFPs received; 2 solar compactors to be issued contracts.	7/24/2018

Key: Highlighting indicates an update from the previous month/report.

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft	Councilmember(s)	Worthington (Dist. 7)	CMO	2/29/2016	Completed			
Refer to the City Manager to: 1. Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership. 2. Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing.	Councilmember(s)	Arreguin (Dist. 4)	HHCS	3/14/2016	Completed		2 is completed. 1 was later prioritized long term as top priority of Council's housing action plan. Plan outline complete and will bring before HAC in July 2018.	12/13/2016
Refer to the City Manager to determine the cost to make the appropriate repairs so that it will be safe for public use.	Councilmember(s)	Moore (Dist. 2)	CMO	3/14/2016	Completed			3/14/2017
Refer to the City Manager and City Attorney to draft an ordinance amending Berkeley Municipal Code Section 2.06.070.E (Open Government Ordinance) to allow the submission of revised or supplemental agenda material for the Supplemental Communications Packet 2. The revised or supplemental material must be submitted no later than 12 noon the day of the City Council meeting at which the item is to be considered. The online version of the City Council agenda shall also contain a link to such items. If revised agenda material is submitted by this deadline, it would not require a two-thirds vote of the Council to accept the material.	Councilmember(s)	Arreguin (Dist. 4), Capitelli (Dist. 5), Wengraf (Dist. 6), Droste (Dist. 8)	CMO/City Attorney	3/14/2016	Completed			
Refer to the City Manager and the Rent Stabilization Board to draft an ordinance regulating situations where a tenant agrees to vacate a rent-controlled unit in exchange for a sum of money, known as a buyout.	Councilmember(s)	Arreguin (Dist. 4.)	CMO	4/18/2016	Completed			3/31/2016
Refer to the City Manager to develop a provision for the Landmarks Preservation Ordinance (LPO) that would allow a landmark designation to be de-designated for a building that has been previously landmarked but subsequently has been legally demolished.	Councilmember(s)	Moore (Dist. 2)	CMO	5/9/2016	Completed			5/10/2016
Refer to the 2016 Mid-year budget process the purchasing of BigBelly Solar Compactor Bins in order to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.	Councilmember(s)	Worthington (Dist. 7), Droste (Dist. 8)	Public Works	5/9/2016	Completed		6/2018 RFPs received; 2 solar compactors to be issued contracts.	7/24/2018

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Direct the City Manager and Transportation staff to prioritize and expedite the installation of a bicycle lane on Fulton Street between Bancroft Way and Channing Way.	Councilmember(s)	Mayor, Arreguin (Dist. 4)	Public Works	6/13/2016	Completed			5/10/2016
That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause.	Councilmember(s)	Worthington (Dist. 7)	HHCS	7/4/2016	Completed			7/19/2016
Refer to the City Manager to create a mobile application for the 311 system and improve the 311 Online Service Center.	Councilmember(s)	Arreguin (D4)	IT	7/25/2016	Completed			11/15/2016
ABAG has a new report and the City Council has voted twice in favor; thus, the City of Berkeley should approve and sign an agreement for collaborative services for Property Assessed Clean Energy Financing (PACE) marketplace. Also, that the City of Berkeley approve and sign acknowledgement addendum of RCSA, as executed between ABAG and RPPs.	Councilmember(s)	Worthington (D7)	City Attorney	8/8/2016	Completed			9/20/2016
Refer to the City Manager to consider adding Energy Efficient Equity as an additional property assessed clean energy program.	Councilmember(s)	Worthington (D7)	Planning	8/29/2016	Completed			9/20/2016
Request the City Manager direct staff to prepare a report outlining the details of City funded homeless services. The purpose of this report is to help Council and the community understand the various factors related to the allocation of resources to address homelessness within the City. Once the report is complete, it is requested that city staff schedule a worksession to go over the findings.	Councilmember(s)	Capitelli (D5)	HHCS	8/29/2016	Completed			11/1/2016
Refer to the City Manager to consider investing in a high-capacity scanner to digitize City records for the Council and multiple City departments.	Councilmember(s)	Worthington (D7)	Information Technology	9/26/2016	Completed			12/12/2017
That the City Manager consider applying for the \$100,000 grant that PG&E's Better Together Resilient Communities grant program will offer in the beginning of 2017.	Councilmember(s)	Worthington (D7)	Planning	10/10/2016	Completed			2016

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer to staff to write an ordinance based on the Community Health Commission (CHC) recommendation with the changes suggested by staff.	Councilmember(s)	Staff	HHCS	10/17/2016	Completed			11/29/2016
Refer to the City Manager to consider the four recommendations in response to the Alameda County Grand Jury Report recommendations.	Councilmember(s)	Worthington (D7)	IT	12/19/2016	Completed			10/20/2016
Direct staff to return with a policy recommendation consistent with the recommendations in this report, i.e., noting that as a matter of courtesy and respect, Councilmembers are expected to set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner not less than two weeks from the official date of replacement.	Councilmember(s)	Commission	City Clerk	12/19/2016	Completed	6/12/2018	Incorporating changes from City Council.	6/12/2018
Refer to the City Manager to examine the feasibility of procuring BigBelly Solar Compactor Bins to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.	Councilmember(s)	Worthington (Dist. 7)	Public Works	12/19/2016	Completed		6/2018 RFPs received; 2 solar compactors to be issued contracts.	7/24/2018
Request the City Manager draft a resolution to revise the Public Art in Private Development Program Guide to provide the Civic Arts Commission guidance and more flexibility in the use of the Cultural Trust Fund with the language suggested in the report.	Councilmember(s)	Mayor	OED	1/16/2017	Completed			12/13/2016
Request the City Manager draft an ordinance for Council adoption to revise BMC 23C.23.050, the One-Percent for Public Art on Private Projects Ordinance, to do the following: 2. Allow developers the third option of satisfying the Percent for Art requirements with a combination of on-site art and in-lieu payment by modifying BMC 23C.23.050 with suggested language from the report.	Councilmember(s)	Mayor	Planning	1/16/2017	Completed			12/13/2016
Request the City Manager draft an ordinance for Council adoption to revise BMC 23C.23.050, the One-Percent for Public Art on Private Projects Ordinance, to do the following: 1. Have 5% of the 1% requirement go directly to administration of the Public Art in Private Development program regardless of how the developer decides to satisfy the requirement;	Councilmember(s)	Mayor	OED	1/16/2017	Completed			1/24/2017

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer the following actions to the City Manager to consider in developing a plan for emergency shelter/services during the upcoming winter season. These actions will help implement Resolution No. 67,357-N.S. "Declaring a Homeless Shelter Crisis in Berkeley": 1. Allow full use of the Multi-Agency Service Center (MASC) at 1931 Center Street as a Warming Center. Direct the City Manager to study the feasibility of using the West Berkeley Senior Center as a day-time Warming Center or evening shelter. Engage in discussions with Dorothy Day House about a day-time respite center. 2. Direct staff to develop a winter shelter services program for Fall 2016-Spring 2017 with funding to increase warming centers and emergency shelter. 3. Direct staff to work with service providers and faith-based organizations who have capacity, to add shelter beds during the year. 4. Direct that all bathrooms in City-	Councilmember(s)	Arreguin	HHCS	1/16/2017	Completed			6/27/2017
Approved revised recommendation to request a report from the City Manager on how the City is using the permitted exemptions in compliance with the Public Records Act.	Councilmember(s)	Worthington (D7)	City Attorney	1/30/2017	Completed			12/13/2016
Request that the City Manager draft ordinance language to amend Section 16.10.100 of the Berkeley Municipal Code to include Standards for Testing and Certification of DAS Antennas and return to the City Council within 60 days.	Councilmember(s)	Wengraf (D6)	City Attorney	3/13/2017	Completed			3/28/2017
Request that the City Manager ensure that all City buildings provide and maintain at least one private place reasonably close to an employee's workspace for breastfeeding mothers to pump.	Councilmember(s)	Droste	City Manager	4/24/2017	Completed			7/1/2017
Request that the City Manager create a provision and enforcement mechanism to ensure that all publically-accessible City buildings install and maintain at least one baby diaper-changing accommodation that is accessible in both men and women's restrooms or a single diaper-changing accommodation that is accessible to all genders. In addition, request that the City Manager provide recommendations to mandate all businesses to provide changing stations in either women's and men's restrooms or gender-neutral restrooms.	Councilmember(s)	Droste	City Manager	4/24/2017	Completed			7/1/2017
Request that the City Manager provide an information report to Council with analysis of the questions presented by Councilmember Hahn.	Councilmember(s)	All	Planning	5/1/2017	Completed			6/13/17, Item #60
Request that the Planning Commission consider the six location limit on an expedited basis and the use a first-come/first served application process.	Councilmember(s)	All	Planning Commission	5/1/2017	Completed			7/11/17, Item #35
Request that the City Manager return to the City Council in April with an Information Report on Measure M implementation, expenditures, projected expenses and plans.	Councilmember(s)	Wengraf (D6)	Public Works	5/15/2017	Completed			5/2/2017

## CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
REFER to the City Manager to enact a pilot program in downtown Berkeley with the goal of greatly reducing cigarette butt litter that accumulates on sidewalks and curbsides, in a central location. This pilot program would: a) Place a total of four receptacles for cigarette butt disposal in front of three adult schools and a bus stop where smoking behavior continues despite its prohibition. The receptacles are to be placed in front of: i. Berkeley City College, 2050 Center Street; ii. Language Studies International on 2015 Center Street; iii. Kaplan International, Berkeley, 150 Berkeley Square; and iv. a selected major bus stop in the vicinity of an entrance to the Downtown Berkeley BART station; and b) Exhibit graphics on the receptacles to remind and inform the public that tobacco litter is hazardous to the health of the Bay; and c) Enter into a partnering agreement with the Downtown Berkeley Association (DBA) for upkeep of the receptacles for the duration of the one-year pilot program, including sending collected butts to the company for recycling; and d) TerraCycle® will track the weight of butts received, and share the data with the City of Berkeley and CEAC commissioners to help track and assess the success of the pilot program; and e) Identify funding sources to expand the pilot program if successful at the end of the one year trial.	Councilmember(s)	CEAC	OED	6/26/2017	Completed			5/30/2017
Request that the City Manager return to Council with an update on the referral to create a voluntary database of security cameras in Berkeley. With an increase in crime, residents are anxious to help the Berkeley Police Department solve cases and arrest the perpetrators - amended to include direction that guidelines protect privacy and prevent misuse of camera footage.	Councilmember(s)	Wengraf (D6)	Police	6/26/2017	Completed	9/30/2018	Item is near completion, though there have been delays associated with preparations for August 5th demonstrations.	8/15/2018
Adopt a Resolution approving the Berkeley Bicycle Plan 2017, and directing the City Manager to pursue implementation of the Plan as funding and staffing permit.	Councilmember(s)		Public Works	No date specified	Completed			
Eliminate the requirement for Commissioners to submit Affidavits of Residency when they are appointed, and annually thereafter, in pursuit of saving time and money for the City of Berkeley. Revised Materials - <a href="http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx">http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx</a>	Councilmember(s)	Wothington (D7)	City Clerk	8/28/2017	Completed			9/12/2017

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Request the City Manager to create and fill the position of Housing Inspection and Community Services Manager.	Councilmember(s)	Arreguin	Planning	9/25/2017	Completed	11/27/2018	New position approved by Personnel Board. Will bring to Council for adoption by November which will complete referral.	9/13/2018, Item #11
Direct the City Manager to expedite the compilation and delivery of a list of federal funds that the City of Berkeley receives and the programs and facilities supported by such funds.	Councilmember(s)	Hahn, Arreguin, Davila, Harrison	HHCS	10/23/2017	Completed	12/11/2018	HHCS is updating with the latest single audit findings.	12/11/2018
Refer to the City Manager and Cannabis Commission the proposed local ordinances to establish a licensing process for Commercial Cannabis operations, as permitted under Proposition 64, Adult Use of Marijuana Act. The Council requests that the City Manager and Cannabis Commission report to the City Council on its recommendations on regulations and licensing for commercial cannabis businesses before the end of 2017.	Councilmember(s)	Arreguin	Planning	10/23/2017	Completed	12/11/2018	Lengthy process involving 3 Commissions and many City departments. Some Ordinance changes will be at Council 9/13/18. But more will be needed. Council Worksession scheduled for 10/9/18, then adoption of more Ordinance changes expected by end of year, which will close this referral.	9/13/18, Item #24
Adopt first reading of an Ordinance, by two-thirds vote of the Council, amending Chapter 7.18 of the Berkeley Municipal Code to authorize the City Manager to enter into and amend contracts of up to \$200,000 with applicants recommended for funding by staff and the Housing Advisory Commission under the City's Community Development Block Grant (CDBG) program for community facility improvements.	Councilmember(s)		HHCS	7/24/2018	Completed			4/24/2018
Direct the City Manager to provide voter registration forms on the main floor of all designated city buildings that are open to the public and in all Community based organizations within the city limits. Community based organizations that are funded by the City of Berkeley will be required to pick up the voter registration forms from the City Clerk's Office and that should be clearly stated in their respective contracts.	Councilmember(s)	Davila, Harrison, Hahn	City Clerk	12/11/2017	Completed			11/8/2017

## CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Request that the City Manager in coordination with the Director of Planning and the Chief Building Official work to establish a voluntary parallel permitting process for applications to construct housing in the City of Berkeley.	Councilmember(s)	Wengraf, Maio, Droste, Arreguin	Planning	1/1/2018	Completed		This voluntary parallel permitting option already exists. Following October 2017 referral we advised Building staff to be sure to make option known to interested applicants.	11/1/2017
Request that the City Manager work with the City's lobbyist to create and maintain a master list of the legislation on which the City Council has taken a formal position of support or opposition through passage of an item.	Councilmember(s)	Harrison, Hahn, Davila	City Clerk	1/1/2018	Completed			1/23/2018
Refer to the City Manager to approve a process for the relocation of Apothecarium, a cannabis dispensary with valid permits.	Councilmember(s)	Worthington	Planning	1/29/2018	Completed			1/23/2018
Prioritize new business before old business at City Council Meetings by: 1. Altering the Council rules of procedure as adopted May 24, 2016 so that new business comes before old business. The reformatted section will read "The agenda for the regular business meetings shall include the following: Ceremonial; Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, New Business, Old Business); Information Reports; and Communication from the Public"; and 2. Granting explicit authorization to Agenda Committee to move new business backwards or forwards at their discretion by amending section III E of the Rules of Procedure.	Councilmember(s)	Worthington	City Clerk	3/5/2018	Completed			1/30/2018
Refer to the City Manager consideration of applying for CPUC interconnection applications.	Councilmember(s)	Worthington	Public Works	3/5/2018	Completed			4/4/2018
to refer the item as written in Supplemental Reports Packet #2 to the City Manager to conduct an analysis of the item, including a review of current indigency procedures and coordination with similar efforts in the City of Oakland, and report back to the Council in 90 days.	Councilmember(s)	Bartlett	Finance, Transportation, Cedric Cobb	7/1/2018	Completed			7/2/2018
Adopt a Resolution updating the City's Five-Year Street Rehabilitation Plan for FY 2018 to FY 2022. The City Council may consider the information put forth by the Public Works Commission relevant to adoption of the recommended plan.	Councilmember(s)		Public Works	6/26/2018	Completed			7/24/2018



## CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Short Term Referral to City Manager to assess the feasibility to keep the West Campus Pool open all year round and to start COB Shower Program at the West Campus Pool. Keeping the West Campus Pool open all year round will provide equitable swimming options in both North Berkeley and in South/West Berkeley and provide another location available for our community to shower.	Councilmember(s)	Davila, Bartlett, Harrison, Hahn	Parks	4/23/2018	Completed	9/15/2018	a) On June 12, 2018, Council received an Off Agenda Memo that identifies the cost to establish a shower program at West Campus Pool. B) In mid-September 2018, Council will receive an Off Agenda Memo that describes the feasibility of keeping West Campus pool open year-round.	10/16/2018
4. Request that the City Manager expeditiously create a process for finding appropriate for-profit and non-profit interim uses; Continue conversations with the Berkeley Food Network for possible use of a portion of the site	Councilmember(s)	Hahn, Arreguin, Maio, Harrison	City Manager; Public Works	4/30/2018	Completed			7/24/2018
2. b. Provide an estimated timeline for development of the site.	Councilmember(s)	Hahn, Arreguin, Maio, Harrison	HHCS	4/30/2018	Completed			
2. Refer to the City Manager to take the following actions to initiate the process of developing Affordable Housing at Premier Cru, and report back to Council at or before the June 12, 2018 Council Meeting: a. Create a preliminary term sheet outlining the full development potential of the parcel, including maximum allowable parcel buildout with a density bonus, either as a single or two/multi-phased project. Include rough estimates of number of units possible, allowing for a mix of unit sizes from small studios to multi-bedroom family units and space for anticipated on-site services, and demonstrate possible massing options that would maximize height on the San Pablo and other commercial frontages. Explain the status of the historic central building at 1007 University Ave and consider possible use or adaptation that preserves the building and conforms to historic preservation standards. b. Provide an estimated timeline for development of the site.	Councilmember(s)	Hahn, Arreguin, Maio, Harrison	Planning	6/12/2018	Completed			5/29/18, Item #36

## CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer to the City Manager to add a nonbinary gender option on the General Application for appointment to Berkeley boards and commissions.	Councilmember(s)	Droste, Maio, Wengraf, Worthington	City Clerk	5/14/2018	Completed			3/1/2018
A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.	Councilmember(s)	Wengraf, Hahn, Arreguin, Droste	Public Works	5/14/2018	Completed			
To address the urgent firestorm risk demonstrated by the recent, devastating fires in Northern and Southern California: Direct the City Manager to report back to Council identifying the most important, financially feasible measures that can be deployed immediately or with relative speed and will have the greatest impact on prevention and/or on the safety of both people and property in the event of a catastrophic fire, earthquake or other disaster. Include general information about existing sources of funding for each measure and an estimate of additional funds that might be required, as well as potential funding sources.	Councilmember(s)	Council	Fire	5/28/2018	Completed			
Refer to the City Manager a request to develop a cost estimate and an installation plan for installing sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer the cost estimate and plan to the Arts Commission.	Councilmember(s)	Bartlett, Harrison, Davila, Hahn	Public Works	6/11/2018	Completed			
2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.	Councilmember(s)	COSOW, Labor	City Attorney	7/2/2018	Completed	12/11/2018	Key staff return in mid-October	12/18/2018
The Housing Advisory Commission respectfully requests that the Council direct the City Manager to assist the HAC in its review of the Smoke-Free Residential Housing Ordinance, a regulation of tobacco use, as follows: 1. By responding to the HAC's questions enumerated in the report with any readily available responsive information. 2. By facilitating the conduct of a "Berkeley Considers" questionnaire about the Smoke-Free Residential Housing Ordinance, questions for which are proposed in the report.	Councilmember(s)	HAC	HHCS	7/23/2018	Completed		Public Health has provided answers to the HAC's questions in the July 2018 packet. Questions for the Berkeley Considers poll have been developed and are awaiting distribution.	3/17/2019

## CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Adopt a Resolution providing \$2,400 from the General Fund to support a half-day Transgender Health Access Training for City of Berkeley Public Health staff in June 2018.	Councilmember(s)	COSOW	HHCS	8/13/2018	Completed	2/28/2019	On February 4, 2019, staff from public health and mental health attended a training on Transgender Access to Public Health	2/4/2019
1. Direct the City Manager to expedite implementation of two publicly available, secure storage facilities to accommodate as many individuals as possible, based on the parameters set in staff's March 2, 2018 RFI: Downtown Homeless Storage Pilot - Staffing and Operations and on additional parameters outlined in Program Details, below. 2. Direct the City Manager to publicize the locations, hours, and rules applicable to new storage facilities through normal outreach channels (website, press release, etc.) and through direct outreach to homeless individuals by the City, community organizations (CBOs) and other partners such as the Downtown Berkeley Association and Telegraph Avenue BID. 3. Refer \$100,000 to the budget process; an added \$25,000 for the downtown storage location and \$75,000 for storage in West Berkeley.	Councilmember(s)	Arreguin, Hahn, Harrison, N	HHCS	8/27/2018	Completed			7/24/2018
Make a referral to the City Manager to consolidate all City Commission Workplans in one place for easy (electronic) access for staff, the public, and elected officials.	Councilmember(s)	Hahn, Wengraf, Droste	City Clerk	10/8/2018	Completed			9/13/2018
Amended to be a referral to the City Manager regarding enforcement of measures to mitigate damage to the general welfare of the City and neighborhood resulting from the damage and subsequently-required removal of trees at 1698 University Avenue.	Councilmember(s)	Harrison	Planning	12/12/2018	Completed			10/1/2018
Referral to the City Manager to consider the following suggestions for requirements and qualifications for Emergency Standby Officers and return to Council within 90 days with recommendations. Possible requirements may include: -Trainings in roles and responsibilities to serve as a standby officer possibly including: ethics and workplace harassment. -City government experience. -Council District residency. -Require standby officers to meet the same qualifications, including restrictions on conflict of interest, as required in the City Charter for City Councilmembers. -In addition, consider requiring Councilmembers to nominate three people in a single action.	Councilmember(s)	Wengraf, Arreguin, Hahn	City Clerk	12/12/2018	Completed	2/19/2019	Ongoing discussion with City Attorney regarding potential criteria	2/19/2019

## CITY OF BERKELEY Short Term and Date-Certain Referrals

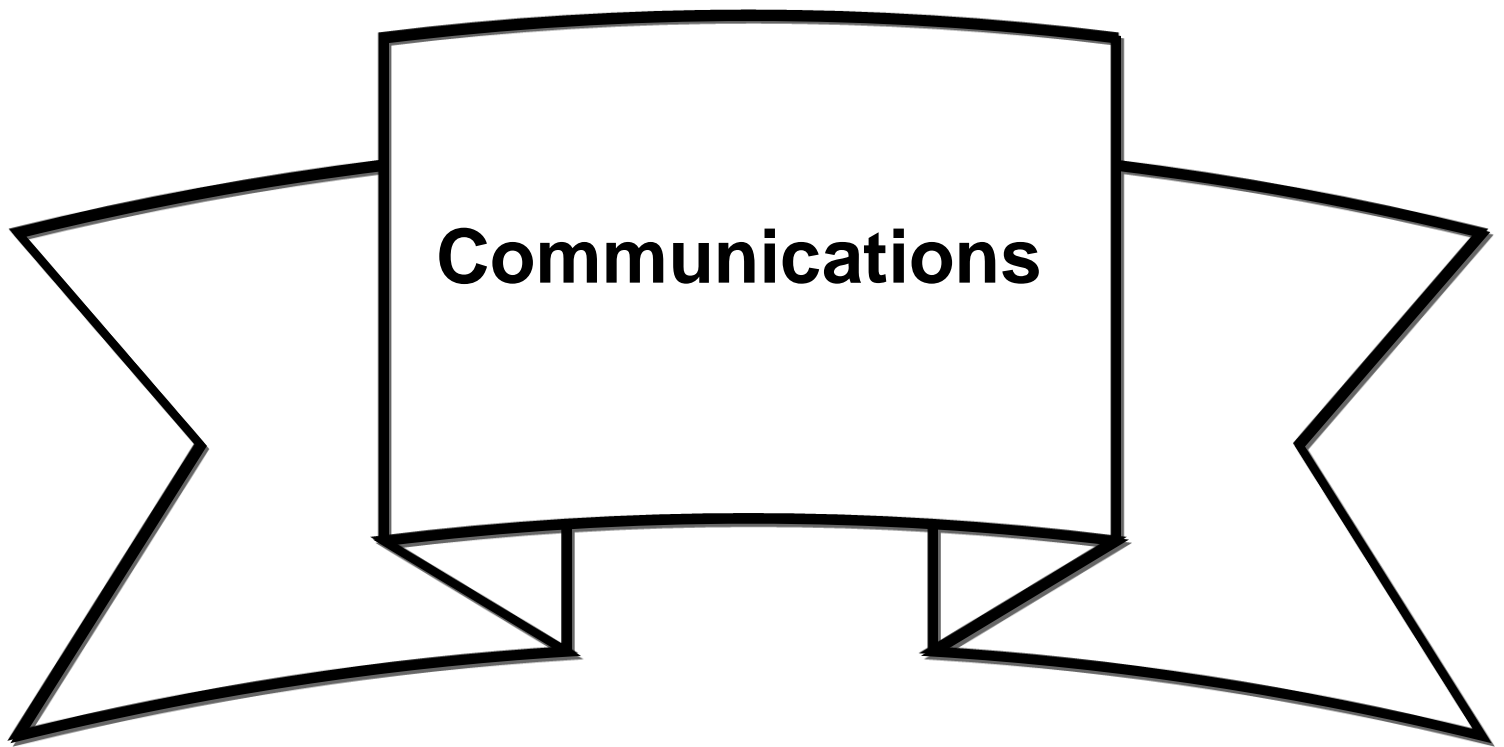
Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer to the City Manager to review draft Safe Storage of Firearms ordinance, identify and resolve issues, and return to Council within 90 days.	Councilmember(s)	Wengraf, Hahn	City Attorney	12/24/2018	Completed			
Request an analysis from the City Manager before the November budget discussion on the administrative impacts and cost to implement the lobbyist ordinance.	Councilmember(s)	Council	City Attorney/City Clerk	12/31/2018	Completed			
Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft	Councilmember(s)	Worthington (Dist. 7)	Planning	2/29/2016	Completed 6/28/2016 Item 39			6/28/2016
Refer to the City Manager and Transportation Department a review of the concerns, emerging regarding some features of the recently implemented GIG Car Share pilot program, request adjustments before the two-year pilot program from staff.	Councilmember(s)	Maio, Wengraf	Public Works	10/23/2017	Past Due	5/28/2019	The program evaluation will be conducted in early 2019 and an action report prepared for Council to continue, modify, or discontinue the pilot.	

## CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the financing of the public toilets or their maintenance.	Councilmember(s)	Bartlett	City Manager	10/23/2017	Past Due	June 2019	Staff transition and priority put on TNC, RV policy, and Safe Clean Streets	
1. Refer to the Transportation Commission consideration of additional or supplemental stop sign criteria which addresses the needs of vulnerable populations, the presence of bicycle boulevards, and the difficulty of crossing particular intersections. 2. Direct that staff consult with the Bicycle Subcommittee of the Transportation Commission when making decisions impacting bicycle boulevards, whenever possible. 3. Request that the City Manager provide an informational report on the particular state and federal warrants and local policies that prevent stop signs being used as traffic calming measures.	Councilmember(s)	Harrison, Bartlett, Droste	Public Works	1/29/2018	Past Due		Transportation Commission formed a subcommittee and held first meeting 6/11/18, additional meetings to be planned by subcommittee	With Transportation Commission
Short-term referral to City Attorney and Health Housing and Community Service to amend Berkeley Municipal Code 7,441-N.S. according to the changes made in the attached amended ordinance to prohibit the sale of flavored tobacco products and require a minimum package size for cigars and little cigars across the City of Berkeley. The primary purpose of the amendment to the ordinance is to do more to prevent youth and young adult tobacco use - include consideration of minimum package size and/or price.	Councilmember(s)	Davila	City Attorney	3/11/2019	Past Due	Mid-April	Staff turnover	
Refer to the City Manager to issue a request for information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council.	Councilmember(s)	Hahn, Harrison, Davila, Bartlett	Finance	1/1/2018	Pending Not On Schedule	9/30/2018	Issued #18-11201 Feb. 5, 2018 as an RFI (Request for information); closed March 1, 2018. Received 13 information responses for review. Next Steps: use responses to inform scope of work, then release as RFP.	

CITY OF BERKELEY Short Term and Date-Certain Referrals

Recommendation	Referred by	Councilmember (District #)	Responsible Department/Division	Due Date	Status	Revised Due Date	Explanation for Delay	Date Completed
Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.	Councilmember(s)	Bartlett, Hahn, Davila	Finance	3/19/2018	Pending Not On Schedule	7/22/2018		
Direct the City Manager to amend the eligibility requirements of the Community Service In Lieu of Parking Penalties Program in order to allow all indigent individuals to be eligible to participate in the program (regardless of the registration status of a potential participant's vehicle).	Councilmember(s)	Bartlett, Davila, Harrison, Hahn	Public Works	10/29/2018	Pending Not On Schedule		Because this is a multidepartmental task assigned to Public Works, involving Finance and City Attorney, and administered by the City of Oakland, the completion date is unclear.	



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